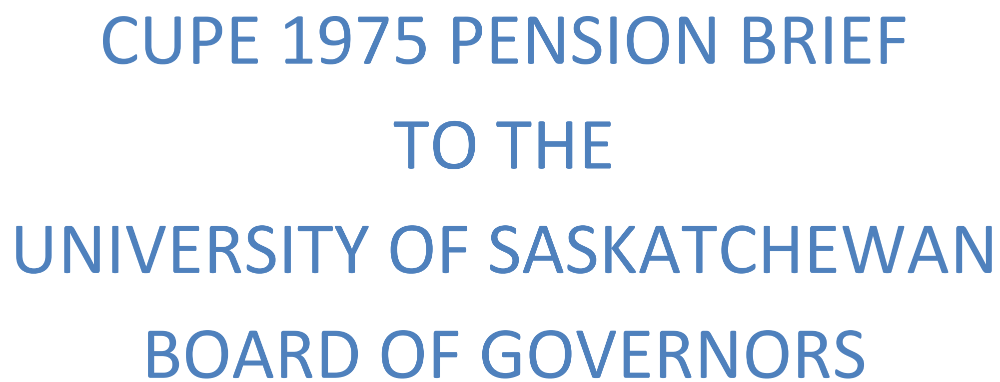


CUPE 1975 PENSION BRIEF TO THE UNIVERSITY OF SASKATCHEWAN BOARD OF GOVERNORS

February 2019

CUPE

CUPE 1975 has repeatedly requested an in-person meeting with the University of Saskatchewan's Board of Governors to explain our collective bargaining position regarding pension. These requests have not been granted. CUPE 1975 does not want to see a labour disruption on campus. We will not come closer to finding a solution by not speaking directly to each other. CUPE 1975 remains willing to meet the Board at any time.

Absent a meeting, this brief is CUPE 1975's best effort to communicate directly with the Board. This brief outlines ten reasons why we have taken the position that we have regarding pension.

1. **The Defined Benefit (DB) plan is modest, but the security of its benefits is incredibly important to plan members.**
2. **The vast majority of university workers in Canada continue to be members of DB pension plans, and the University of Saskatchewan should be no different.**
3. **The pension plan is not "unsustainable" and is not in crisis.**
4. **The University should take a longer look at the plan's history if it wants to find the best solution to our pension dispute.**
5. **The University often cites its increased pension costs, but never mentions the significant cost savings CUPE offered in the 2013-2014 round of bargaining, which were rejected by the University.**
6. **CUPE is concerned that the University's communications to plan members may violate the fiduciary duties the University owes to pension plan members.**
7. **In our view, CUPE 1975 is the only party at the table that is working towards a resolution on pensions.**
8. **The spirit behind the University's grievance and arbitration is offensive and unacceptable to the Union.**
9. **The Union has proposed a clear compromise: a Jointly-Sponsored Pension Plan.**
10. **We are prepared for a fight, but there is a better way forward.**

1. The Defined Benefit (DB) plan is modest, but the security of its benefits is incredibly important to plan members.

CUPE 1975 members work for modest salaries. Since our pension is a product of our earnings, our annual pension is similarly modest.

The plan pays an average annual pension of $18,100.

The plan does **not** provide guaranteed indexation (cost of living increases to retirees). Indexation is provided on an *ad hoc* basis and has generally been delivered out of surplus (when such surplus exists). Retirees know the cost of living will increase each year, but they do not know if their pension cheques will keep pace each year. The employer does not bear any pension liabilities for indexation. Pensioners have not seen an increase since 2008. Their pensions have since lost nearly 20% of their real value by not keeping pace with the rising cost of living. Most University pension plans in Canada offer better inflation protection than the U of S plan.

The security of a Defined Benefit (DB) plan is incredibly important to workers. CUPE believes that all workers deserve a decent and secure pension after of a career of work. A DB plan allows workers to earn **secure** pension benefits in retirement through their service and their own contributions to the pension plan. When retired, they have a modest pension they can count on after a career of service to making the U of S work.

The CUPE 1975 executive has heard a consistent strong message from our members through mass meetings and thousands of individual discussions: **members want to see the DB plan continue for current and future members**. CUPE 1975 has a strong mandate from its members to defend their DB plan

2. The vast majority of university workers in Canada continue to be members of DB pension plans, and the University of Saskatchewan should be no different.

