

KOSKIE MINSKY

JUSTICE MATTERS

March 14, 2016

Andrew J. Hatnay
Direct Dial: 416-595-2083
Direct Fax: 416-204-2872
ahatnay@kmlaw.ca

Via Facsimile and Email

Michael Delaney
Superintendent of Pensions
Pension Benefit Standards Division
Government of Newfoundland and Labrador
Service NL
P.O. Box 8700
St-John's, NL A1B 4J6

Dear Mr. Delaney:

Re: Wabush Mines
Companies' Creditors Arrangement Act, R.S.C., 1985, c. C-36 ("CCAA")
Québec Superior Court File No. 500-11-048114-157

Re: Contributory Pension Plan for Salaried Employees of Wabush Mines
(the "Salaried Plan"), Newfoundland Registration No. 0021314

We are writing further to the letter sent to you from Blake, Cassels & Graydon LLP ("Blakes") dated March 1, 2016, a copy of which was provided to us on March 12, 2016. As you are aware, we are the Representative Counsel to the Salaried Employees and Retirees of the Wabush CCAA Entities in its CCAA proceedings.

We have discussed the Blakes letter with the four court-appointed Representatives, Damien Lebel, Michael Keeper, Neil Johnson, and Terence Watt. The Representatives are extremely upset that your office has not reported this letter and the request contained therein to us much earlier, given that you have had Blakes' request since March 1, 2016. Going forward, please keep us informed of all developments in this matter on a timely basis.

We understand from the Blake's letter of March 1, 2016 that the Wabush CCAA Entities are requesting that the Newfoundland Superintendent of Pensions appoint an administrator for the Salaried Plan (and the Wabush Union Plan). At this time, we object to such an appointment for the following reasons:

1. As you are aware, the definition of "Employer" in the Salaried Plan is defined in section 2.18 as follows:

"Employer" means Wabush Mines, Cliffs Mining Company, Managing Agent, Arnaud Railway Company and Wabush Lake Railway Company, Limited". [emphasis added]

Under section 12(1) of the Newfoundland *Pension Benefits Act*, an employer is defined as the pension plan administrator. CMC is therefore the administrator of the Salaried Plan. In the Blakes letter, CMC is not requesting the appointment of an administrator.

2. CMC is a solvent corporation and a subsidiary of Cliffs Natural Resources ("CNR"), which is also solvent. Neither CMC nor CNR are under CCAA protection. We understand that CMC has retained the actuarial firm of Towers Watson for several years. We expect that CMC has all the necessary resources to continue the administration of the Salaried Plan, including continuing to fund the Salaried Plan. As you are aware, the administrator of a pension plan owes a fiduciary duty to the plan members. As a solvent administrator, CMC owes fiduciary duties to the pension plan members to act in their best interests, including a duty to fund the plan.
3. We have written to Graham Letto, M.H.A., under separate cover with a copy to you, and are requesting that the Newfoundland government take over the administration of the Salaried Plan while CMC retains liability to fund the Salaried Plan. That request needs to be considered and discussed and while those discussions are underway, an external administrator for the Salaried Plan should not be appointed.
4. As we discussed with you on March 12, 2016, if the Superintendent appoints an outside actuarial firm as a new plan administrator, it will certainly result in additional costs since an external actuarial firm will spend time reviewing and familiarizing itself with all the documents, history, data and facts. If those additional costs are charged to the Salaried Plan, it will deplete the plan of additional funds, which may ultimately be directly borne by the Salaried Plan members.

In the event the appointment of an outside administrator becomes acceptable to the Representatives in the future - which currently it is not - we would also need an assurance that no additional costs will be charged to the Salaried Plan. We understand that you agree to the concept of an arrangement that CMC cover those additional costs. We advised that it is imperative that a meaningful security mechanism be put in place such as CMC putting funds into trust, or making a special additional contribution to the plan to cover such costs. This mechanism needs further discussion and any arrangement requires the agreement of the Representatives before it can be finalized.

5. In the event the Superintendent is considering appointing an outside actuarial firm as the administrator of the Salaried Plan, then prior to any such appointment is made, the Representatives wish to be informed of all the firm(s) that are under consideration, their expertise and experience in the administration of a pension plan, a budget for the work they intend to perform, the hourly rates of the individual(s) who are proposed to work on the Salaried Plan, and an assurance the firm will provide copies of all invoices and time dockets of work that they propose to charge to the Salaried Plan. If you have some or all of this information at this time, please provide it to us as soon as possible for the Representatives to consider.

Once you have had the opportunity to review this letter, please contact the undersigned to discuss next steps.

Yours truly,

KOSKIE MINSKY LLP

A handwritten signature in black ink, appearing to read 'AJH', with a large, stylized flourish extending to the right.

Andrew J. Hatnay
AJH/vdl

- cc. Yvonne Jones, Member of Parliament, *Labrador*
Graham Letto, M.H.A., *House of Assembly, Labrador West District*
Client Committee
Daniel Boudreault, *Philion Leblanc Beaudry Avocats s.a.*
Euclid Hache, Staff Representative, *United Steelworkers*
Nigel Meakin, FTI Consulting (Monitor)
Nicholas Scheib, *Scheib Legal*
Barbara Walancik, *Koskie Minsky LLP*