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**From:** Jackie Bodie [<mailto:jbodie@blinc.ca>]  
**Sent:** March-01-13 2:50 PM  
**To:** 'marilyn.marshall@ontario.ca'; 'James.Girling@ontario.ca'  
**Subject:** FW: Nortel Disabled Employee Consumer Complaint

Greetings Ms. Marshall and Mr. Girling,

My name is Jackie Bodie and I am an ex-Nortel disabled employee. As you're aware, I've been in contact with Frank Denton regarding my request to have the Ministry of Consumer Services reconsider its decision to not investigate Nortel and Sunlife for false representation of Long-term disability insurance that I purchased from Nortel. I understand Mr. Denton has forwarded both of you some additional information I sent him recently. I was informed of your reasons for not advising an investigation and decided to send this in hopes of sharing my thoughts with you as well as clarifying the nature of my complaint against Nortel and Sunlife.

I recently sent Mr. Denton an email explaining some of my thoughts (please see below) as well as an excerpt of one of Nortel's annual employee benefit guides (see attached) which I don't believe was previously provided to the Ministry. I feel it is particularly relevant as it identifies the terminology Nortel used in presenting all employees with an offer to purchase their extended Long-term disability insurance product. You'll notice they state that I have the "***option to purchase additional LTD coverage***" and that "***If your selections cost more than your FLEX credits: You pay the difference with after-tax dollars through payroll deductions***". It is my opinion that their usage of the word "***purchase***" in their own documentation infers that they considered themselves to be the supplier of a product and I, the consumer.

Additionally, while I fully concur with your conclusion that the Consumer Protection Act should not apply to workplace disputes, I think in this case, the pre-conceived definition of "workplace dispute" becomes vague. To clarify, I suggest that a dispute over any benefits the employer provides to the employee in exchange for labour under the terms of employment should fall into a general "workplace dispute" category. I hope to draw your attention to the notion that specifically, in the case of my Long-term Disability insurance that only the "**Core**" level of coverage (which provided 50% of base salary) should fall into the "workplace dispute" category. Please note that my complaint is only with respect to the "**Extended**" part of the disability insurance which was **not** part of the mandatory benefit package that was part of my terms of employment. Because of this, I don't believe my complaint should be considered a workplace dispute. I could have chosen to not pay extra for the coverage but then I wouldn't have received a salary top-up from 50% to 70%. It is for this benefit that I paid by regular employer deductions off my pay cheque as indicated above. I would be happy to provide you with a pay stub which shows this. It is this extended coverage that I would have purchased elsewhere had I known that it wasn't insured against bankruptcy when purchased from Nortel. It is because Nortel never told me this, that I feel they should be held accountable for offering to sell me a product that they knew would fail in the event of their own bankruptcy. (incidentally - I mentioned to Mr. Denton that I did ask Nortel at the time what would happen to the insurance in the event of bankruptcy and they assured me it would not be affected). I feel Nortel knowingly lied to me about a product that they accepted my money for.

As I also mentioned to Mr. Denton, and for your consideration - if the CPA is enforced in this case, I believe it would set a precedent and provide clarity to the Ministry for decisions on future cases of a similar nature.

With this new information and with my arguments presented to Mr. Denton (please see below), I am hoping I can convince you to reconsider your earlier position on this case and advise the Ministry of Consumer Services accordingly. If you would like to see a pay stub or if there is any other information I can provide you, please do not hesitate to call me at (403) 247-8782 or email [jbodie@blinc.ca](mailto:jbodie@blinc.ca).

I appreciate the additional time you are taking to consider my information and hope to hear from you soon, regardless of your decision.

Sincerely,  
Jackie Bodie  
403-247-8782

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**From:** Jackie Bodie [<mailto:jbodie@blinc.ca>]  
**Sent:** February-26-13 2:27 PM  
**To:** 'Denton, Frank (MCS)'  
**Cc:** 'Pinto, Samantha (MCS)'  
**Subject:** RE: Nortel Disabled Employee Consumer Complaint

Good afternoon Mr. Denton,

Just a quick email to follow up on our discussion last week. Is there any other information I can provide to your legal advisors or to yourself which would support a reversal of the Ministry's earlier decision not to investigate my complaint regarding Nortel's misrepresentation of disability insurance? I am hoping I have persuaded you to use my situation as an opportunity to set a precedent in using the Consumer Protection Act to protect not only myself and Nortel's other disabled employees but also future consumers who will purchase products from their employers. I believe when the CPA was created, the authors couldn't have anticipated this scenario and that a decision by your Ministry to investigate my complaint would be in keeping with the original reason the CPA was created - to protect ordinary citizens like myself from unscrupulous sellers.

