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QUESTIONS RELATED TO *CCAA* FOR CEP MEMBERS

As you are all now aware, Catalyst has entered *CCAA* creditor protection pursuant to the *Company Creditors Arrangement Act*. Court hearings were held on January 31st, February 3rd, February 6th and February 7th related to details of the Court Order.

The Court Order is very detailed. Full particulars of all aspects of the Court Order and the various materials filed with the Court and prepared in this matter can be found at:

http://www.pwc.com/ca/en/car/catalyst-paper-corporation/index.jhtml

We encourage you to read the materials and become aware of both the process and the Court Order.

The Court Order provides conditions under which the Company can continue operating and includes terms such as:

(a) A Monitor is appointed to oversee matters and report to the Court

(b) A DIP Lender ("Debtor in Possession") funds the Company and receives high priority for repayment and substantial fees. In this case, that lender is J. P Morgan from the U.S.

(c) There is a stay of all legal actions against the Company while they try and work out their affairs. Unfortunately, that includes all arbitrations, etc., although it likely does not include the Labour Board. The idea is that the Company must concentrate on its new plan to present to Creditors, and dealing with legal matters would distract it from that. The only exception is if someone convinces the Court to "lift" the stay to allow something to proceed.

A number of questions have been asked, and we will attempt to answer them as best we can. *CCAA* is an evolving process however, and there is much discretion in the Court to deal with various issues.

1. **Various CEP Locals have a number of appeals for Weekly Indemnity, Long Term Disability and WorkSafeBC claims that have been denied. What is the status of those appeals, can we continue or are they deemed to fall under the *CCAA* process where they are suspended? Can we recommend that those members proceed to Small Claims Court for a settlement from the carrier(s) for Weekly Indemnity or Long Term Disability Benefits?**

Appeals for Weekly Indemnity, Long Term Disability and WorkSafeBC claims that are being made against a third-party insurance carrier, such as Manulife, are not suspended by the *CCAA* process. They can continue. If they have exhausted the carrier's appeal process, then yes, the members can try to proceed to Small Claims Court rather than through the Collective Agreement Dispute Resolution Process. This is the way most workers resolve LTD insurance issues. We recommend that all appeals go through all internal appeals at least.

Claims for Weekly Indemnity or Long Term Disability that are ready to proceed under the Dispute Resolution Process are suspended by the *CCAA* stay of proceedings. If there is an instance of significant hardship to the member, the Union can apply to the Court to have the stay of proceedings "lifted" with respect to that file. The Court may or may not do that depending on the circumstances.

2. **There are a number of issues that were proceeding under the grievance process or at arbitration. Under the *CCAA* process, what would the status of those grievances or arbitrations be – would we be able to proceed with them?**

The stay of proceedings instituted by the *CCAA* Order stops the arbitration process but not the grievance process. Locals should proceed through the grievance process and advise us if the Company objects to those processes continuing. However, once the matter is through the grievance process and it is at the point of being referred to arbitration, it is stayed by the *CCAA* Order. Again, we can apply to the Court to have the stay lifted with respect to issues of particular hardship. It is our view that matters where the hearing is finished and a decision is pending can complete.

3. **In the event a member is terminated, under the *CCAA* process would the Local be permitted to proceed through the grievance procedure to arbitration or directly to arbitration?**

The grievance process continues, but the arbitration process cannot. However, it is somewhat more likely that the judge would order a lifting of the stay to allow an arbitration with respect to a termination to proceed.

4. **There have been enhanced severance packages provided to our members in the past which saw them have their pensions from the PPIPP reduced in accordance with Table B in the Pension Plan Booklet (by 33% at age 55 to 7% at age 59) with the Employer "topping the pension up" through their general accounts. Under the *CCAA* process, would they continue to receive the "top-up" provisions?**

Because of the *CCAA* process, the Company will be considering what payments related to "pre-filing debts" to employees, suppliers, and others that it will make. The topping up of pension payments from the Company's general accounts is one of the many categories of items that the Company **may decide** to discontinue. The *CCAA* Order does not require them to do so, but

they may try. These are the types of amounts for which the Union may eventually file a claim against the Directors and Officers and we may be able to argue the payments and the agreement to pay amount to a Trust agreement and thus take some priority.

5. **Employees who retire after age 55 are entitled to receive a bridging benefit from age 60 – 65. Under the *CCAA* process, would those members continue to be eligible for the bridging benefit at age 60 if they have retired prior to age 60, or if they have retired at age 60 or later, and are eligible and receiving the bridging benefit, would they be eligible to receive or continue to receive the bridging benefit at age 60 or later? If the Employer ceases to pay the bridging benefits, what recourse would we have?**

Bridging is another issue that the Employer may try to discontinue. They don't have to but may. The employees have certain claims under various statutes for amounts payable and the Union may try to argue that some priority is created by Statute for these benefits. Remember the issue is not whether the amount is "owed", it is whether the person to whom it is owed has some priority so they can be certain to be paid.

