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*Attorneys for FTI Consulting Canada Inc.,  
in its Capacity as Authorized Foreign Representative for the Debtor*

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

In re:

IMPERIAL TOBACCO CANADA LIMITED,

Debtor in a Foreign Proceeding.<sup>1</sup>

Chapter 15

Case No. 19-10771 (JPM)

**RE: Docket No. 79**

**DECLARATION OF PAUL BISHOP IN SUPPORT OF  
MOTION OF THE FOREIGN REPRESENTATIVE FOR  
RECOGNITION OF THE ORDER OF THE CANADIAN COURT  
APPROVING TERMINATION OF THE IHGI RETIREMENT  
PLAN AND AUTHORIZATION TO FUND PLAN TERMINATION COSTS**

I, Paul Bishop, pursuant to 28 U.S.C. § 1746, hereby declare under penalty of perjury as follows:

1. I hereby submit this declaration (the “Declaration”), made in my capacity as Senior Managing Director of FTI Consulting Canada Inc. (“FTI”), the authorized foreign representative of Imperial Tobacco Canada Limited (the “Debtor”) and the court-appointed monitor (the “Monitor”) of the Debtor and Imperial Tobacco Company Limited in a proceeding under Canada’s *Companies’ Creditors Arrangement Act*, R.S.C. 1985 c. C-36, as amended, pending before the Ontario Superior Court of Justice (Commercial List) in Toronto, Ontario (the “Canadian Court”), in support of the *Motion of the Foreign Representative for Recognition of the Order of the*

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<sup>1</sup> The last four digits of the Debtor’s taxpayer identification number are 4374. The Debtor’s registered office is located at 30 Pedigree Court, Brampton (Ontario) Canada L6T 5T8.

*Canadian Court Approving Termination of the IHGI Retirement Plan and Authorization to Fund Plan Termination Costs* (the “Motion”) [Docket No. 79].<sup>2</sup>

2. I have previously submitted declarations in support of the Verified Petition and related relief, as well as periodic status reports filed with this Court.<sup>3</sup> These declarations are expressly incorporated herein by reference.

3. Unless otherwise specified, all statements are based on: (a) my personal knowledge; (b) information provided to me by the Monitor’s professionals and the Debtor and the Debtor’s professionals; (c) my review of relevant documents; or (d) my opinion derived from my experience and knowledge of the Debtor’s history.

4. The IHGI Plan is a U.S. tax-qualified defined benefit pension plan covering approximately 935 former U.S. employees of the Debtor Affiliates. Despite the Debtor Affiliates ceasing operations by December 2009, the Debtor, as sole shareholder of IHGI, continued to fund the IHGI Plan.

5. Today, the IHGI Plan continues solely to fulfill its obligations to former employees, with no new benefits being earned.

6. The Debtor has determined, in its business judgment, that the rationale for continuing to fund the IHGI Plan has shifted, largely due to ongoing financial commitments and current economic conditions. In March 2024, the Debtor submitted a report to the Canadian Court determining that the present-value gain from terminating the IHGI Plan will be approximately \$2 million. At the same time, the Debtor anticipated that the purchase of an annuity would ensure that payments under the IHGI Plan to plan participants and beneficiaries would be unaffected.

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<sup>2</sup> Capitalized terms used but not defined herein shall have the meanings ascribed to such terms in the Motion.

<sup>3</sup> Docket Nos. 5, 34, 47, 65, 68, 71 and 76.

7. Accordingly, by motion dated March 11, 2024, the Debtor sought authority to terminate the IHGI Plan and to fund any underfunding obligations through a combination of cash-on-hand and the purchase of an annuity to cover all remaining obligations to plan beneficiaries and participants. Of the \$6.5 million that the Debtor determined was needed to terminate the IHGI Plan, \$1.3 million is to be funded in cash as the financial-year 2024 contribution. The Debtor estimates the annuity will cost approximately \$5.2 million.