The University claims that *"the DB plan type that has been on the decline over the past number of years across the country."*

This is not true for universities, or the public sector generally.

DB plans continue to be the standard in the sector across Canada, particularly for non-academic staff.

91% of public sector workers who have a pension plan have a defined benefit plan, and there is no notable trend downwards in these numbers, as there has been in the private sector.[1]

Major university employers in other provinces are **not** pushing away from the DB model and many have embraced the jointly-sponsored model that CUPE 1975 has proposed for the U of S. There is currently an agreement in place to establish a new jointly-sponsored DB plan in Ontario that would be open to the sector as a whole, and many major universities are supporting this project (http://www.universitypension.ca/). There are also tentative agreements or completed conversions for jointly-sponsored DB plans at the University of Prince Edward Island, Memorial University and Simon Fraser University.

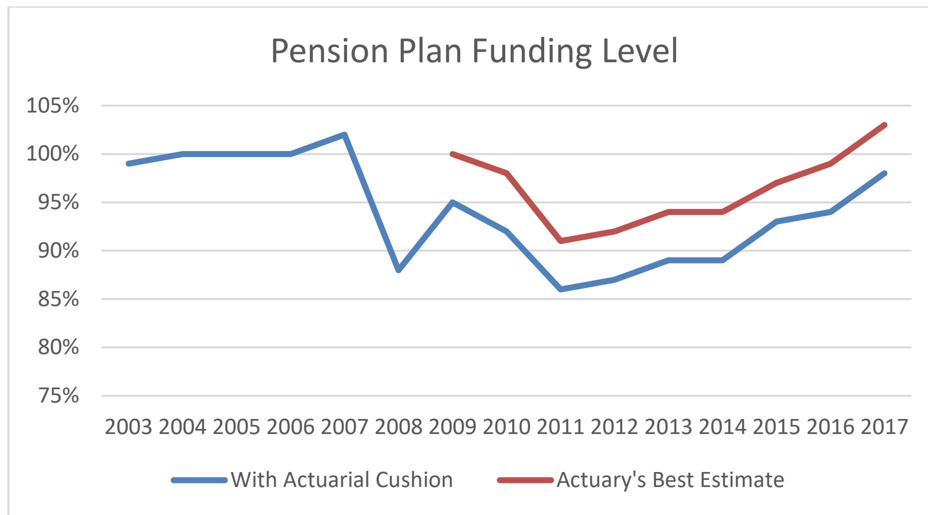
The University states its compensation package *"demonstrates our commitment to recruit, retain and develop outstanding leaders, faculty and staff."* The pension proposals are said to be *"competitive"* and reflective of the University's stated goal to "*recognize the outstanding contributions of our employees."*

Yet the University is pushing a pension plan that comes **far short** from the industry standard, and is furthermore, threatening a labour disruption to accomplish this goal.

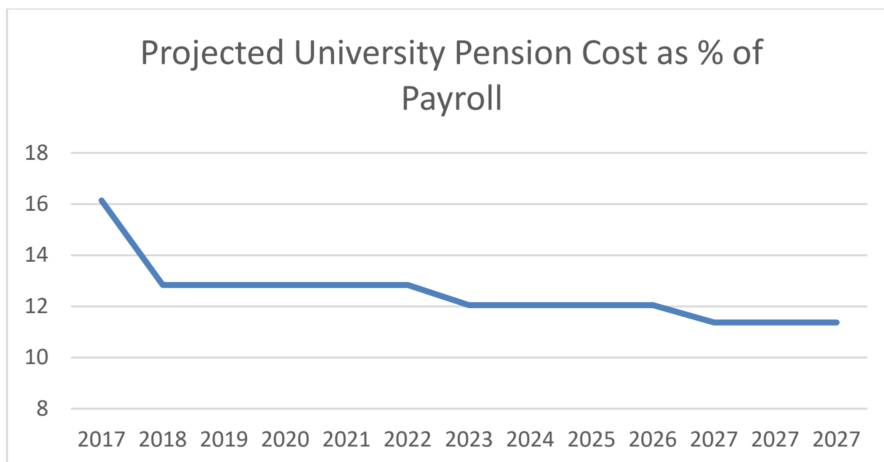
[1] Office of the Superintendent of Financial Institutions Canada, Office of the Chief Actuary, "Registered Pension Plans (RPP) and Other Types of Savings Plans – Coverage in Canada," 2018.

