

NRPC NORTEL WEBCAST

Settlement Agreement Outcome and CCAA Update

APRIL 20, 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, Retiree

MICHAEL CAMPBELL

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



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 on NRPC Website
- This presentation has been developed for the NRPC constituency, but LTD group are welcome to listen in, and there will be an LTD-focused presentation on April 28 at 2:30 p.m.



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 Continuation Committee
 - 5 NRPC members, 2 LTD members, Segal
 - Political Action Committee (all)



NRPC CONSTITUENCY

Are you a constituent?

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

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



NRPC STRATEGIC GOALS

- **Strategic Goals**

- Provide best constituency perspective to three court-appointed Representatives
- Maximize Canadian Estate Constituency Payout
- Federal: Gain government support for pensioners and terminated group
- Provincial: Plan Continuation and PBGF top-ups
- Minimize Personal Tax Implications
- Continuation of Basic Health Plan
- Coordinate with LTD group when possible and beneficial

Seek the best possible outcome for the constituency



OUTLINE OF PRESENTATION

- A. Update and Overview of CCAA Proceedings
- B. Settlement Agreement Outcome
- C. Asset Sales & Allocation
- D. Update on Health and Welfare Trust
- E. Status of Defined Benefit Pension Plans
- F. Update on Compensation Claims Process
- G. Update from Political Action Committee
- H. Next Steps in CCAA
- I. Questions



A. UPDATE AND OVERVIEW OF CCAA PROCEEDINGS

- **Since our last webinar:**
 - Court Approval on March 31st of Revised Settlement Agreement
 - NRPC continue with federal and provincial lobbying efforts
 - NRPC continue to examine pension orphanage concept and the possibility of basic medical replacement coverage
 - Government has announced it will honour its PBGF obligations for Nortel retirees' Ontario service



A. UPDATE AND OVERVIEW OF CCAA PROCEEDINGS

- **Since our last webcast:**
 - Company's asset sales continue
 - UK Administrator's leave to appeal to Court of Appeal
 - Motion to expedite appeal in Canada
 - Order stays UK process vs. Canadian Nortel companies
 - Continued investigation of IP assets and ways to maximize benefit to Canadian estate



B. THE SETTLEMENT AGREEMENT

- **Settlement Agreement**
 - Original Settlement Agreement reached on February 8, 2010
- **Court Hearing: March 3-5, 2010**
- **Court Decision: March 26, 2010**
 - Settlement Agreement rejected because Clause H.2 held not to be fair and reasonable to all creditors
- **What to do?**
 - If no Settlement Agreement is reached:
 - Pension plan wind-up could be immediate
 - Health and dental benefits scheduled to cease March 31, 2010
 - Terminated payout at stake
 - Decreased bargaining power
 - Decision reached to seek resurrection of Settlement Agreement without Clause H.2



THE SETTLEMENT AGREEMENT

- **Revised Settlement Agreement**
 - Reached March 30, 2010
 - Removal of Clause H.2
 - Best and only deal available
 - Approved by Court March 31, 2010
- **Difficult decision – weighed:**
 - Importance of Clause H.2 to our constituency
VERSUS
 - Importance of the continuation of pensions, benefits and termination fund payments to the terminated group



THE SETTLEMENT AGREEMENT

- **Without the Revised Settlement Agreement:**
 - Loss of \$45M of priority benefits
 - Immediate cessation of benefits, effective March 31, 2010
 - Possible immediate wind-up of pension plans
 - Loss of advance preferential payments to terminated group
 - Important given Supreme Court of Canada's decision dismissing Former Employees' leave to appeal
 - Deterioration of Health and Welfare Trust corpus
 - Additional uncertainty
 - Additional loss and hardship to our membership
- **Final Decision?**
 - The Revised Settlement Agreement was the best outcome we could achieve



THE SETTLEMENT AGREEMENT

- **Appeal of Judge's March 31st approval order?**
 - Certain disabled employees actively opposed court approval of the Revised Settlement Agreement
 - They may seek leave to appeal to the Court of Appeal
 - In the event leave is granted, we will oppose the appeal
- **What will happen to benefits if leave to appeal is sought?**
 - We will do our best to ensure your benefits continue pending any leave to appeal or appeal decision being rendered