As I mentioned earlier in our call, my situation seems to have uncovered a hole in provincial legislation where consumers who are also employees have no protection and are at higher risk than everyone else. I believe the CPA is the easiest solution in that there would be no legislative amendments required to fix the problem. Using the CPA to hold Nortel and Sunlife accountable for their actions would also mark the difference between my situation and what has traditionally been considered a "*workplace dispute*". This would provide clarity for the Ministry in making decisions on future complaints of a similar nature.

Please do not hesitate to contact me if I can provide any further information or be of assistance in any way.

I hope to hear from you,

Jackie Bodie  
403-247-8782

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**From:** Denton, Frank (MCS) [<mailto:Frank.Denton@ontario.ca>]  
**Sent:** February-21-13 4:21 PM  
**To:** 'jbodie@blinc.ca'  
**Cc:** Pinto, Samantha (MCS)  
**Subject:** Re: Nortel Disabled Employee Consumer Complaint

Ms. Bodie:

Thank you for sharing these documents and legal arguments. I have passed everything to our lawyers.

Regards,

Frank

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Frank E. Denton  
Assistant Deputy Minister  
Ministry of Consumer Services  
416 326-2826  
416 659 4758 (c)

Sent from my BlackBerry Wireless Handheld

**From:** Jackie Bodie [<mailto:jbodie@blinc.ca>]  
**Sent:** Thursday, February 21, 2013 04:27 PM  
**To:** Denton, Frank (MCS)  
**Cc:** Pinto, Samantha (MCS)  
**Subject:** RE: Nortel Disabled Employee Consumer Complaint

Mr. Denton,

Thank you for taking the time to speak with me today. I appreciate your willingness to look at more information regarding our situation. In our call, I neglected to highlight one thing on pg 11 of the 2006 Nortel employee benefit guide (attached). The part I previously highlighted explains that employees were allowed to **purchase** optional benefits with "*FLEX credits*" provided to us by Nortel. To ensure there's no ambiguity, I should have also highlighted the sentence near the bottom that says "**If your selections cost more than your FLEX credits: You pay the difference with after-tax dollars through payroll deductions**". In my case, I **paid** Nortel up to **\$45 per pay period** for 14 years, to **purchase** the optional LTD insurance which topped up my wage-loss income from 50% to 70% of my pre-disability income. If you would like, I can forward you a pay stub which shows this deduction.

If you would please forward this information to Ms. Marshall and Mr. Girling, I would appreciate it.

Thanks again for your time,

Jackie Bodie  
403-247-8782

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**From:** Jackie Bodie [<mailto:jbodie@blinc.ca>]  
**Sent:** February-20-13 11:18 PM  
**To:** 'Denton, Frank (MCS)'  
**Cc:** 'Pinto, Samantha (MCS)'  
**Subject:** RE: Nortel Disabled Employee Consumer Complaint

Mr. Denton,

To clarify the purchase agreement that I had with Nortel for LTD disability insurance, I've attached a document for your review. The file is an excerpt from Nortel's Benefit Enrollment Guide for 2006. In it, you'll notice that Nortel informs me that if I want a higher level of LTD coverage, I have the "**option to purchase additional LTD coverage**" (with after-tax dollars through payroll deduction). In my opinion, this implies that Nortel considered themselves to be a "seller" (or supplier) and they were offering to sell me their product as a supplement to my "*core benefits - which are fully paid for by Nortel*". This was an offer which was optional, it was not included as part of the core benefit package and there was no workplace dispute over any terms, conditions or details of anything at the time of purchase. In my opinion, the seller has reneged on a purchase agreement.

Also, please note where I have highlighted 1st disclosure - this document was the first time I saw Nortel disclose the fact that their LTD insurance was self-insured (ie: **not** guaranteed and **not** protected by Insurance Industry regulations). As I went on LTD in September of 2005, this disclosure was too late to allow me to find alternate insurance. I was already diagnosed and already on LTD therefore obviously unable at that point, to find a licensed insurance provider who would sell me LTD insurance. Nortel knew when they sold me this insurance that I would not be protected in the event of their bankruptcy and they failed to tell me. Had I known this before my diagnosis, I would have purchased LTD insurance elsewhere. I feel that is unconscionable representation and false representation of their product.

In case there was any ambiguity, I hope this clarifies my reason for my complaint. I look forward to speaking with you tomorrow at 3pm.

Sincerely,  
Jackie Bodie

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**From:** Denton, Frank (MCS) [<mailto:Frank.Denton@ontario.ca>]

**Sent:** February-19-13 6:36 AM

**To:** Jackie Bodie

**Cc:** Pinto, Samantha (MCS)

**Subject:** RE: Nortel Disabled Employee Consumer Complaint

Ms. Bodie:

Thank you for your e mail. I do remember you being on the phone at our last meeting with the Urquarts.