3. The pension plan is not “unsustainable” and is not in crisis.

- **Funding Level Materially Improved.** Like the vast majority of plans, the plan fell into deficit after the 2008-09 financial crisis. It should be noted that this was a historic financial crisis – the world’s worst since the Great Depression. As a result, the plan fell to a low funding point of 86% in 2011. The 2017 valuation revealed that the plan is now back in surplus (103% funded, $12 million surplus) on the actuary’s best estimate basis. If a 5% funding buffer (or “margin”) is added to artificially inflate the plan’s liabilities, the plan has a very slight deficit (98% funded). Either way, this is a vast improvement from the low-point less than a decade ago. The University does not have to file another funding valuation with provincial regulators until a valuation date of December 31, 2020.



- **University Pension Costs Falling Dramatically.** The improved funding level has resulted in a significant drop in University pension costs over the past year, with further reductions projected in the coming years. The cost is some $3 million less this year than it was in 2017.



- **Permanent Solvency Funding Exemption**. In 2013 the provincial government permanently exempted public sector employers from having to fund a "solvency" deficit in their plans. Solvency funding analyses present a "worst case scenario" that the employer ceases operation on the day of the valuation and determines how much pension could be paid based on that unlikely reality. Before 2013, these valuations gave rise to very significant special payment obligations. Governments and regulators around the country have argued that such projections more relevant for private sector employers and have been exempting public sector employers from the constant need to fund their plans as if they will go out of business at any point. Had this exemption not been in place, funding rules would have required even higher and more volatile total pension costs for employers. CUPE Saskatchewan sided with employers like the U of S in lobbying the provincial government for relief from solvency payments for public sector employers. The permanent removal of the solvency funding obligation is a major win for the employer from a plan funding perspective. A significant source of potential cost, volatility and uncertainty has been permanently lifted from the plan.

- **More Cautious Actuarial Approach**. Over the past decade, the plan has:

  - Added a "margin" of 5%. This is essentially an actuarial "cushion" that assumes plan liabilities are 5% higher than the actuary's best estimate.
  - Reduced the expected market return for the pension fund from 6.75% to 5.95%.
  - Accounted for the fact that Canadians are living longer, and has already priced in projections of future increases to lifespans.

  All of these have been priced into the plan already. Actuarial conservatism increases costs and liabilities of the plan, and has been a major driver of the increase in the University's' contribution rate over the last decade. We do not expect another period of adopting such conservatism over so short a time. More importantly, however, a more cautious actuarial approach decreases the likelihood that the plan's experience will underperform its expectation – i.e. this is a way of mitigating risk in the plan and ultimately keeping contributions more stable.

- **Our modest pension plan is not a threat to a financially sustainable University**. On a cash basis, the total pension cost is not even 1% of the University's budget. The increases in pension costs the University cites as "unsustainable" are a fraction of this 1%. On the liability side, employee future benefits (of all plans on campus) were a mere 1% of the University's total liabilities. Overall, the University has nine times more assets than liabilities. Your Board Chair Lee Ahenakew, summarized this sound financial position in the University's most recent annual report: *"The U of S recently earned a AA2 credit rating by Moody's, which places it tied for the highest among Canadian universities. This is a key indicator of the university's excellent*

financial management and financial situation." It should also be noted that CUPE has offered significant cost and risk mitigation to these costs.

- **Federal *Income Tax Act* now permits pension plans to amass bigger cushions to be used against future downturns**. Before 2009, federal income tax law restricted the amount of surplus pension plans could amass to a limit of 110% funded. However, effective 2009, the federal government increased this ceiling significantly to 125%. The policy goal behind this change was to allow plans to build up more surplus, which could be used as a cushion against future economic downturns. Had the Non-Academic plan been able to benefit from these rules, and had partial contribution holidays not been taken, the employer could very well have avoided the obligation to make deficit payments to the plan - even through the largest financial crisis since the Great Depression. CUPE 1975's pension proposal makes this counter-cyclical pension plan funding a central goal, on our understanding that contribution rate stability has been stated as an important goal for the University.

