

## **DISABLED EMPLOYEES PROGRESS REPORT**

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

December 4, 2013

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 CAW (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.

#### **Upcoming Distribution from the Health and Welfare Trust (HWT)**

We are pleased to report that on November 19<sup>th</sup>, 2013 the Ontario Superior Court of Justice approved a final HWT distribution to Participating Beneficiaries, including LTD members.

The distribution for LTD members is expected to be sent in mid-December and will be for:

- 3% of your LTD Income Benefits;
- 3% of your LTD Life Benefits and/or LTD Optional Life; and,
- 18% of your Pensioner Life, subject to individual adjustments for methodology and any data corrections.

The distribution will bring your total distribution to 38% of your entitlements. You had previously received 35% of your LTD Income Benefits and LTD Life Benefits and 20% of your Pensioner Life calculated using the Compensation Claims methodology.

The distribution will be made in mid-December and will pay out the majority of your LTD Income Benefits, LTD Life Benefits and Pensioner Life claims that will be paid from the HWT. The remaining balance of your claims for LTD Income Benefits, LTD Life Benefits and Pensioner Life will be claimed against the Nortel estate and will be paid based on the distribution rate ultimately determined by the courts based on, among other things, the results of the Allocation Litigation, which is described further below.

If you received a payment from the Hardship Fund, it will not be deducted from your HWT distribution, but will be subtracted from your ultimate distribution from the Nortel estate.

As was the case in the past, distributions in respect of LTD Income Benefits are not taxable. However, taxes will be deducted at source from distributions made on account of LTD Life Benefits, LTD Optional Life Benefits and Pensioner Life.

If you have any questions about the amount you receive or about the tax treatment of these amounts, please call us at 1-866-777-6344 or e-mail us at [nortel@kmlaw.ca](mailto:nortel@kmlaw.ca).

### **HWT Distributions - Tax Appeal**

Representative Counsel continues to work with the Department of Justice on the test case appeals about the correctness in law of the tax rulings that certain payments made to you are taxable.

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

Koskie Minsky sent out packages in October 2012 to all those individuals who received a payment from the HWT for LTD Basic Life, LTD Optional Life and Pensioner Life during 2011.

As this matter has not yet been decided by the Court, and the deadline for 2012 objections is April 30, 2014, Koskie Minsky will be sending out packages to those who received a payment from the HWT for LTD Basic Life, LTD Optional Life and Pensioner Life in 2012 in the next few weeks. You must file a second objection for 2012 to benefit from a favorable ruling in the test case appeals for your 2012 tax year.

If you do not receive a tax objection package by January 15<sup>th</sup>, 2014 and you received a payment from the HWT in 2012, please call us at 1-866-777-6344 or e-mail us at [nortel@kmlaw.ca](mailto:nortel@kmlaw.ca).

### **Allocation Litigation**

Following our last report, on March 8, 2013 Justice Morawetz of the Ontario Court and Judge Gross of the Delaware Court approved an Allocation Protocol which provided that the U.S. and Canadian Courts would decide the outstanding claims and allocation issues that remain between the parties.

Written reasons were released by Justice Morawetz and Judge Gross on April 3, 2013.

Since then, a litigation timetable has been established and the parties are currently conducting discoveries.

On November 19, 2013, the U.S. and Canadian Courts approved a motion to amend the litigation timetable and set the trial date of the Allocation Litigation to commence on May 12, 2014 for a period of twenty sitting dates.

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.

### **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 sending 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 depends on conclusion of the Allocation Litigation, as described above. Unfortunately, the distribution on claims remains unknown, and we do not expect any such distribution in the near future.

### **Hardship Fund**

On October 29, 2013, the court extended the next deadline for applications for the Hardship Fund to April 1, 2014. The court will continue to be asked to extend this deadline together with the stay of proceedings as needed. Please check our website for the latest version of the application with the latest deadline information.

As previously reported, on July 27, 2012 the Court approved expanding the scope of Nortel's Hardship Fund to include Nortel LTD Beneficiaries, including those who are receiving CPP-Disability or the Quebec Equivalent.

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.

### **Windup of Nortel's Registered Pension Plans and Member Information Profiles**

Morneau Shepell, the administrator of Nortel's Registered Pension Plans, has been mailing out Member Information Profiles for the last several months in preparation for the windup of the Pension Plans.

Once the mailings by Morneau have been completed and Member Information Profiles have been returned to them, Morneau will prepare the windup reports for both plans.

The windup reports for the Negotiated and Managerial Plans will be completed separately, with the Negotiated Plan expected to be prepared by the end of this year or early in 2014. The Financial Services Commission of Ontario ("FSCO"), the regulatory body in Ontario responsible for pensions, will then review the report. Before any further steps can be taken, FSCO approval is required. Once we have approval of the windup report, members will receive Option Forms which will provide you with 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 Shepell 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 further information about the information sessions once approval of the windup report is received.

The windup report for the Managerial Plan is expected to be completed in mid to late 2014. FSCO approval will be required for that Plan as well. Similar to the Negotiated Plan, information sessions will be held across the country.

If you have any questions about the Member Information Profile or Option Form, please call us at 1-866-777-6344 or Morneau Shepell at:

Managerial Plan Members: 1-877-392-2074

Negotiated Plan Members: 1-877-392-2073

### **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  
nortel.monitor@ca.ey.com

Koskie Minsky and the Monitor 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.

Please also ensure that you update Morneau Shepell with your address change even if you are not receiving your pension yet. Morneau Shepell can be reached at:

Managerial Plan Members: 1-877-392-2074  
Negotiated Plan Members: 1-877-392-2073

### **Questions?**

Please keep yourself informed by regularly checking 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 emailing the Canadian Nortel Employees of Long Term Disability (CNELTD) at [SteeringCommittee@cneltd.info](mailto:SteeringCommittee@cneltd.info).

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