6. **As in question 6, employees who have retired are eligible for retiree health and welfare benefits. Under the *CCAA* process, would those members continue to receive those benefits, and if the Employer ceases to make the premium payments, what recourse would we have?**

See the answer to question 6. Retiree health and welfare benefits fall into the same category.

7. **Members make voluntary deductions from their paycheques to Registered Retirement Savings Plans, supplementary life insurance, contributions to organizations such as the United Way, family maintenance payments, etc. Under the *CCAA* process, what requirement is there for the Employer to make those remittances to those supplementary plans, organizations, etc.? How can we ensure that they have been made? What recourse do we have if the Employer does not make those remittances?**

These voluntary payments generally speaking flow through the general accounts of the Company. As such, they may become available to the creditors of the Company if it does become insolvent. We strongly recommend that employees stop any voluntary "deductions".

8. **As you may or may not be aware, there are members from Locals 630 and 1123 (Elk Falls Division) who as a result of remaining on disability benefits (LTD or WorkSafeBC) or their claims are under appeal that would continue to be entitled to severance payments due to the closure of the mill. Under the *CCAA* process, what requirement is there for the Employer to continue to make those severance monies available to those employees?**

Generally speaking, Courts have found that severance payments are not entitled to any special priority if the Company's assets are liquidated. We believe this may still be open to a different decision. Therefore, whether these amounts would eventually be paid out depends on what the Court decides and what amounts are available for distribution to unsecured creditors.

9. **The current Labour Agreement expires on April 30, 2012. Under the *CCAA* process, if the Employer approached the Local Unions to re-open the Labour Agreement for bargaining, what would the options be for the Local Unions?**

The Federal statute now provides that a union is **not** required to re-open a collective agreement when a company files for *CCAA* protection. This means that the Company cannot force the Union to re-open the Collective Agreement. Neither can the Court. However, you may decide that it is strategically beneficial to do so in the circumstances.

The Company can issue notice to bargain under the BC *Code*. Also, under the *CCAA*, the Court may issue an order authorizing the Company to serve notice to bargain on the bargaining agent if it is satisfied that a viable plan to exit *CCAA* protection could not be made without taking into account the terms of the Collective Agreement, and where the Company has made good faith efforts to renegotiate the provisions of the Collective Agreement and a failure to issue that order is likely to result in irreparable damage to the Company.

It is important to remember that employees do have certain rights under various statutes:

1. If there is a bankruptcy, the *Wage Earner Protection Act* ("*WEPPA"*) and Section 81.3 of the *Bankruptcy & Insolvency Act ("BIA")* establish a "super priority" system that provides for the payment of unpaid "wages" by the Federal government and a right over secured creditors in favour of the Federal government for those payments. However, the amount of the payments under this category of claim are unpaid wages and vacation pay up to an amount of slightly over $3,000.

2. Under the *BIA*, there is an "employee remuneration charge" that secures "wages" earned during the six months immediately before the date of bankruptcy or the date that a Receiver is appointed.

3. Under the *BIA*, there is a pension charge to secure unremitted employee pension contributions, any of the Employer's unpaid defined pension contributions, and any unpaid normal costs required by the applicable pension legislation.

4. Section 64 of the Provincial *Employment Standards Act* requires that where an employer terminates the employment of 50 or more employees at a single location within any two month period, the employer must provide written notice of group termination to each employee, the trade union, and the Provincial Minister of Labour. When employees are not provided with adequate notice as required by Section 64, they are entitled to pay in lieu of notice. If these amounts are not paid, Section 87 of the *Employment Standards Act* imposes a statutory lien in favour of the Director of Employment Standards. However, if the employer does become bankrupt, then that section becomes inapplicable

as the Provincial statute cannot grant a higher priority to wage claims than that provided for under the Federal *BIA*.

5. Section 54 of the *Labour Relations Code* requires the Employer to give 60 day's notice where it intends to introduce a measure or change which will affect the terms and conditions or security of employment of a significant number of employees. In one case, the Labour Relations Board has concluded that the termination of 37 employees was sufficient to trigger Section 54.

6. Section 119 of the *Canadian Business Corporation Act* provides that a person who was a Director or Officer of a corporation can be personally liable for up to six month's unpaid wages for each employee. This is one reason why a Directors & Officers charge is created (in addition to other claims that the employees may make). Generally speaking, employees look to the insurance which the Directors & Officers carry (which we understand to be $100 million) and the D & O charge created by the Initial Order (here $31 million). However, these amounts can only be accessed after litigation is commenced to make claims under the various statutes. This type of litigation may take years to complete.