I have asked my office to book a call to discuss this matter.

Regards,

Frank Denton  
Assistant Deputy Minister  
Ministry of Consumer Services  
Policy and Consumer Protection Services Division  
Tel: (416) 326-2826  
Fax: (416) 325-6192  
E-mail: [frank.denton@ontario.ca](mailto:frank.denton@ontario.ca)

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**From:** Jackie Bodie [<mailto:jbodie@blinc.ca>]  
**Sent:** February 16, 2013 12:51 AM  
**To:** Denton, Frank (MCS)  
**Subject:** Nortel Disabled Employee Consumer Complaint

Dear Mr. Denton,

My name is Jackie Bodie. I'm not sure if you remember me but I'm one of the ex-Nortel disabled employees whose benefits were terminated on December 31<sup>st</sup>, 2010. I am writing you this email following a discussion I had with Mr. Ronan O'Leary of the Office of the Ombudsman of Ontario. He indicated that you would be willing to speak with me personally regarding my situation with Nortel. I appreciate you making the time for me. As my cognitive functioning and ability to hold a productive phone conversation is somewhat poor due to Parkinson's, I wanted to first forward you my thoughts by email to minimize my level of confusion when I call you. With this email, I hope to offer you my perspective on your Ministry's decision regarding the situation of Nortel's ex-disabled employees in hopes that you will reconsider helping us. I do understand your Ministry's legal counsel Ms. Marilyn Marshall and Mr. Jim Girling have advised against using the Consumer Protection Act to help us but I hope to provide some arguments to their conclusion that you may not have previously considered.

As you're familiar with the events of Nortel's bankruptcy proceedings, you will recall that our court-appointed lawyers threw the disabled employees under the bus for the sake of cutting a better deal for Nortel's pensioners. As a result, we have had all our health and income benefits that were intended to support us until age 65, taken away. As you're also aware, CPP-disability provides a meagre \$13,000 per year. It's tough to have to choose between medicine or food as I'm sure you can imagine. I'm 43 years old and was diagnosed with Parkinson's disease 10 years ago. I've got a long way to go before I reach age 65 which is another reason why I'm asking you to give us further consideration.

As you know, our group has been previously in contact with your Ministry for some time now, requesting to have the Consumer Protection Act used to force Nortel and Sunlife to honour a business transaction with us. If I could reiterate the issue in my layman's terms, I and others, during our period of employment, paid Nortel for extended disability insurance coverage which I was assured would replace my loss of earned income until age 65. Then I was diagnosed with Parkinson's and in 2005, was forced to collect on that long-term disability insurance. In 2009, I found out my benefits would be terminated. At the time of purchase, Nortel told me this insurance would provide guaranteed wage-loss recovery until age 65 or death. They never mentioned bankruptcy - in fact, I specifically asked what would happen in the case of employer bankruptcy and they informed me that my benefits would NOT be impacted! Had I known this was not true, I would have purchased disability insurance elsewhere! I was not obligated to buy my insurance from Nortel as part of any employment agreement.

With all due respect, I really don't understand the logic used by Ms. Marshall and Mr. Girling to come to their conclusion that our situation falls outside the jurisdiction of the CPA. Although I have no doubt they are experts on the subject matter, I feel they are engaging in an exercise of semantics with the wording of the CPA. I hope you can understand my frustration thus far. I thought the CPA was intended to protect Consumers against Suppliers. In our case, it seems the CPA is being used to protect the Supplier and not the Consumer - based on semantics. Rather than focusing on the fact that I was an employee, I hope your Ministry will consider examining the intended nature of my transaction with Nortel and consider that our case could set an important precedent while reinforcing the original objective behind the creation of the Act.

It is my understanding that Ms. Marshall and Mr. Girling presented the following two reasons for concluding that our situation falls outside the jurisdiction of the CPA:

*1) we are not consumers, we were employees therefore it was a workplace dispute.*

- I propose that "workplace dispute" implies an employee/employer relationship where certain benefits are supplied by the employer in exchange for the employee's labour. In our case, **Extended benefits** were NOT part of our labour agreement; **Core** benefits were. Our complaint pertains to our **EXTENDED** benefits which were NOT an automatic benefit of employment - but in fact, were additional, optional benefits (ie: wage top-up from 50% to 70%) for which we paid **with after-tax dollars**. I paid Nortel an amount every month as I would have paid any licensed, Assuris-backed insurance provider. There was no workplace dispute over any benefits. It was a retail purchase of a defective product. It turned out to be something different than what Nortel told me it was. I'm no expert but in my humble opinion, that seems like product misrepresentation.

