

From: Anne Clark-Stewart

To: insolvency-Insolvabilite: IC

Subject: Comments on the Review of the BIA/CCAA

Date: July-15-14 11:55:10 PM

Thank you for giving me the opportunity to comment on the current regulations related to the BIA and CCAA legislation and regulations related to Canada's bankruptcy and insolvency laws. The current BIA/CCAA legislation needs to address the impact of the regulations on employees, pensioners and disabled employees of companies undergoing restructuring, insolvency or bankruptcy. These are the most vulnerable creditors in these circumstances, many of whom have no way to reenter the workforce in any manner to make recoveries of their lost income.

In the case of Nortel, for whom I worked for over 40 years, I am now in a situation where I have lost 30% of my pension, all of my health, medical and dental benefits and my pensioner life insurance. As with most people in the company, I did not buy other life insurance, as we paid premiums which we thought were premiums for individual life insurance policies. Were we ever surprised to discover that the Life Insurance was self-insured by Nortel and the pensioner life insurance premiums were in the Health and Welfare trust which was underfunded by 37%. Laws governing Health and Welfare Trusts also need to be reviewed, as no company should be allowed to put employee and pensioner premiums for this type of coverage at risk. By the time one receives the small amount of the Commuted Value of the insurance, there is insufficient money to purchase another policy or invest to make up the lost amount of funds, especially in today's climate of low interest rates.

There needs to be better co-ordination with Finance Canada and the CRA, as there is no way that these funds from the Health and Welfare trust should be taxed as "other income". Through no fault of our own, the financial security we had planned over our working lives has vanished with a declaration of the company going under the protection of the CCAA. Taxing the life insurance CV and the pension payouts for surviving spouses just adds insult to the injury already suffered with the loss of our pensions.

I am aware that many changes have been made to increase the security of pension funds that are federally-regulated, but there still needs to be on-going dialogue with the provinces and territories to get their Pension Act legislation and supporting regulations up to the same standards as those for federally-regulated defined benefit pension plans.

In many cases, the language of the BIA and the CCAA are unclear as to what the intended consequences of specific actions are in the legislation. When it comes to cross-border bankruptcies, such as the Nortel case, there needs to be stronger language to outline how these cases should be handled for efficiency and effectiveness.

Another point is that there should be some references in the ACTs as to the amount of monies that can be charged for legal and financial fees related to the individual insolvency. Limitations may encourage quicker resolution. In the Nortel Case, our legal fees are well over the \$1 Billion mark and rising, as there is no resolution on the distribution of assets after over 5 years of constant dialogue on the matter. Pensioners and surviving spouses are dying at a rapid rate or are suffering current financial hardships due to the interminable delay in winding up pension funds or determining the distribution of assets. There should perhaps also be some time limits put on the length of time that these cases should take for resolution. In this era of digital communications, some of the processes involved could certainly be tightened and expedited through technology.

Having been involved in communications with our pensioner community, I see first hand the stresses that these people are under each time there is an article on the news or in the various media about the Nortel case. Since my phone number is in general circulation, I am the one who receives phone calls from 85 year old pensioners who don't really understand what is going on and wondering what they are going to do now that their spouse needs long-term care and they no longer have the funds to cover

that. Or the 80-year old couple who called asking for help as they both were undergoing cancer treatment and they had no family to help them and they were located in Northern Ontario. We do our best to help, but we are not miracle workers.

We have had many discussions with several Cabinet Ministers who have told us they can't do anything for us as our group is too small, our case is before the courts, our case is under CCAA, etc. These are specious arguments, as at any point in time, there will always be corporations under the protection of the BIA or CCAA. This is not a valid reason to sit back and do nothing.

The BIA/CCAA needs to be changed to provide better protection for all pension funds, due as well as due and not paid, so that pensioners will receive the financial security of the deferred wages owed to them. Former employees need to have the WEPPA amount reviewed regularly. The current amount of \$3000 of outstanding wages is still inadequate and has not been updated since Jan. 2009. Employee and retiree benefits and life insurance require better protection under these acts, as it is almost impossible to replace these once pensions are reduced in bankruptcy or insolvency.

I hope that once the Minister presents recommendations for changes to the ACTs that we will be allowed to present our views to the Industry Committee sessions which will be held to discuss the changes.

Yours truly,

Anne Clark-Stewart