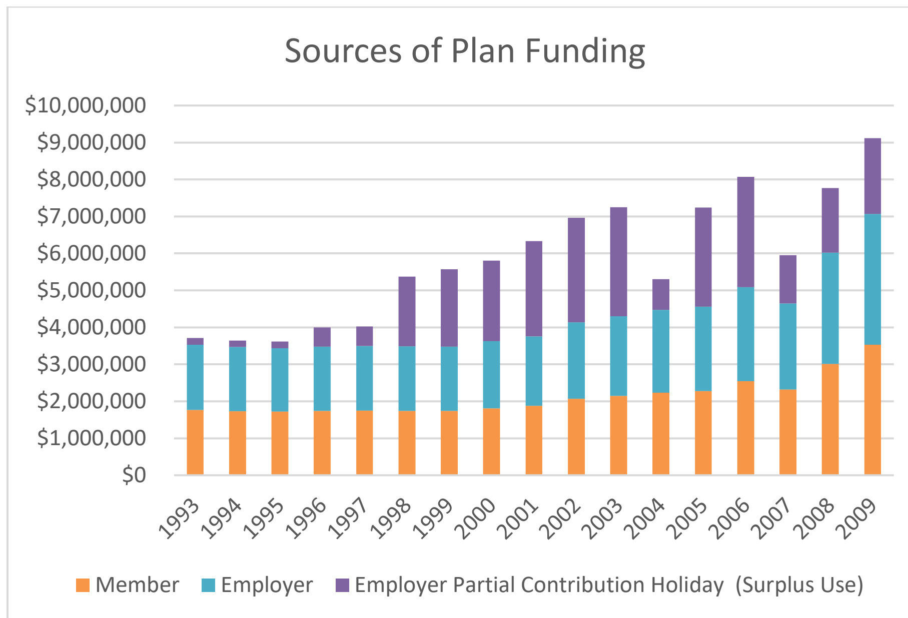
4. The University should take a longer look at the plan's history if it wants to find the best solution to our pension dispute.

In its communications in public and to our members, the University selectively only references the period since 2009, when the plan was in deficit and extra payments were required from the University.

The University does not mention the much longer period that preceded 2009, when the plan was in surplus and the University used this surplus for seventeen years to reduce their own required pension contributions – a practice known as "partial contribution holidays."

Each year from 1993-2009, the employer diverted funds from the pension fund surplus to reduce the contributions the University would have been otherwise required to make to the plan under provincial law. Members continued to pay their full contribution obligation under the plan each year. The University did match the member contribution, as it is required to under the plan, but was required under the law and the terms of the plan to contribute more than members to fully fund the plan's benefits. However, the University chose to fund this additional required contributions to the plan from the plan fund's surplus, instead of making a cash contribution to the plan. We call this a "partial contribution holiday."

These holidays were all detailed in the plan's "Annual Information Returns" that the University is required to file with federal and provincial authorities each year. The Union has copies of all of these documents.



In nominal terms, these 17 years of partial holidays totaled nearly $28 million. Accounting only for inflation, they would represent more than $36 million in 2018 dollars. Accounting for lost investment returns that could have been realized on these contributions – had they been made – would push a total figure even higher.

It is also worth highlighting the 2009 partial holiday. The year *after* financial crisis (-16% return) and the year *after* indexation was last delivered to retirees, the University used $2 million of plan surplus to cover a portion of its own contribution obligation.

These decisions were not only unwise. The Union believes at least one and likely more of these holidays were illegal and violated plan text. We have filed a grievance on this issue which we put into abeyance in a good faith effort to settle a collective agreement regarding pension.

As described above, if the University wants to stabilize contributions, it should allow surpluses to remain in the DB plan, to be used as a buffer against any future downturns, in the hope of preventing the plan from falling into deficit during such periods. This is a central feature of the CUPE 1975 pension proposal.

5. The University often cites its increased pension costs, but never mentions the significant cost savings CUPE offered in the 2013-2014 round of bargaining, which were rejected by the University.

In the 2013-14 round of bargaining, the Union listened to the employer's concerns regarding pension costs and took them seriously. We understood the impact that the required deficit payments placed on the University. The Union invested significant time and resources into crafting bargaining proposals that would have seen CUPE members bearing up to half of the University's special payment obligation at the time, through a combination of temporarily increased contributions and reduced future benefit accrual rates within the plan. Had this framework been accepted, the University would have saved approximately $10 million over the past 4 years, with additional savings while the plan remained in deficit. The University rejected these proposals, but continues to cite the increased costs as a justification for seeking to close the DB plan.