8. On March 25, 2024, the Canadian Court issued the Stay Extension Order and the Endorsement, and authorized the Debtor, in consultation with the Monitor, to proceed with terminating the IHGI Plan if deemed in the interests of the Debtor and ITCO and to satisfy plan obligations and termination costs up to \$6 million, exclusive of the financial year 2024 contribution to be made by the Debtor. Copies of the Stay Extension Order and the Endorsement are attached hereto as **Exhibit 1**. IHGI, as the plan administrator, has begun the termination process and has issued a notice of intent to terminate the plan to all plan participants along with the proposed final distribution date.

9. The Monitor believes that termination of the IHGI Plan is a sound exercise of the Debtor's business judgment. Further, the Monitor believes that such action is in the interests of the Debtor, its estate and creditors, and will have no adverse financial impact on plan participants and beneficiaries. Based on the foregoing, the Monitor respectfully requests that this Court grant the relief requested in the Motion.

I declare under penalty of perjury under the laws of the United States of America that the forgoing is true and correct to the best of my knowledge, information and belief.

Dated: August 1, 2024  
Toronto, Canada

/s/ Paul Bishop  
Paul Bishop, LIT  
*Senior Managing Director*  
FTI Consulting Canada Inc.

**EXHIBIT 1**

**Stay Extension Order and Endorsement**



Court File No. CV-19-616077-00CL

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

THE HONOURABLE ) MONDAY, THE 25<sup>TH</sup> DAY OF  
CHIEF JUSTICE MORAWETZ ) MARCH, 2024

IN THE MATTER OF THE *COMPANIES' CREDITORS  
ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, AS AMENDED

AND IN THE MATTER OF A PLAN OF COMPROMISE OR  
ARRANGEMENT OF IMPERIAL TOBACCO CANADA  
LIMITED AND IMPERIAL TOBACCO COMPANY LIMITED

APPLICANTS

**ORDER**

(Stay Extension to September 30, 2024)

**THIS MOTION**, made by the Applicants pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended, for an order extending the Stay Period (defined below), was heard March 25, 2024 by judicial video conference in Toronto, Ontario.

**ON READING** the Notice of Motion of the Applicants, the Affidavit of Eric Thauvette sworn March 11, 2024 (the "**Thauvette Affidavit**"), the Seventeenth Report of the Monitor, and on hearing the submissions of respective counsel for the Applicants, the Monitor, and such other counsel as were present, no one else appearing although duly served as appears from the Affidavit of Service of Marleigh Dick sworn March 13, 2024, filed:

**SERVICE**

- THIS COURT ORDERS** that the time for service of the Notice of Motion and the Motion Record herein is hereby abridged and validated so that this Motion is properly returnable on March 25, 2024, and hereby dispenses with further service thereof.

## EXTENSION OF THE STAY PERIOD

2. **THIS COURT ORDERS** that the Stay Period as defined in paragraph 18 of the Second Amended and Restated Initial Order dated March 12, 2019 is hereby extended until and including September 30, 2024.

## TERMINATION COSTS OF THE IHGI PLAN

3. **THIS COURT ORDERS** that Imperial Tobacco Canada Limited be permitted, if determined to be in the interests of the Company after consultation with the Monitor, and provided that the total termination costs do not exceed USD \$6 million (excluding amounts required to fund the financial-year 2024 contribution), to take the appropriate steps to complete a termination of the Imasco Holdings Group Inc. and Participating Affiliates Retirement Plan (“**IHGI Plan**”) in accordance with applicable U.S. laws, including but not limited to securing necessary funding arrangements to complete the termination in relation to any underfunding and corresponding wind-up procedures. Pending the termination of the IHGI Plan (if applicable), IHGI shall continue to administer, and Imperial Tobacco Canada Limited will contribute to, the IHGI Plan in the normal course.

## TEMPORARY EXTENSION OF ADDITIONAL SECURITY

4. **THIS COURT ORDERS** that Imperial Tobacco Canada Limited is authorized to post security or otherwise advance funds for the purposes of obtaining a “vaping product” license as and when Bill C-59 (*Fall Economic Statement Implementation Act, 2023*) comes into force, in an aggregate amount not exceeding \$5 million (the “**New Vaping License Security**”), and to take any steps necessary to otherwise comply with the requirements of the New Vaping License Security, notwithstanding any restrictions that might otherwise arise under the terms of the Initial Order, on the condition that any security previously extended pursuant to paragraph 2 of the Order of Justice McEwen dated July 11, 2022 (*i.e.*, the New Excise Act Security, as defined) is returned, refunded or otherwise extinguished within a reasonable period following the issuance of the “vaping product” license to Imperial Tobacco Canada Limited.

