

April 13, 2018

By Email

Honourable Stephen W. Hamilton
Superior Court Judge
Montreal Courthouse
1, Notre-Dame Street East
Suite 11.25
Montréal, Québec H2Y 1B6

**Re: In the matter of the Plan of Compromise or Arrangement of
Bloom Lake General Partner Limited & al.
S.C.: 500-11-048114-157**

**And in the matter of voting by members of the Salaried Group and USW under the
proposed Plan Filing and Meeting Orders**

Mr. Justice Hamilton:

We represent Morneau Shepell in its capacity as Pension Plan Administrator in these CCAA proceedings. Regrettably, we are unable to attend the hearing on April 16, 2018 in person given the expense of attendance to the Pension Plans. However, our client wishes to make the following submissions on the issue of how employee claims are to be voted under the proposed Plan Filing and Meetings Order, which will be before the Court at the hearing.

Under the proposed Plan Filing and Meetings Order, individual retirees and former employees will be required to vote on the proposed Plan of Compromise and Arrangement either personally or by proxy. Morneau Shepell objects to this approach, both as a matter of principle and on the ground of the additional, unnecessary expense that it imposes on the estate of the Wabush CCAA Parties as set out in the Affidavit of Michael Keeper sworn April 12, 2018.

Morneau Shepell agrees with the approach put forward by Counsel for the USW and Representative Counsel, namely to deem either Representative Counsel or Counsel to the USW to be the proxy holder for each individual within their respective groups.

With respect to the Salaried group, this approach is already established in the Representation Order issued by this Court. Paragraph 5 of that Order appoints four Representatives of all

salaried/non-union employees and retirees of the Wabush CCAA Parties “...for the purpose of representing the Salaried Members in these CCAA proceedings and in particular with respect to proving, settling or compromising the rights and claims of the Salaried Members in these CCAA proceedings, who shall be bound by the actions of the Representatives and Representative Counsel ... in these CCAA proceedings [emphasis added].”

The USW sought a representation order in this proceeding, but the Monitor, as stated in its Seventh Report, objected on the ground that: “... the Monitor does not believe that it is required given that the USW already serves as the representative for union members...” (para. 21(b) and see also para. 35). Thus, the Monitor has acknowledged the representative capacity of the USW. This is consistent with and reflects the USW’s status under both Quebec and Newfoundland law as the exclusive bargaining agent for all bargaining unit employees and the party to any applicable collective agreements with the right to enforce and compromise any employee rights and entitlements thereunder.

The Monitor’s position with respect to voting on the Plan is inconsistent with both the Representation Order granted by this Court and with the Monitor’s previous position. Moreover, it is inconsistent with the representative roles that have already been exercised throughout the CCAA proceedings to-date.

The voting of employee claims for the purpose of the Plan by a single representative is consistent with the manner of voting in other CCAA proceedings in which Morneau Shepell has participated as the administrator of affected pension plans (e.g., Fraser Papers Inc. and NewPage Port Hawkesbury).

We have had the opportunity to review the Monitor’s Forty-Fifth Report to the Court, in which the Monitor takes the position that “there is no apparent need” and “no apparent benefit” for Representative Counsel or USW Counsel to be appointed as deemed proxy holder for individual member of the salaried and union groups respectively. This is obviously asserted through the lens of the Monitor and the CCAA Parties, rather than the lens of the individual employees and retirees.

The Monitor complains that allowing the Union and Salaried groups to each vote as one on the Plan “...would enable Representative Counsel and USW Counsel to exercise an unwarranted degree of power that could jeopardize the otherwise potentially viable Plan, to the detriment of all Affected Unsecured Creditors” (para. 13(c)). The Monitor does not explain why such power is “unwarranted”. The Monitor later complains that the motivation for unified voting is “...to maximize potential leverage to renegotiate the terms of the Plan...”.

Morneau Shepell does not agree that empowering employee groups in a CCAA proceeding is unwarranted. Former employees and retirees would be particularly disadvantaged in CCAA proceedings if left to fend for themselves. They gain strength and clout in their numbers and in unity. This extends to voting on a proposed Plan.

To be clear, there is nothing unwarranted or wrong with this. Indeed, this is how employee claims are dealt with in other CCAA proceedings. In this respect, Morneau Shepell disagrees with the Monitor when it states in paragraph 29 of the Forty-Fifth Report that there has been no case where a deemed proxy for employee claims allowed representative counsel to vote in their discretion. This is not correct.

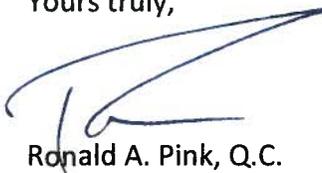
In support of its position, the Monitor asserts that the Salaried Members and the USW Members are not homogenous groups with identical claims and interests. In turn, the Monitor argues, the individual Members cannot reasonably be expected to vote in the same manner. The Monitor says that individual circumstances may affect how a person votes, as may an individual's tolerance for settlement versus litigation. By way of example, the Monitor states that "person G may want a higher pension benefit paid over time while person H may prefer a higher cash payment on account of their OPEB Claim."

With respect, this is a specious and false analysis. Under the proposed Plan, all unsecured creditors in a creditor class will receive the same percentage distribution with respect to their claims – whether that claim is for OPEBS or some other employment benefit. For the purpose of voting on the Plan, the basis for an unsecured claim is irrelevant. The example provided ignores the fact that the Pension Plan claims are being voted by Morneau Shepell in its capacity as administrator.

When looked at through the lens of former employees and retirees, the Monitor's proposed approach could be construed as a disenfranchising, "divide and conquer" approach. Morneau Shepell believes such an approach to be improper, inappropriate, and unfair.

In Morneau Shepell's submission, the Court should adopt approach put forward by Counsel for the USW and Representative Counsel, namely to deem either Representative Counsel or Counsel to the USW to be the proxy holder for each individual within their respective groups. Further, the Monitor's position is inconsistent with its previous statements and the Representation Order granted by this Court.

Yours truly,



Ronald A. Pink, Q.C.
rpink@pinklarkin.com

c. Service List
Client