

Urquhart

Subject: FW: [SPAM]Fw: Request for Public Disclosure of Legal Documents Related to Nortel Long Term Disability Benefits and the Health and Welfare Trust

From: Lawrence Clooney [mailto:lkclooney@hotmail.com]
Sent: November-02-09 4:02 PM
To: Arlene Plante (LTD); Nanc Ekiert (LTD); Josee Marin (LTD); Greg McAvoy (LTD); jholley@explornet.com
Cc: Diane Urquhart
Subject: [SPAM]Fw: Request for Public Disclosure of Legal Documents Related to Nortel Long Term Disability Benefits and the Health and Welfare Trust

The contents of this email are CONFIDENTIAL for the time being. Do NOT send to anyone else for the time because we need to give the justice folks time to move on our request in a positive ethical manner.

Lawrence

From: [Lawrence Clooney](#)
Sent: Monday, November 02, 2009 2:38 PM
To: geoffrey.morawetz@jus.gov.on.ca
Cc: heather.j.smith@jus.gov.on.ca ; thomas.s.harrison@ontario.ca ; tara.stead@ontario.ca
Subject: Request for Public Disclosure of Legal Documents Related to Nortel Long Term Disability Benefits and the Health and Welfare Trust

Dear Justice Geoffrey Morawetz:

I'm writing to you on behalf of the Rights for Canadian Nortel Disabled Employees (RCNDE) group to request that you as judge for the Nortel CCAA proceeding require that Nortel post all the material contracts and legal documents pertaining to the Nortel Canadian long term disability benefits plan and the Nortel Health & Welfare Trust (H & WT) in an electronic format on the Ernst & Young Canada Nortel Court Monitor's Website. Please ensure that our requested documents are easily accessible and viewable by the Nortel Canadian long term disabled employees, with the English language being an acceptable format.

We are not satisfied with the Ernst & Young Canada Court Monitor Tom C. Ayres' pledge to provide a summary report of the Nortel H&WT in an upcoming Court Monitor's report. He made this pledge on the October 27, 2009 LTD Webinar hosted by Susan Philpott and Mark Zigler of KM LLP, your appointed Representative Counsel for the Nortel pensioners, long term disabled and severed employees. The lawyers at KM LLP have advised our group of disabled persons that they are unable to provide a copy of the material contracts and legal documents we request due to a Non Disclosure Agreement. Both KM LLP and the Ernst & Young Canada Court Monitor have received these documents.

Our group would like to examine for ourselves the legal documents relevant to our LTD benefit since our benefit brochures indicate that if there is a difference between the benefit brochure and the legal documents for the LTD plan the plan legal documents will prevail. Up until 2005, Nortel never disclosed to us that our long term disability benefits were not insured by an insurance company.

Even in 2005, when Nortel said our long term disability benefits were self-insured, they said this meant that Nortel plays a role similar to that of an insurance company for its employees and that the Company assumes the risk. Many of us made employee contributions to the Nortel LTD plan to

raise our LTD coverage from 50% to 70% of pre-disability earnings, and now we wonder where did our money go.

The documents we wish to see are:

1. legal documents for the Long Term Disability Benefit
2. legal documents for the Survivor Income Benefit
3. all financial and legal documents pertaining to the H&WT, which includes contracts with all past and present trustees and benefit administrators.
4. the plan for wind-up of the H&WT upon Nortel's liquidation
- 5.

We believe the public disclosure of the requested information is key to our personal and group decisions about creditor claims, full examination of our legal rights for remedy of our situation in an expeditious manner and simply planning for our future in terms of living arrangements and the funding of our drug and other medical needs. Our request is of an urgent nature, since we have been advised in the October 27, 2009 LTD Webinar hosted by KM LLP that Nortel is paying for our current LTD income from the H & WT assets, that is only \$69 million as of June 30, 2009. We are advised that this small amount of assets is also being depleted by other beneficiaries, such as survivor income for deceased Nortel employees. We would like to see our requested documents within 5 business days on the Nortel Court Monitor website.

I wish to thank you in advance for ensuring that the material contracts and legal documents that are our right to see as creditors in this bankruptcy proceeding will be posted on the Ernst & Young Canada Website as soon as possible.

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November 5, 2009

Our File No.: 08-3800

Via E-mail

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Dear Sirs/Mesdames:

Re: CCAA Proceedings of Nortel Networks Corporation *et al.* ("Nortel")

Your correspondence to Mr. Justice Morawetz was forwarded to us in our capacity as counsel to Ernst & Young Inc., the court appointed Monitor in Nortel's CCAA proceeding.

Having acted in this capacity in a large number of these kinds of proceedings, the Monitor and its representatives understand that Nortel's insolvency has created a very difficult and stressful situation for each of you and your families, and for all of those receiving long-term disability incomes from the Health and Welfare Trust established by Nortel.

