



January 13, 2017

Andrew J. Hatnay  
ahatnay@kmlaw.ca

**Via Regular Mail**

Dear Sir or Madam:

**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, Cliffs Mining  
Company, Managing Agent Arnaud Railway Company and Wabush Lake Railway  
Company Limited, Newfoundland Registration # 021314-000 (the "Salaried Plan")**

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We enclose a copy of the actuarial wind-up report for the Salaried Plan dated December, 2016 which has been prepared by the actuarial consulting firm of Morneau Shepell and recently provided to us.

As you know, Morneau was appointed by the Newfoundland Superintendent of Pensions to take over the administration of the Wabush Mines Salaried Plan and the Bargaining Unit Plan. This appointment was a result of Wabush Mines' insolvency, its shutdown of mining operations, and the company's subsequent request to the Newfoundland Superintendent of Pensions that an administrator be appointed because the company said it did not have the resources to continue with the administration of the pension plans.

Given that Wabush Mines is liquidating all of its assets while under CCAA protection and is not restructuring, Morneau is proceeding to wind-up (i.e., terminate) the pension plans. As part of that process, Morneau has prepared an actuarial wind-up report for the Salaried Plan which sets out their analysis of the assets and liabilities in the plan as of the wind-up date of December 16, 2015, as directed by the Superintendent of Pensions.

As you are aware, unfortunately, the Salaried Plan is underfunded on a wind-up basis. We refer you to the summary page on page 3 of the Salaried Plan Wind-Up Report which sets out two calculations. As of December 15, 2015, the plan is short \$27,450,000 on a wind-up basis, making the plan only 75% funded. Second, Morneau estimates that as at September 30, 2016, nine months after the formal wind-up date, the funded status of the plan is slightly improved with the wind-up shortfall being \$24,983,000, and the wind-up funded percentage being 77.5%. Either way, this means that the amount in the fund of the pension plan is insufficient to pay the full pension benefits you earned during your employment with Wabush Mines. This is also the

reason that the Superintendent previously directed in May, 2015 that the monthly pension benefits paid to the salaried retirees be reduced by 25%.

We also enclose for your reference a copy of the actuarial wind-up report for the Bargaining Unit Plan which we understand was prepared by the company's actuary, Towers Watson. We refer you to the summary on page 9 of that report which states that as of the wind-up date of December 16, 2015, the plan is short \$27,486,548 on a wind-up basis and has a wind-up funded ratio of 0.827 (i.e., 83%).

We have sent the wind-up reports to our actuary (Segal Company) for their review and comment. We are also engaging Morneau to discuss next steps for the wind-up process and will report to you further in that regard.

As you are aware, we have asserted a priority claim in the CCAA proceedings in favour of the Salaried Plan beneficiaries for the amounts owing by Wabush Mines to the Salaried Plan. That claim is based on the Newfoundland *Pension Benefits Act* ("NPBA") deemed trust priority provisions. For your reference, we enclose a copy of the letter we sent to the company and all parties involved in the CCAA proceedings on August 14, 2015. The company and other creditors are disputing the plan members' priority, and we expect that this issue will require resolution in the courts, absent an acceptable settlement.

In September, 2016, the Monitor filed a motion for "directions" with respect to certain questions it seeks to have the court resolve relating, in particular, to the NPBA deemed trust priority.

We had previously informed the Monitor that any issues relating to the interpretation of the NPBA deemed trust should be referred to the Supreme Court of Newfoundland. The Monitor's motion, however, seeks to have certain Newfoundland PBA questions determined by the CCAA Judge in Montreal. Our position is that the Newfoundland PBA deemed trust, which has never been interpreted by a court, should be interpreted by the Newfoundland court, rather than the Québec CCAA court. This approach has been approved by courts in other cases where one province's statute required interpretation, and the proceeding was before a different province's court.

On December 20, 2016, we attended before the CCAA Judge in Montreal (Mr. Justice Stephen Hamilton of the Québec Superior Court) and made submissions that the interpretation of the Newfoundland PBA deemed trust provisions should be transferred to the Supreme Court of Newfoundland and Labrador for interpretation and determination. The Newfoundland Superintendent of Pensions and Morneau supported the transfer request. The transfer request was opposed by the company, Monitor, and USW. As of this writing, the decision of the CCAA Judge is under reserve, meaning that His Honour is considering the arguments and will be releasing a written decision. We will report on that decision as soon as it becomes available.

We are aware that the Wabush Mines CCAA proceedings and the termination by the company of health and life insurance benefits, as well as the monthly pension benefit reductions, have caused hardship to many Wabush Mines employees and retirees. We are continuing to advance all possible arguments in the CCAA proceeding to assist the Wabush Mines employees and retirees in obtaining recoveries for the amounts that are owing to you.

We trust the above is of assistance at this time. If you have any questions, please do not hesitate to contact us at our toll-free hotline at 1-800-965-6636 or email us at [wabushrepcounsel@kmlaw.ca](mailto:wabushrepcounsel@kmlaw.ca).

Yours truly,

**KOSKIE MINSKY LLP**

A handwritten signature in black ink, appearing to read 'Andrew J. Hatnay', written over a horizontal line.

Andrew J. Hatnay  
AJH:vdl/encl.

cc. Client Committee  
Nicholas Scheib, *Scheib Legal (Montréal)*  
Tom Levy, Nevio Tenuta, *Segal Company*  
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