

**Financial Services  
Tribunal**

5160 Yonge Street  
Box 85  
Toronto ON M2N 6L9

**Tribunal des services  
financiers**

5160, rue Yonge  
Boîte 85  
Toronto ON M2N 6L9



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**Fax/Télécopieur**

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Date: **July 5, 2013**

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To/A:  
**Mr. Lewis Gottheil**  
**CAW-Canada**

Fax/Télécopieur:  
**(416) 495-3786**

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From/De:  
**Vincent Laurella, Assistant Registrar**  
**Financial Services Tribunal**

Telephone/Téléphone: 416 226-7752  
Toll Free/Sans Frais: 1 800 668-0128  
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No. of Pages (including this page)/Nombre de pages (y compris cette page): 5

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MESSAGE: Re: P0521-2013  
Navistar Canada Inc. Non-Contributory Retirement Plan, Reg. No.  
0351684

**ATTENTION**

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July 5, 2013

Mr. Mitch Frazer  
Torys LLP  
79 Wellington St. West, Suite 3000  
Box 270, TD Centre  
Toronto ON M5K 1N2

**By Fax (416) 865-7380 and Courier**

Mr. Mark Bailey  
Legal Services Branch  
Financial Services Commission  
5160 Yonge Street, 17th Floor  
Toronto ON M2N 6L9

**By Fax (416) 590-7556 and Hand Delivery**

Mr. Lewis Gottheil  
CAW-Canada  
205 Placer Court  
Toronto ON M2H 3H9

**By Fax (416) 495-3786 and Regular Mail**

Dear Sirs:

**Re: FST File #P0521-2013  
Navistar Canada Inc. Non-Contributory Retirement Plan, Reg. No. 0351684**

Enclosed is a copy of the Notice of Hearing for the jurisdiction motion and the main hearing.

The jurisdiction motion is scheduled for October 10, 2013, commencing at 9:30 a.m. at the Tribunal's offices, 5160 Yonge St. 14<sup>th</sup> Floor, Room 20, Toronto, and the main hearing is scheduled on December 9, 11, 12, and 16, 2013, each day commencing at 9:30 a.m. at the Tribunal's offices.

The panel is comprised of Florence Holden (Chair), Jeff Richardson and Patrick Longhurst.

An electronic copy of the Notice of Hearing will also be sent to Mr. Frazer for newspaper publication.

Yours truly,

A handwritten signature in black ink, appearing to read 'Rhonda Booth'.

Rhonda Booth  
Registrar

Encl.

Financial Services  
Tribunal

Tribunal des services  
financiers



FST File No. P0521-2013

## FINANCIAL SERVICES TRIBUNAL

**IN THE MATTER OF** the *Pension Benefits Act*, R.S.O. 1990, c.P.8, ("the Act") as amended by the *Financial Services Commission of Ontario Act, 1997*, S.O. 1997, c. 28;

**AND IN THE MATTER OF** a Notice of Intended Decision of the Superintendent of Financial Services dated March 7, 2013, to Make Orders under sections 77.3(1)(a) and (b) and 87 of the PBA relating to the Navistar Canada Inc. Non-Contributory Retirement Plan, Registration Number 0351684;

**AND IN THE MATTER OF** a Hearing in accordance with subsection 89(8) of the Act.

### NOTICE OF HEARING

**TAKE NOTICE** that the Financial Services Tribunal ("the Tribunal") will hold a hearing in this matter pursuant to subsection 89 (8) of the Act.

**THE HEARING WILL BE HELD** commencing on Monday December 9, 11, 12 and 16, 2013, commencing at 9:30 a.m. at the offices of the Tribunal, located on the 14th Floor, 5160 Yonge Street, Room 20, Toronto, Ontario.

The matter will be heard by a panel consisting of Florence Holden, Chair, Jeffrey Richardson and Patrick Longhurst.

