

**FINANCIAL SERVICES TRIBUNAL**

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

**AND IN THE MATTER OF** a Notice of Proposal by the Superintendent of Financial Services dated April 12, 2006 regarding the Participating Co-operatives of Ontario Trusteed Revised Pension Plan, Registration Number 0345736 (“Plan”), as amended;

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

**GAY LEA FOODS CO-OPERATIVE LIMITED,  
COCHRANE FARMERS CO-OPERATIVE,  
GREEN LEA AG CENTER INC.,  
HURON BAY CO-OPERATIVE INC.,  
INLAND CO-OPERATIVE INC.,  
LUCKNOW DISTRICT CO-OPERATIVE INC.,  
MADOC CO-OPERATIVE ASSOCIATION,  
MANITOULIN LIVESTOCK CO-OPERATIVE,  
NORTH WELLINGTON CO-OPERATIVE SERVICES INC.,  
ONTARIO FEDERATION OF AGRICULTURE,  
ORFORD CO-OPERATIVE LTD.,  
SIMCOE DISTRICT CO-OPERATIVE SERVICES,  
SUNDERLAND CO-OPERATIVE INC.,  
WARKWORTH CO-OPERATIVE SERVICES,  
WATERLOO-OXFORD CO-OPERATIVE INC., CO-OPÉRATIVE RÉGIONALE DE  
NIPISSING-SUDBURY LIMITED, AND THE  
BOARD OF TRUSTEES OF THE PARTICIPATING CO-OPERATIVES  
OF ONTARIO TRUSTEED REVISED PENSION PLAN**

Applicants

- and -

**SUPERINTENDENT OF FINANCIAL SERVICES  
 (“Superintendent”)**

Respondent

- and -

**JON LAZARUS, TOM PERKES, REG CRESSMAN, DON HUFF,  
BRUCE CHAMBERS and DON KABBES  
(the “Named Plan Members”)**

**ORDER**

**BEFORE:**

Elizabeth Shilton  
Member of the Tribunal and Chair of the Panel

Heather Gavin  
Member of the Tribunal and of the Panel

Ralph Scane  
Member of the Tribunal and of the Panel

WHEREAS the Applicants, other than the Board of Trustees of the Plan (the “Plan Trustees”), and including Warkworth Co-Operative Services (“Warkworth”) were participating employers (“Employers”) in the Participating Co-operatives of Ontario Trusteed Revised Pension Plan (the “Plan”) at the time of its windup as at March 31, 2003 (“Windup”);

AND WHEREAS the Plan was amended effective March 31, 2003, prior to the Windup, in a manner that reduced certain benefits for certain active and deferred vested Plan members (“2003 Amendments”);

AND WHEREAS the Plan’s actuaries filed a Windup Report (“2003 Windup Report”) disclosing that the assets in the Plan were not sufficient to fund the Plan’s liabilities as of the date of the Windup;

AND WHEREAS the Board of Trustees of the Plan (“Trustees”) has proposed reducing all Plan benefit payments to the Funded Ratio and as a result Plan members and former members in receipt of payments from the Plan have since the Windup, had their benefit payments reduced by fifty percent (50%);

AND WHEREAS the Superintendent of Financial Services (“Superintendent”) issued a notice of proposal dated April 12, 2006 (“Notice of Proposal”), proposing *inter alia* to refuse to approve the 2003 Windup Report and to require that the Employers make additional contributions to the Plan to address the funding shortfall in the Plan;

AND WHEREAS the Applicants (including Warkworth) filed requests for hearing before the Financial Services Tribunal (“Tribunal”) pursuant to s.89 of the Act;

AND WHEREAS on January 3, 2007 (subsequent to filing its Request for Hearing) Warkworth filed an assignment in bankruptcy, within the meaning of the *Bankruptcy and Insolvency Act*;

AND WHEREAS Alan Lawson, Fisher Inc. was appointed as Trustee in Bankruptcy for the estate of Warkworth (the “Warkworth Trustee”);

AND WHEREAS the Named Plan Members were granted party status before the Tribunal;

AND WHEREAS the parties hereto (other than Warkworth) have entered into a proposed settlement of this proceeding;

AND WHEREAS the parties hereto (other than Warkworth) intend to request that the Tribunal incorporate the terms of the proposed settlement in an order of the Tribunal and a hearing before the Tribunal to consider this request is now scheduled for March 31, 2008;

AND WHEREAS the Plan Trustees filed a Proof of Claim with the Warkworth Trustee on May 9, 2007 which Proof of Claim was revoked by the Plan Trustees and an amended Proof of Claim was filed by the Plan Trustees on February 8, 2008 (the “Amended Proof of Claim”);

AND WHEREAS the Amended Proof of Claim is based on the total unfunded liability for benefits accrued by members and former members of the Plan who were last employed by Warkworth;

AND WHEREAS the Warkworth Trustee has accepted the legal basis and quantum of the Amended Proof of Claim and accepts the claim as an unsecured claim eligible for a distribution from the Warkworth estate;

AND WHEREAS the Request for Hearing filed by Warkworth needs to be dealt with in order to complete this proceeding and the parties and the Warkworth Trustee are prepared to consent to an order dismissing the Warkworth Request for Hearing;

ON READING the consents of the parties and the Warkworth Trustee, filed,

1. THIS TRIBUNAL ORDERS that the Request for Hearing filed by Warkworth be dismissed.
2. THIS TRIBUNAL ORDERS that there shall be no costs to any party with respect to the granting of this order.

**DATED** at Toronto, Ontario, this 26th day of March, 2008

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"Elizabeth Shilton"

Elizabeth Shilton  
Member of the Tribunal and Chair of the Panel

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"Heather Gavin"

Heather Gavin  
Member of the Tribunal and of the Panel

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"R.E. Scane"

Ralph Scane  
Member of the Tribunal and of the Panel