C. RICHTER UPDATE ASSET SALE

Completed Transactions

- 5 major transactions have been completed to date (CDMA, Enterprise, MEN, GSM and CVAS)
 - CDMA –\$1.118 billion
 - Enterprise - \$915 million
 - MEN - \$775 million (all cash)
 - GSM - \$118 million
 - CVAS - \$282 million
- All proceeds being held in a court-supervised fund (the “Global Lock-Box”).
- Next step is to complete the transition services agreements are release funds being held in escrow.



RICHTER UPDATE

Asset Sales

- Future Transactions
 - Intellectual property
 - LG/Nortel joint venture
 - Real estate (Carling property)
 - Tier 2 sales (smaller operating units)
 - Multy Service Switch
 - GDNT
 - GSM Asia and CALA
 - Minority interest in various ventures
 - Venture capital investments



RICHTER UPDATE

INTELLECTUAL PROPERTY

- Valuation of patents
 - Currently underway
 - Preliminary assessment is that the portfolio is strong with a high percentage of high-value patents
 - Number of options for maximizing value
 - Options are currently being reviewed
 - Likely going to be a long process
 - May have a material impact on overall realizations



RICHTER UPDATE

ALLOCATION

- Allocation of proceeds has not been determined
- There are a number of jurisdictions with claims against sales proceeds including Canada, US, EMEA and CALA
- Issues revolve around ownership of assets
- The Monitor is aware of our interests and is negotiating, in consultation with our groups, to protect and promote the interests of all Canadian stakeholders



D. UPDATE ON HEALTH AND WELFARE TRUST

Source of benefit funding for Settlement Agreement:

- **Health and Medical Benefits**
 - Cost to continue benefit plans paid by Nortel on a flow through basis through the HWT, for pensioners, LTDs and actives
- **Long-Term Disability (LTD) and Survivor Income/Transition Benefits**
 - Income benefits are paid by Nortel, and not from HWT assets, for 2010
- **Life Insurance**
 - Retiree life premiums paid from HWT assets
 - Life insurance premiums for actives and LTDs paid by Nortel on flow-through basis through the HWT



UPDATE ON HEALTH AND WELFARE TRUST

- Representatives and Representative Counsel working closely with the Monitor and its counsel to:
 - Obtain full public disclosure of HWT documents
 - Determine proper allocation of assets in HWT
 - Obtain court approval of allocation and procedure for distribution of trust assets
 - Meet target for a distribution by the end of 2010
- Timeline?
 - Court Approval of Allocation and Procedure for Notice and Distribution
 - Summer 2010
 - Distribution of Trust Assets
 - Before December 31, 2010
- Representative Counsel, Monitor and company seeking CRA Advance Tax Ruling regarding taxation of the HWT Distributions



UPDATE ON HEALTH AND WELFARE TRUST

What happens to your health and dental benefits after December 31, 2010?

- The benefits you receive from Nortel will end on December 31, 2010
- The NRPC and Representative Counsel are working with the actuaries and consultants at Segal to examine options for replacement benefit coverage after December 31
 - One possibility we are exploring is to try and provide some level of benefits funded from future recoveries against Nortel if it is possible and can be done at a reasonable cost



E. STATUS OF DEFINED BENEFIT PENSION PLANS

- **Now until September 30, 2010**
 - Current service contributions (actives and LTDs) will be paid until September 30, 2010
 - Special payments have been paid until March 31, 2010
- **After September 30, 2010**
 - Nortel will transfer administration of its pension plans to FSCO on September 30, 2010
 - FSCO will name a wind-up administrator
 - Pension Plan wind-up?
 - Alternative - Pension Orphanage?