CUPE 1975 FRAMEWORK vs STATUS QUO							
YEAR	PENSIONABLE EARNINGS	VALUE OF PROPOSED BENEFIT REDUCTION	PROPOSED MEMBER CONTRIBUTION RATE INCREASE	TOTAL EMPLOYER SAVINGS		EMPLOYER SPECIAL PAYMENTS	UNION OFFER AS % of EMPLOYER SPECIAL PAYMENTS
				% PAYROLL	$		
2015	$ 68,417,266	2.32%	0.70%	3.02%	$ 2,066,201	$ 4,755,000	43%
2016	$ 65,776,951	2.32%	1.40%	3.72%	$ 2,446,903	$ 4,703,052	52%
2017	$ 67,750,154	2.32%	1.40%	3.72%	$ 2,520,306	$ 4,844,136	52%
2018	*$ 69,782,550*	2.32%	1.40%	3.72%	$ 2,595,911	*$ 4,989,452*	52%
TOTAL					**$ 9,629,321**	**$ 19,291,640**	**50%**

Pensionable earnings for 2015-2017 calculated from 2015-2017 annual reports
Payroll for 2018 estimated from same rate of growth of 2016 to 2017
Employer special payments sourced from 2015-2017 annual reports
Employer special payment for 2018 at same % of payroll for 2017 payment, but based on 2018 payroll
Value of benefit reduction listed as flat % of payroll, but was figure from 2013 bargaining in Aon costing document reflecting actuarial assumptions from that time, and using a 5% margin. Value of benefit reduction would have increased as actuarial assumptions have been made more conservative.

6. CUPE is concerned that the University's communications to plan members may violate the fiduciary duties the University owes to pension plan members.

The University is the legal Administrator of the pension plan and therefore owes statutory and fiduciary duties to pension plan members, including an obligation to act in good faith and in the best interest of plan members. The University thus has a legal obligation to communicate to members with clear and accurate information about the pension plan. The University cannot simply misrepresent information about the plan to plan members for the purposes of advancing the University's bargaining objective.

CUPE is concerned that University communications to members may have violated these legal duties. Some examples are:

- In an e-mail message sent to all plan members entitled "Pension Plan Facts" the University stated that *"The University did not take a contribution holiday."* Section #4 above details how this is false.

- The same email stated that *"changes to the plan are necessary to address the ongoing deficit and financial risk that is growing within the plan."* The University may have a bargaining desire to close the DB plan, but such changes are not "necessary" from any actuarial or legal perspective, as this language suggests. The plan Administrator should not be suggesting to plan members that their plan is somehow broken, when this is not true.

- The University has repeatedly agued that the pension plan is *"running an annual shortfall."* This suggests that the required contributions to the plan are not being made and that the plan has a structural funding problem. This is not the case. The "annual shortfall" the University refers to here seems to be a reference to the fact that the University contributes more than members do for the ongoing cost of the plan. There is no legal or actuarial principle that says that employers and members must equally share the ongoing cost of the plan. The plan text does not say that members must pay the same as the employer. It is quite common for member contribution obligations to be fixed, as it is in our plan, leaving the employer responsible to fund the remainder, which is often a larger amount, again, as it is in our plan currently. The language the University uses here is vague and again suggests some kind of actuarial or structural problem that does not exist.

- The University argues that *"These significant additional contributions are expected to continue into the future under the pension's current structure."* It is true that under the status quo, the University will remain responsible for funding a larger portion of the current service cost than plan members. However, the most recent filed actuarial valuation report has already led to the implementation of significant reductions in University special payment

obligations, along with further projected reductions in the coming years before these payments end (as detailed above in Section #3). These special payments were at one time much larger than the current service differential the University will continue to fund under the status quo. The statement above does not accurately reflect the legal funding requirements of the plan and suggests that such special payments will continue indefinitely, which is not the case.

CUPE is very concerned about such communications, which may very well violate the legal and fiduciary obligations the University, as plan Administrator, owes to plan members. The University cannot mislead members about the status of the plan simply because it suits their bargaining agenda. Should such violations continue, CUPE is prepared to pursue this issue legally.