## GENERAL

5. **THIS COURT ORDERS** that this Order is effective from the date that it is made and is enforceable without any need for entry and filing.
6. **THIS COURT ORDERS** that this Order shall have full force and effect in all provinces and territories in Canada.
7. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body, having jurisdiction in Canada or in the United States of America, to give effect to this Order and to assist the Applicants, the Monitor and their respective agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Applicants and to the Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Order, to grant representative status to the Monitor in any foreign proceeding, or to assist the Applicants and the Monitor and their respective agents in carrying out the terms of this Order.

  
Chief Justice Geoffrey B. Morawetz



**IN THE MATTER OF the Companies' Creditors Arrangement Act, R.S.C. 1985, c. C-36,  
as amended  
AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF  
IMPERIAL TOBACCO CANADA LIMITED AND IMPERIAL TOBACCO  
COMPANY LIMITED**

Court File No: CV-19-616077-00

**APPLICANTS**

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

Proceeding Commenced at Toronto

**ORDER  
(Stay Extension to September 30, 2024)**

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Lawyers for the Applicants, Imperial Tobacco Canada  
Limited and Imperial Tobacco Company Limited

**CITATION:** Imperial Tobacco Canada Limited, 2024 ONSC 1751  
**COURT FILE NO.:** CV-19-615862-00CL, CV-19-616077-00CL and CV-19-616779-00CL  
**DATE:** 2024-03-25

**SUPERIOR COURT OF JUSTICE - ONTARIO**

**RE:** **RE: IN THE MATTER OF THE COMPANIES' CREDITORS  
ARRANGEMENT ACT, R.S.C. 1985, c. C-36, AS AMENDED**

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR  
ARRANGEMENT OF JTI-MACDONALD CORP.**

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR  
ARRANGEMENT OF IMPERIAL TOBACCO CANADA LIMITED AND  
IMPERIAL TOBACCO COMPANY LIMITED**

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR  
ARRANGEMENT OF ROTHMANS, BENSON & HEDGES INC.**

**BEFORE:** Chief Justice Geoffrey B. Morawetz

**COUNSEL:** *Craig Lockwood, John MacDonald, Deborah Glendinning, Marc Wasserman,  
Marleigh Dick and Viktor Nikolov*, for Imperial Tobacco Canada Limited and  
Imperial Tobacco Company Limited

*Heather Meredith, Paul Steep and Trevor Courtis*, for Rothmans, Benson &  
Hedges Inc.

*Mitch Grossell, Robert Thornton and Leanne Williams*, for JTI-MacDonald Corp.

*Natasha MacParland, Chanakya Sethi and Benjamin Jarvis*, for FTI Consulting  
Canada Inc. in its capacity as court-appointed Monitor of Imperial Tobacco Canada  
Limited and Imperial Tobacco Company Limited

*Jane Dietrich*, for Ernst & Young Inc. in its capacity as court appointed Monitor of  
Rothmans, Benson & Hedges Inc.

*Pamela Huff, Jake Harris and Linc Rogers*, for Deloitte Restructuring Inc. in its  
capacity as Monitor of JTI-Macdonald Corp.

*Robert Cunningham*, for The Canadian Cancer Society

*Avram Fishman and Mark E. Meland*, for Conseil Québécois sur le tabac et la santé,  
Jean-Yves Blais and Cécilia Létourneau (Quebec Class Action Plaintiffs)

*Amanda McInnis and Steven Weisz*, for Grand River Enterprises Six Nations Ltd.

*Jacqueline Wall*, for His Majesty the King in Right of Ontario

*Adam Slavens*, for JTI Canada LLC Inc. and PricewaterhouseCoopers Inc., in its capacity as Receiver of JTI-Macdonald TM Corp.

*Madeleine Carter, Lauren Harper and Raymond Wagner*, Representative Counsel for the Pan-Canadian Claimants

*Nichols Kluge*, for Philip Morris International Inc.