According to the wording in the CPA: *"The CPA is intended to regulate transactions between individual consumers and suppliers of goods and services"*.

- I propose that we **are** consumers **and** employees because we could have bought the product that Nortel offered from any number of suppliers. From a buyer's perspective, Nortel's insurance product was not unique. Disability insurance is disability insurance. From the seller's perspective however, Nortel had a limited segment of the market that they could sell their product to - only their employees.

## 2) the product was only available to employees, not general public.

- Why should it be relevant that my Grandmother or my neighbour who didn't work for Nortel, didn't have that insurance product available to them? Why should it be relevant that I also happened to be an employee of that supplier? Please consider the following analogy: If I'm a Ford employee and I buy a car from a Ford dealer at an employee discount price and the engine falls out, am I **not** protected by the CPA just because I was an employee who was eligible to buy the product at a price NOT offered to the general public? In this scenario, would my Grandmother or neighbour be protected if they bought the car at full retail price but I would not? That wouldn't seem fair. In fact, it would seem to me to indicate a "tiered consumer" model where all consumers are not equal.

- Of course the insurance was **not** available to the general public. In order for Nortel to sell the general public what they sold us, they would have had to have been a licensed insurance provider. Insurance industry regulations prevented Nortel from making the product available to consumers who were NOT employees thereby protecting those consumers.

- that observation then suggests that if a consumer purchases any product from a supplier who is NOT licensed to sell that product, then the consumer is NOT protected by the CPA. Is this true just for insurance or all products? Is this exemption stipulated in the CPA?

- so from this, one can conclude that there are 2 tiers of consumers: Tier A - who has no employment relationship to the supplier; and Tier B - who is an employee of the supplier. Tier A receives broader consumer protection than Tier B. Is this tiered Consumer description defined in the CPA?

- furthermore, there exists 2 tiers of Suppliers: Tier 1- who is licensed and can sell to anyone; and Tier 2 - who is NOT licensed and can only sell to a segment of the market.

- According to your July 18, 2011 letter to Rochon Genova (see attached), the CPA is intended to *"promote a fair and balanced marketplace"*. In fact, it would seem to me that the Ministry's legal counsel's interpretation of the wording of the CPA causes the CPA to support the exact opposite - a tiered Consumer/Supplier model within the marketplace, where being an employee puts a consumer at higher risk and being an employer gives a supplier a double unfair advantage. Essentially, the supplier is legally permitted to sell products that are defective and/or non-compliant with industry standards, to their employees without the requirement of disclosure and without risk of employee recourse.

I think the analogy I presented above of the Ford employee is comparable to our situation in that the consumer/Ford employee realizes a cost savings (ie: Ford employee discount) offered on a product as an incentive to accept an employment agreement, but which is **not** offered to the general public. (Nortel was able to offer its employees Extended Disability Benefits at a lower price than third party licensed insurers because they received high volume discount rates on their group plans from Sunlife). So, following the Ministry's argument, if the Ford employee ends up with a defective car, then he would **not** be protected by

the CPA because he bought a product from his employer that was **not** available to the general public (**at the same price**). Of course, the obvious difference between this example and our situation is that Ford would not be handcuffed by regulatory requirements but by their own profit margin goals (ie: naturally, they wouldn't sacrifice profitability by choosing to offer employee discount pricing to the general public). Regardless though, according to your Legal Counsel's logic, the end consequence to the Ford employee should be the same as us - no CPA protection because the product was not offered to the general public. Given its similarity to our situation, I would be curious to hear your thoughts on this analogy. How is purchasing a car any different than purchasing disability insurance? They are both products for personal 'consumption' and it is my opinion that discretion should be used where necessary on the part of the Consumer Services Ministry to ensure that the CPA's value and purpose is upheld by maximizing protection to all tiers of Consumers and **not** Suppliers.

While I'll admit I'm no expert on this subject, these are my arguments against Ms. Marshall and Mr. Girling's recommendation to your Ministry. I hope my Layman logic can persuade you to reconsider your decision to not proceed with an investigation. It has truly been a long and arduous road we have travelled and we simply want the product that we paid for and were promised so that we can live out our disabilities in peace . If you wish to discuss this further and if I can answer any questions you may have, I can be reached by email at [jbodie@blinc.ca](mailto:jbodie@blinc.ca) or by phone at 403-247-8782 and I would welcome the opportunity to speak with yourself or any of your Ministry staff.

I hope to hear from you soon but I will give you a call later next week to follow up as best I can,  
Sincerely,

Jackie Bodie  
Ex-Nortel disabled employee  
403-247-8782  
[jbodie@blinc.ca](mailto:jbodie@blinc.ca)