**THE PURPOSE OF THE HEARING** is to determine whether the Tribunal should uphold the Notice of Intended Decision issued by the Superintendent relating to the partial wind up of the Plan effective July 28, 2011 and containing certain intended orders concerning benefit entitlements payable from the Plan. Specifically, the issues to be determined in the hearing are:

- a) Should members who retired or severed their employment during the period June 30, 2009 to July 28, 2011 be included in the partial wind up group?
- b) Are members who terminated prior to July 28, 2011 and met all the eligibility requirements for entitlement to the special early retirement benefit in section 1.03 of the Plan text (the "SER Benefit"), other than the consent of the Applicant, entitled to the SER Benefit pursuant to sections 40(2) and 74(7) of the PBA?
- c) Are Plan members whose combination of age plus years of continuous employment or membership in the Plan equals 55 years or more on the effective date of Plan partial wind up, entitled to the special early retirement benefit, once the member has met all of the eligibility requirements under section 1.03 of the Plan, except the consent of the Applicant?
- d) If the Tribunal determines that it has jurisdiction to deal with the issue, is a Plan member required to physically return to work from lay off or sick leave in order to be

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entitled to the credited service enhancements set out in section 7.03(b)(ii) of the Plan text?

e) Given the answers to issues (a) to and including (d) and to the issue to be decided at the preliminary motion set out below, what remedy, if any, should be granted by the Tribunal?

**IN ADDITION, A PRELIMINARY MOTION** objecting to the jurisdiction of the Tribunal to decide issue (d) above will be heard by the Tribunal commencing at 9:30 a.m. on Thursday October 10, 2013, at 5160 Yonge Street, 14th Floor, Toronto, Ontario. The issue to be determined by the Tribunal at the jurisdictional motion is:

Does the Superintendent and the Tribunal have the jurisdiction to rule on the applicability of the 0.9 banked pensionable service credit under the section 7.03(b)(iii) of the Plan?

**IF YOU WISH TO PARTICIPATE** in the hearing, you must file with the Registrar of the Tribunal, an Application for Party Status (Form 4) in accordance with Rule 37 of the *Rules of Practice and Procedure for Proceedings before the Financial Services Tribunal* on or before **Thursday August 15, 2013**, but thereafter only with the consent of the Tribunal.

The Application for Party Status (Form 4) and the Tribunal's Rules can be obtained by going to the Tribunal's website at [www.fstontario.ca](http://www.fstontario.ca).

Applications for party status will be heard and determined by the Tribunal at an in-person Pre-Hearing Conference on **Wednesday September 4, 2013 at 9:30 a.m.** at the offices of the Tribunal, located on the 14th Floor, 5160 Yonge Street, Room 20, Toronto, Ontario. If you wish your application to be considered you must participate in the pre-hearing conference on **September 4, 2013** to address your application. The grant of party status to any applicant for party status is in the discretion of the Tribunal.

The name, address, telephone and facsimile number of the Registrar are as follows:

Rhonda Booth, Registrar,  
Financial Services Tribunal,  
5160 Yonge St., 14<sup>th</sup> Floor, Box 85, Toronto, ON M2N 6L9  
Telephone: 416-590-7294; Toll Free: 1-800-668-0128 ext. 7294  
Facsimile: 416-226-7750

**If you would like further information about how this hearing may affect you**, you may contact Jim Mitchell, CAW National Representative, at 1-800-268-5763 ext 3797.

**THE HEARING** will be open to the Public unless the Tribunal orders otherwise.

**IF YOU DO NOT PARTICIPATE** in the hearing in accordance with this Notice, the Tribunal may proceed without your participation, and you will not be entitled to any further notice in this proceeding.

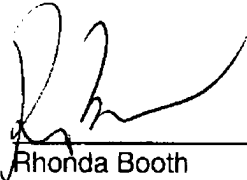
Please note that, subject to the *Freedom of Information and Protection of Privacy Act*, once a document is filed with the Registrar, it becomes a public document except as the Tribunal may otherwise order.

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With respect to material that you file in connection with this matter, you may wish to consider protecting the privacy of individuals by removing social insurance numbers and other personal identifiers.

You should note that there is a formal procedure available to you under Rule 11 of the *Rules of Practice and Procedure for Proceedings before the Financial Services Tribunal* whereby you may apply, in an appropriate case, for an order of the Tribunal protecting all or parts of any material you file with the Registrar from disclosure.

DATED at the City of Toronto, this Friday, July 5, 2013.



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Rhonda Booth  
Registrar  
Financial Services Tribunal

**TO:**  
**The Applicant, Navistar Canada Inc.:**

Mr. Mitch Frazer  
Torys LLP

**AND TO:**  
**The Respondent, Superintendent:**

Mr. Mark Bailey  
Financial Services Commission

**AND TO:**  
**The Respondent, Party CAW Canada and its Locals 127 and 35:**

Mr. Lewis Gottheil  
CAW-Canada

**AND TO:**  
**All Former Members and Retirees via mail to last known address and via newspaper advertisement.**