*Andre Michael and Mike Eizenga*, for the Provinces of British Columbia, Manitoba, New Brunswick, Nova Scotia, Prince Edward Island and Saskatchewan, in their capacities as Plaintiffs in the HCCR Legislation claims

*Bryan McLeese and Patrick Flaherty*, for R.J. Reynolds Tobacco Company and R.J. Reynolds Tobacco International Inc.

*Douglas Lennox*, for Representative Plaintiff, Kenneth Knight, in the certified British Columbia Class Action, *Knight v. Imperial Tobacco Canada Ltd.*, Supreme Court of British Columbia, Vancouver Registry No. L031300

*William V. Sasso and Harvey T. Strosberg*, for The Ontario Flue-Cured Tobacco Growers' Marketing Board

*Nadia Campion Matthew Gottlieb and Andrew Winton*, for Court-Appointed Mediator, The Honourable Warren K. Winkler, K.C.

*Brett Harrison*, for the Province of Quebec

*James Doris*, U.S. Department of Justice

*Air Kaplan*, Former Genstar U.S. Retiree Group Committee

*David Ullmann*, for La Nordique Compagnie D'Assurance du Canada

*Maria Konyukhova*, for Certain BAT Entities

**HEARD:** March 25, 2024

### **ENDORSEMENT**

[1] This endorsement relates to the three Applicants, JTI-MacDonald Corp., ("JTI"), Imperial Tobacco Canada Limited and Imperial Tobacco Company Limited (collectively, "Imperial") and Rothmans, Benson & Hedges Inc. ("RBH").

[2] Each Applicant requested an extension of the Stay Period up to and including September 30, 2024.

[3] Imperial also requested authorization to take the appropriate steps to complete a termination of the Imasco Holdings Group Inc. and Participating Affiliates Retirement Plan

(“IHGI”) in accordance with applicable U.S. Laws. In addition, Imperial sought the necessary authorization to post security or otherwise advance funds for the purposes of obtaining a “vaping product” license as and when Bill C-59 (*Fall Economic Statement Implementation Act, 2023*) comes into force.

[4] RBH also requested a procedural amendment to the Initial Order to allow certain employee grievances to proceed with the consent of the Monitor and RBH, without the necessity of obtaining leave of the court.

[5] The evidentiary support for the relief is as follows:

**(a) JTI**

The affidavit of William Aziz sworn March 11, 2024 and the 16<sup>th</sup> Report of the Monitor, as filed by Deloitte Restructuring Inc., in its capacity as Monitor of JTI.

**(b) Imperial**

The affidavit of Eric Thauvette sworn March 11, 2024 and the 17<sup>th</sup> Report of the Monitor, as filed by FTI Consulting Canada Inc., in its capacity as Monitor of Imperial.

**(c) RBH**

The affidavit of Milena Trentadue sworn March 6, 2024 and the 15<sup>th</sup> Report of the Monitor, as filed by Ernst & Young Inc., in its capacity as Monitor of RBH.

[6] There was no opposition to the motions.

[7] It is noted that Mr. Kaplan, on behalf of the Former Genstar U.S. Retiree Group Committee, reserved his right to raise issues that could arise in respect of the termination of the IHGI.

[8] Having reviewed the record, I am satisfied that each Applicant has been and continues to work in good faith and with due diligence in an effort to formulate plans of arrangement in these CCAA proceedings. I also accept that each Applicant requires additional time to formulate a plan.

[9] The required cash flow forecasts demonstrate that each Applicant will have sufficient resources to carry on operations for the period of the requested extension.

[10] I have also been provided with periodic updates with respect to the ongoing mediation that is being conducted by the Honourable Warren K. Winkler, K.C., Court -Appointed Mediator. Such communication has been previously authorized by Court Order.

[11] I am satisfied that significant progress has been made by the parties as they continue with their efforts to develop comprehensive plans of arrangement and, further, that all parties are active participants in the ongoing mediation.

[12] Accordingly, the Stay Period for all Applicants is extended up to and including September 30, 2024. The ancillary relief requested by Imperial and RBH is also appropriate in the circumstances.

[13] The motions of all Applicants are granted and three orders that reflect the foregoing have been signed.

  
Chief Justice Geoffrey B. Morawetz

**Date:** March 25, 2024