STATUS OF DEFINED BENEFIT PENSION PLANS

Current Objectives:

- Continue to work with key Regulators (Ontario and Quebec) to preserve pension value, minimize hardship and maximize benefits for individuals who worked in multiple provinces
- Resolve all outstanding tax and pension related issues, including:
 - Terminated / Retiring: Foreign Service Issue
 - Terminated: PAR Issue
 - Terminated: Commuted value issue

The Future:

- Regulatory wind up process
 - Pension reduction – notice will be provided in advance of reduction
 - Annuities / deferred annuities will be purchased for individuals based on funding level of the pension plans at wind up date



STATUS OF DEFINED BENEFIT PENSION PLANS

What happens when the pension plans are wound-up?

- An administrator will be appointed by FSCO on September 30
- Administrator will decide when to wind-up the pension plans – timing of wind-up will depend on whether the pension orphanage is legislated
- Monthly pension payments may be reduced when the new administrator takes over to reflect the fact that Nortel's plans are underfunded but may be topped up for service that is subject to the PBGF
- Actuaries and advisors will work to determine pension plan costs and liabilities
- A final “wind-up ratio” will be determined once assets and liabilities are set
- Concurrently, the actuaries and advisors will work to determine issues surrounding individual pension entitlements
 - **KEY: PROVINCE IN WHICH YOU ACCRUED SERVICE**
 - Quebec liabilities may be transferred to the Quebec Government to allow Law 1 to apply
 - Ontario's PBGF will apply to individuals in respect of pension entitlement that accrued while they were employed in Ontario
- Actuaries and advisors will determine each individual's pension entitlement



STATUS OF DEFINED BENEFIT PENSION PLANS

- **Pensioners: The wind-up administrator will ultimately purchase an annuity for you**
 - You will continue to receive a monthly income stream
 - Monthly payments will be reduced from their current level, because Nortel's pension plans are in deficit
 - Pensioners will not have the option to take their money out of the pension plan, subject to the recent changes in Quebec
 - NOTE: Applicable pension laws vary by province
 - NOTE: There will be a lengthy process before this stage is reached



STATUS OF DEFINED BENEFIT PENSION PLANS

- **Terminated Group**

- Those who are not entitled to an immediate pension will receive an option statement and will have the opportunity to elect between:
 - Lump sum commuted value (to be transferred into a locked-in retirement vehicle)
 - Amounts in excess of Income Tax Act limits must be taken in cash and will be subject to income tax
 - Annuitized pension / annuitized deferred pension.
- Individuals who do not receive an option statement will have no election to make – they will receive an annuity
- The administrator will secure group annuity contracts through an RFP process
- Pension-eligible members may start their pensions during wind-up with Regulator and administrator approval

NOTE: The wind-up takes time and it may be several years before the option statement stage is reached.



STATUS OF DEFINED BENEFIT PENSION PLANS

- **Timeline?**

- Pension plan wind-ups can take years, even when straightforward
- Nortel's pension plan wind-up, when it occurs, will be complicated
 - Individuals worked across Canada and now reside across Canada and internationally. Various provincial pension laws will apply.
 - Many individuals accrued service in multiple provinces / jurisdictions
 - Will impact the application of Québec's Law 1 and Ontario's PBGF
- What can you do in preparation?
 - If you worked in multiple provinces or jurisdictions, check your records to confirm how long you worked in each province
 - Do not forward this information to KM, simply keep it for your records for now, and we will ask for it if we need it



STATUS OF DEFINED BENEFIT PENSION PLANS

- Last reported funded status
 - Wind-Up Ratio: 69%
 - As at December 31, 2008
- **New Actuarial Valuation Report**
 - Currently being prepared, due as at December 31, 2009
 - Will provide updated status on funding levels of pension plans
 - Must be filed by September 30, 2010
 - Results may be released and/or filed earlier
- Will be reported as soon as available



F. COMPENSATION CLAIMS PROCESS

1. Devise a system that works and is understandable
 - Includes claims of all pensioners, disabled employees and terminated employees (including those terminated both pre and post January 14, 2009) who have a valid claim against the Canadian estate
2. Prepare court materials and obtain Court approval of the process
 - Notice will be widely publicized once the process is Court approved
 - Notice of Court approval hearing will be posted in Monitor's website
3. Collect and analyze data and prepare claims
4. Assessment of claims by the Monitor and the Court
5. Distribution of the Canadian estate
 - Could be a year, or years, down the road



