

IS YOUR GMCL SALARIED PENSION AT RISK?

This is a summary of the speeches by members of the Genmo Salaried Pension Organization Executive on February 11, 2009 at the Oshawa Information Meetings.

What happens if GM goes bankrupt?

We all know why GM is in trouble. In Canada the company would go through a restructuring process called “Companies’ Creditors Arrangement Act” (CCAA) similar to Chapter 11 in the United States. Companies which have reorganized under CCAA have paid creditors pennies on the dollar and resumed business with no debt. Pensions are not considered secure creditors and are virtually ignored. A Judge is appointed to oversee the CCAA proceedings and has enormous discretion to fashion a restructuring or “exit plan”. Unions have direct input at the proceedings to protect their agreement and pension plan. *Salaried employees are currently not organized and subsequently have no one there to protect their interests!*

In Ontario, if GM becomes insolvent, contributions cease and the pension plan is subject to a “wind-up” under procedures established in the Pension Benefits Act (PBA) which was amended in 1980 to establish the Pension Benefit Guarantee Fund (PBGF). So, under CCAA there would be a “wind-up” of the pension plan. Based on the latest actuarial report filed Nov 30, 2007, GM salary pension fund was at 74.1% solvency ratio. However, 69% of the fund is in equities which have declined significantly since 2007. Subsequently our pension fund may only be approximately at 50%. *This means that if GM goes bankrupt today and your monthly pension is currently \$3600 you would receive \$1800 (50% of \$3600) plus \$500 PBGF (Pension Benefit Guarantee Fund 50% of the First \$1000) which equals \$2300 and no benefits!*

Why is our pension underfunded?

Regulation 5.1 of the PBA in Ontario “Too Big To Fail” legislation in 1992 gave GM, Stelco and Algoma a contribution holiday. Regulation 5.1 was amended in 2002 to close this loophole; however GM's status was grandfathered. The other companies have failed.

Can we learn something from the Stelco experience?

Before Stelco went bankrupt, the salaried retirees organized, collected fees, and secured legal counsel to protect their pension and benefits. Through Stelco's salaried employee's political action campaign, the Ontario Government forced Stelco to withdraw from “5.1 Regulation”, imposed a 10 year pension regulation to top up the pension fund, and loaned Stelco \$150 million to be paid into the pension funds. A large portion of the loan did not have to be repaid if terms and conditions were met.

CCAA supersedes PBA, allowing companies to wind up pension plans with huge deficiencies and with no requirement to top them up to 100%. In Stelco's situation, the salaried group was fortunate to have experienced legal counsel, a compassionate judge and monetary assistance from the Ontario Finance Ministry. Apparently the CCAA is fairly flexible, whereby creditors cannot take a company down. Through the efforts of

their counsel, at Koskie Minsky, the Stelco salaried retirees were able to be recognized as a secured creditor. The Judge admonished Stelco throughout the process that they could not change the pension payment or benefit structure.

So, who's responsible?

The *Ontario Government* has allowed GM a contribution holiday through the “Too Big To Fail” legislation Regulation 5.1. This has put our pension fund at risk today. Also, the PBGF is currently under funded and may not be able to meet commitments. *We are extremely vulnerable and GM obviously is in a precarious financial position today!*

What do we need to do now?

We need to support GM and help them stay solvent. However, even if GM receives government loans we still need to lobby for pension law reforms. There are close to 8000 people in Canada (mostly Ontario) collecting a GM salary pension, and also close to 5000 active salary employees who will be negatively impacted if GM fails. We have done some research and are making the attached recommendations. We hope to get retirees support for political actions and possible legal counsel to protect what we were promised in our pensions and benefits.