Some Canadian manufacturers are "short-changing" their pensioners; AND Canada's laws are helping them do it!

- a report from the GM Canada Salaried Employees Pensioners Organization -

Canada's current laws allow restructuring companies to easily extinguish their contractual obligations to pensioners, while their assets go to every other creditor first. It looks like this has become a conscious business strategy to save money among some manufacturers, sometimes planned years in advance.

Brian Rutherford is the President of the GM Canada Salaried Employees Pensioners Organization.

GM Canada's 50,000 pensioners are at risk. Who will be next?

An ominous, but not unexpected, event occurred on June 21, 2016. UNIFOR held a media event in Oshawa highlighting the lack of any new product commitment for GM Canada's Oshawa Assembly Plant.

It takes three to five years to get ready for a new product in a car plant. Today, no one is working on new product in Oshawa. Work on a new product for 2017 would have had to start in 2012-2014. It didn't. It was never supposed to. Now it's too late. We have to conclude that GM is abandoning Oshawa and has been planning for years to do so.

Without Oshawa can the rest of GM Canada support the "legacy" costs? With fewer if any employees, and less if any revenue coming in, will GM Canada make the pension contributions needed to meet its promise to 50,000 former employees? The company has already under-funded its pension plan by about $3 billion.

It may be too late to save the jobs in Oshawa…maybe to save any GM Canada manufacturing jobs. They look to be headed south. But, it is not too late to provide some security to the 50,000 GM Canada hourly and salary pensioners.

Here is the problem. When companies restructure (i.e., fail to meet their financial obligations) their assets become subject to the Companies' Creditors Arrangement Act (CCAA) and the Bankruptcy and Insolvency Act (BIA). Fortunately, the money already in the pension fund is protected. Unfortunately , the pension deficit - what the company should have put in to meet its pension promise - is not protected.

So, if there is not enough money in the company's pension fund to pay for the lifetime pensions that had been promised to the company's pensioners (and employees), pensions get slashed to fit the funds available. Under current Canadian law, there's nothing pensioners can do about it. Corporations have an opportunity to “game” Canada’s pension and bankruptcy laws for their financial advantage.

1.5 million Canadian families are dependent on a private-sector defined benefit pension. We need an effective legislative backstop to ensure that pensioners receive the pension their employers promised. A backstop that doesn’t require any public funds; it is the financial responsibility of the companies.

In the event that a company chooses to restructure, the pension deficit should be given “super-priority” in the Companies’ Creditors Arrangement Act (CCAA) and the Bankruptcy and Insolvency Act (BIA).

Contact your MP and let him/her know that the financial future of 1.5 million Canadian families is in jeopardy. Pension deficits must be made “super-priority” in bankruptcy. Vulnerable Canadian pensioners should be more important than foreign hedge funds and junk bonds.

Brian Rutherford

Why should MROO members care?

GM Canada could be following the path already trodden by US Steel Canada in the Hamilton area and Niagara, by Essar-Algoma in the Sault Ste Marie area, by Indalex in the Brampton area, and others. They can manipulate Canada's legislation to abandon their pension obligations and their pensioners.

Now, imagine that those companies' pensioners all had their pensions cut to 75% of what they are owed (some Nortel pensioners had their pensions reduced by more than that). This would spell hardship for hundreds of thousands of our friends, neighbours, family members. This would spell hardship for their communities - OUR communities - and all the businesses, tradespeople, and municipal services that are better off when pensioners are better off.

What about your community? Does it have a large company with substantial outstanding pension obligations that might be tempted, under current Canadian law, to cut and run from its pension obligations? Let's hope not, BUT WHAT IF?

What should MROO members do?

Call, e-mail, or visit your federal Member of Parliament. Tell them that Parliament needs to act now. Amend these two acts (the BIA and CCAA) to give pension fund deficits "Super Priority" status in the event of company bankruptcies.