COMPENSATION CLAIMS PROCESS

INVENTORY OF POSSIBLE CLAIMS

1. All Former Employees
 - Any unpaid salary incentives or bonus programs
 - Unpaid patent awards
 - Any unpaid short-term disability
 - Any unpaid relocation payments, housing differential assistance and expat payments
2. Terminated Employees with Wrongful Dismissal Claims
 - Severance pay based on grid or prior existing agreement
 - Value of lost pension accruals and lost health benefits
 - Value of lost TRA or RAP
 - Court approved portion of Calgary retention program
 - Employer related issuance of equity or equity-related rights
 - Any lump sum death benefits for survivors
 - Service and recognition awards
 - Other Employment related rewards



COMPENSATION CLAIMS PROCESS

INVENTORY OF POSSIBLE CLAIMS (cont'd)

3. Pensioner / Pensioner Survivor Claims (Union and Non-Union) other than Registered Pension Plan

- Loss of life insurance
- Loss of pensioner medical and dental
- Loss of TRA and RAP benefits
- Loss of SERP benefits and Excess Plan benefits
- Loss of any residual of commuted value of Registered Pension Plan

4. Survivors or Surviving Spouses

- Loss of health benefits (medical and dental)
- Loss of Survivor Income Benefits or Survivor Transition Benefits



COMPENSATION CLAIMS PROCESS

INVENTORY OF POSSIBLE CLAIMS (cont'd)

5. Disabled Employees

- Loss of LTD income benefits
- Severance pay per grid
- Value of lost pension accruals
- Value of lost health benefits to age 65 and post-retirement

6. Pension Plans

- The deficit in the pension plans will be claimed separately, by the administrator, in the regular claims process, once it is determined. A placeholder claim has already been filed.



G. UPDATE FROM POLITICAL ACTION COMMITTEE

- Pension Plan continuation is a major focus
- **Ontario Pension Orphanage**
 - AKA Ontario Pension Agency
 - *Focus:* All pensioners and deferred pensioners
- **Improved PBGF payout**
 - *Focus:* Pensioners and deferred pensioners with Ontario service
 - Maximum has not been updated since 1980s
 - Understand bankruptcy law impact on PBGF payout



UPDATE FROM POLITICAL ACTION COMMITTEE

- **Continued lobbying for CCAA/BIA changes**
 - Changes may help other groups beyond the Nortel insolvency
- **Other Federal objectives**
 - Insolvency Tax Treatment
 -



NRPC Membership Drive

- NRPC is a non-profit corporation
- Political action in the fall of 2009 was with the very appreciated support of the CAW, CEP, Teamsters and others
- Political action is outside of the court process
- NRPC is working to further drive active political and paid membership and to have email contact with the full constituency
- If you do not have a personal email, please provide us with a contact who will keep you informed
- An NRPC mailing under KM letterhead is planned for this week to the full NRPC constituency
- **Our political leverage is in numbers**
- **The NRPC needs your support**



H. NEXT STEPS IN CCAA

1. Company's asset sales will continue
2. Representatives and Rep Counsel will work with the Monitor and company to finalize the process regarding the allocation and distribution of assets of the Health and Welfare Trust before December 31, 2010
3. Representatives and Rep Counsel will work with the Monitor and company to finalize and obtain Court Approval of the Compensation Claims Process
4. Quantification and Assessment of Claims
5. Allocation of assets
 - Canada, UK, US and other estates
 - Canada only assets
6. Distribution of Nortel's Canadian estate



What Next?

- **NRPC**

- www.nortelpensioners.ca
- queries@nortelpensioners.ca

- **Representative Counsel**

- www.kmlaw.ca/case-central
- nortel@kmlaw.ca

- **The Monitor**

- www.ey.com/ca/nortel



QUESTIONS?

English or en Français