7. In our view, CUPE 1975 is the only party at the table that is working towards a resolution on pensions.

In both the previous and current round of bargaining, the University has not moved from its fundamental position of tabling various pension plans where 100% of plan risks are shifted to plan members. While the exact design of these plan proposals have differed in various ways, this fundamental principle has not. We strongly disagree with the idea that the University has tried to *accommodate* CUPE's stated concerns on pensions in any way.

CUPE, on the other hand, has made several major moves.

As described above, in the 2013-2014 round of bargaining, we proposed significant plan changes that would have seen members bearing about half of the University's increased pension costs. These were rejected on the rationale that they were merely temporary changes.

CUPE responded in this round by proposing a major restructuring of the pension plan (described in detail below), which would have seen plan risks permanently shared on a 50/50 basis.

We have proposed a full and clear compromise, on top of millions in cost savings. All of this has been rejected as the University pushes towards a labour disruption.

8. The spirit behind the University's grievance and arbitration is offensive and unacceptable to the Union.

CUPE Local 1975 sees the University's decision to file a grievance regarding unilateral amendment of the plan as offensive and completely counter to the spirit of negotiation that has always been—and should continue to be—at our bargaining table.

While Arbitrator Hornung has ruled that the University may have a legal right to unilaterally amend the plan, this does not make this justified or acceptable to Local 1975 members, particularly given our history of honestly trying to deal with pension issues in bargaining. Pension is a major part of compensation and a major reason our members come to work every day. Our members will not accept the University unilaterally telling them what their pension will or will not be. **This would permanently damage labour relations on campus.**

9. The Union has proposed a clear compromise: a Jointly-Sponsored Pension Plan

In December 2018, CUPE made a major move at the bargaining table and proposed a major reworking of the pension plan into a jointly-sponsored pension plan (JSPP). CUPE's proposal was substantive and we remain fully prepared to discuss it at the bargaining table. **Our proposal is attached as Appendix A.**

The JSPP model is well established in Canada and has been recognized internationally. The model sees Employers and members legally sharing the risks of funding secure defined benefits, while also sharing in the plan's governance and decision-making processes. Many public sector plans across the country converted to this model in the 1990s and 2000s.

CUPE 1975's proposal for a JSPP would:

- **Reduce the University's pension risks by 50%**
- Reduce the rate at which members earn pension in the future
- Reduce the University's annual pension costs by approximately 2.3% of payroll, or ~$1.8 million / year
- Ensure that ongoing pension plan costs are shared on a 50/50 basis by active members and the employer
- Ensure that any future deficits are shared on a 50/50 basis by active members and the employer
- Ensure that any increased cost resulting from future changes in actuarial assumptions are shared on a 50/50 basis by active members and the employer
- Ensure that future pension surpluses are first used to build a sizeable pension surplus that will remain in place to be used against a future market downturn in the interest of maintaining contribution rate stability for both sides.
- Resolve the current dispute over pension governance by establishing a simple and clear governance process that gives the parties equal voice in the sponsorship and administration of the plan that will separate plan decision-making from collective bargaining

- Shift the responsibilities of plan administration from the University to a structure where this responsibility is shared by a joint board
- Follow a widely-supported and innovative national trend in pension design and pension reform to share risks and plan governance between members and employers

The Union strongly feels this proposal is a fair compromise that satisfies many of the Employer's concerns regarding risk and cost, while still delivering the secure retirement benefits that are so important to members.

We were disappointed that our proposal was rejected outright by the University in January 2019 without any real discussion or rationale, other than our proposal did not give the University exactly what it wants.

10. We are prepared for a fight, but there is a better way forward

The members of Local 1975 are united on this, and we are not standing alone. We have 675,000 members of Canada's largest union, CUPE National, standing behind us. Our union takes pension disputes very seriously. Recently Carleton University attempted to strip language from their CUPE collective agreement which raised the prospect (and not an actual proposal) of future unilateral changes to the plan. The Carleton CUPE Local fought this change off in a difficult four week strike, and won the strike resoundingly. Their pension is now secured and their local is stronger, though the employer's bargaining intransigence has unfortunately done serious damage to labour relations on campus.

We do not wish to go down this road at the U of S and we remain committed to finding a better way forward.

We hope this brief has been helpful in explaining our pension position in detail. It was written in the hopes of finding a solution. We remain available to meet the Board to discuss the situation at your request.

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