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May 10, 2005

**Registered Mail**

Mr. Alan Clark  
Superintendent, Financial Institutions Commission  
Suite 1200 – 13450 102nd Avenue  
Surrey BC V3T 5X3

Dear Sir:

**Re: Operating Engineers' Pension Plan, Reg. No. PO 85512**

In a letter, under date of July 21, 2004, to the Superintendent of Pensions I expressed concern about my endeavours over the years, without success, in obtaining information from the administrator of my pension plan, referenced above, concerning certain separate corporate entities, possibly better described as "off-balance sheet entities", that our pension funds have been invested in, specifying two of these entities. In addition, I also expressed a number of other concerns and outlined my purpose in writing the Superintendent, which was to determine if his office could and would assist me in dealing with the administrator of my pension plan or, otherwise, advise me how I could access information relative to the financial information I was seeking. Unfortunately I received no satisfaction pertaining to the information I sought.

I note that, "off-balance sheet entities" were a significant factor in some of the recent corporate scandals, particularly those involving the Enron and World Com corporations.

Over the signature of Mr. Michael Peters, Deputy Superintendent, Pensions, by letter of September 24, 2004 I was advised of the administrator's disclosure obligation, pursuant to the PBSA, which was irrelevant to any concerns expressed in my July 21<sup>st</sup> letter to the superintendent. In any case, I received no satisfaction or useful advice from him respecting my concerns.

In September 2004, I, with my brother, visited a friend and former trustee of the referenced plan, Mr. Larry Gibbons, who was quite ill in St Paul Hospital and has since deceased on February 3, 2005. Mr. Gibbons informed us at that time that our pension fund had been defrauded of between four (4) and eight (8) million dollars through a real estate "fraud" (his word) involving a real estate development on Bowen Island and some property in Hawaii. Due to the fact that Mr. Gibbons was quite ill we did not press him for further details on the matter.

Some two or three years, as I recall, prior to my hospital visit with Mr. Gibbons there was some discussion at an operating engineers union meeting relating to our pension plan's involvement with a real estate development on Bowen Island and a report or explanation concerning it by the union's president who was, concurrently, the real estate investment manager of the realty division of the Operating Engineers' Pension Plan. The point here being; at that time there was no question about the involvement of our pension plan with real estate on Bowen Island.

Subsequent to my visit with Mr. Gibbons at St Paul's Hospital I wrote a letter, Dated November 4, 2004, to Operating Engineers' Benefits & Pension Plan, briefly outlining the discussion at the union meeting referred to, inquiring, "whether or not the realty division of the pension plan did, in fact, acquire a property on Bowen Island and, if so, what the status of any development regarding such property may be." In response, I received a letter from the plan administrator, under date of December 3, 2004, advising, "we are fully prepared to make available for viewing those documents mandated by the PBSA", notwithstanding no such request for documents was made.

By letter dated January 05, 2005 to the Operating Engineers' Benefits & Pension Plan I responded to their December 3, 2004 letter stating, in substance, that I've interpreted their response as continuing the stonewalling, evading and maneuvering of my effort to obtain pertinent and timely information concerning pension plan matters and that, their obvious reluctance to disclose information I requested again manifests a 'negative inference' as to the financial integrity of our trust fund and the character of those charged with its trusteeship.

In an insolent letter responding to mine of January 05, dated January 12, 2005, the administrator again invited me to view, "those documents mandated by the Pension Benefits Standards Act" even though I made no request for documents, mandated by PBSA or otherwise.

Due to the unacceptable and unreasonable response I received from the administrator of my pension plan relative to my queries about Bowen Island real estate development by the pension plan, I then wrote a letter, dated January 31, 2005, directly to the Trustees of the plan, noting the insolence of the plan administrator, and again making what I termed a "simple, uncomplicated inquiry" of them, namely: 'Did the realty division of the pension plan acquire a development property on Bowen Island and, if so, what is the status of any development regarding such property?'

By letter of March 21, 2005, over the signature of the plan administrator, The Board of Trustees of the Operating Engineers' Pension Plan confirmed receipt of my January 31, 2005 letter in a one sentence, two line paragraph advising, "that no further action is required regarding this matter."

It is due to the obvious intransigence and defensiveness of the pension plan officials concerning my queries about the pertinent real estate investment that I give credence, if I

ever had any doubt, to the information imparted to me and my brother by Mr. Gibbons concerning relevant matters.

We, my brother and I, can find no information concerning legal action being taken against any person or entity relating to development property by the Operating Engineers' Pension Plan on Bowen Island.

Accordingly, if Mr. Gibbons information is accurate there are some very serious concerns relating to this matter that, in my opinion, explains the obvious intransigence and defensiveness of pension plan officials concerning my queries as stated.

Some of these concerns are:

1. If a "fraud" was committed, as Mr. Gibbons contended, is there legal action being taken, on behalf of pension plan members, to recover our stolen assets and punish the fraudster(s)?
2. If a "fraud" was committed and no legal action was or is being taken against an alleged fraudster(s); the question is: Why?
3. Is there a cover-up relating to the alleged "fraud" to conceal possible liability that the pension plan trustees and/or senior plan employees may have relative to their duty of due diligence or other aspects of their commissions?
4. What are the legal implications respecting the cover-up of a crime?
5. Is this the only matter within the pension plan that merits appropriate professional and/or official attention?

I suggest a competent legal practitioner would have other concerns, in addition to those enunciated above, which are significant and, in the circumstances, warrant answers.

Obviously I am not fully conversant with your duties and responsibilities but assume your office has the capacity to make appropriate orders and/or the authority to investigate why a member, as I am, of a registered pension plan in this province cannot get an answer to a simple query relating to a matter that was officially discussed at a meeting by a senior official of his pension trust, in addition to investigating possible misconduct by officers or other officials of a registered pension plan.

Copies from my file germane to this matter are available to you upon request.

In conclusion, I anticipate your response with some indication, direction, advice or information relative to what your office will be doing with respect to the matters and my concerns stated herein.

Respectfully yours,

James Malange, Retiree, Operating Engineers' Pension Plan.