Representatives of the Monitor and its legal counsel have met and continue to meet with your court-appointed counsel and participated in the Webinar for Nortel employees on long term disability held on October 27. In addition, we have provided your legal counsel and your court-appointed representative with the information and documents currently available with respect to the Health and Welfare Trust, the provision of which was made subject to a confidentiality agreement.

As with other matters in the Nortel proceeding, the Monitor exercises its discretion on issues of disclosure in light of a number of competing considerations, including some that are not always readily apparent. Considering all of the relevant factors, the Monitor then determines to whom, how

and when disclosure of documents should be made, taking into account the interests of all stakeholders and other facets of the restructuring.

Regarding your request, the Monitor is currently working with the Company and its advisors with respect to disclosure of information concerning the Health & Welfare Trust. For the time being, the Monitor remains of the view that the disclosure of certain of the requested information should remain subject to the non-disclosure agreement, given a number of matters currently in progress in the restructuring. However, we assure you that the Monitor and its counsel take your concerns seriously and will reconsider your request on an on-going basis as the restructuring evolves.

The Monitor will be reporting to the Court on a number of matters before November 30, 2009 and will provide an update on disclosure and timing of matters related to the Health and Welfare Trust at that time.

Yours very truly,

GOODMANS LLP



Gale Rubenstein
GOR/dm

cc: Lee Close (Ernst & Young Inc.)
Murray McDonald (Ernst & Young Inc.)
Mark Zigler (Koskie Minsky LLP)
Susan Philpott (Koskie Minsky LLP)
Barry Wadsworth (CAW)
Tony Reyes (Ogilvy Renault LLP)
Jay Carfagnini (Goodmans LLP)

November 5, 2009

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Dear Sirs/Mesdames:

Re: Nortel Disabled Employees
Re: E-mail to Justice Morawetz Regarding Request For Public Disclosure Of
Legal Documents Related to Nortel Long Term Disability Benefits and the Health
and Welfare Trust
Our File No. 09/1329

Your e-mail to Justice Jeffrey Morawetz has been passed to us and to the Monitor for response. We trust that you have received a response from the Monitor.

As you know, Koskie Minsky LLP is Court-appointed Representative Counsel acting on behalf of Nortel's Disabled Employees in Nortel's insolvency proceedings. None of the judges to whom your email was sent, including Justice Morawetz, will respond to your inquiry. Justice Morawetz is the judge in charge of the proceedings and his role is to ensure the proper administration of those proceedings. As we have advised Mr. Clooney in the past, and as is posted clearly on our website, it is inappropriate and unproductive to contact the Judge directly.

Sue Kennedy is the Court-appointed representative. She is accountable to the Court and to the Disabled Employees, and provides us with instructions. We are counsel to both Ms. Kennedy and the group of Nortel Disabled Employees as a whole (other than those represented by the

CAW), and are responsible for representing your interests in the insolvency proceedings. None of you opted out of Ms. Kennedy's representation order though you had the opportunity to do so.

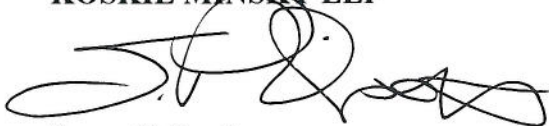
As you know, we are in possession of the documents that you request in your e-mail. They were provided to us under a Non-Disclosure Agreement, which we have signed, and which your Representative has signed. That Agreement obliges us to maintain the confidentiality of the documents and information to which we have access, and which is necessary to enable our representation of your interests. Without that access, it would be extremely difficult, if not impossible, to represent you in these proceedings. It is critical that we have access to that information, and that we are trusted to maintain its confidentiality when requested.

However, we have on a number of occasions requested the Monitor's agreement to broader disclosure of the documents you seek. The Monitor, for reasons that we must accept, is reluctant to disclose the documents at this time and has a plan for broader and more public disclosure in the context of the proceedings. We are working with the Monitor and the Company on a process to address the allocation of the funds in the Health and Welfare Trust and as part of that process, the relevant documents will be disclosed publicly. We understand that the Monitor intends to report on that process by November 30.

We urge you to work through your Representative and us if you have questions or issues that should be addressed. We cannot emphasize strongly enough how important it is not to contact the Judge or the Court directly. It does nothing but weaken your position and undercut the credibility of your group as a whole.

Yours truly,

KOSKIE MINSKY LLP



Susan Philpott

SP:mp

c Sue Kennedy
Lee Close (Ernst & Young Inc.)
Murray MacDonald (Ernst & Young Inc.)
Gale Rubenstein (Goodman's)
Mark Zigler
Andrea McKinnon