

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

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

**MOTION RECORD OF THE FORMER GENSTAR
U.S. RETIREE GROUP COMMITTEE**

**(Motion on April 25, 2019 for a Representation Order and
Reinstatement of Benefits under the Genstar U.S. Plans)**

VOLUME 1 OF 2

April 17, 2019

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TO: SERVICE LIST (attached)

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

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

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
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**ONTARIO
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(COMMERCIAL LIST)**

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

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TAB 1

NOTICE OF MOTION

(APRIL 17, 2019)

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

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

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OF IMPERIAL TOBACCO CANADA LIMITED AND IMPERIAL TOBACCO
COMPANY LIMITED

Applicants

NOTICE OF MOTION

The Former Genstar U.S. Retiree Group Committee and the proposed representatives, Robert M. Brown and George A. Foster, will make a motion to Justice T. McEwen or to such other judge presiding over the Commercial List on Thursday, April 25, 2019 at 10:00 a.m., or as soon thereafter as the motion can be heard, at 330 University Avenue, Toronto, Ontario.

PROPOSED METHOD OF HEARING: The motion is to be heard orally.

THE MOTION IS FOR:

1. an order, if necessary, abridging the time for service and filing of this Notice of Motion and Motion Record, dispensing with service on any person other than those served, and declaring that the motion is properly returnable on April 25, 2019.
2. an order prohibiting the Applicants from ceasing funding or causing the cessation, suspension or discontinuance of payments under the Genstar deferred income plan, supplemental executive retirement plan and supplementary pension plan (the "**Genstar U.S. Plans**"), or disclaiming or resiling from them, and directing the Applicants to reinstate all payments under these plans and continue making such payments during the pendency of these proceedings or until further order of this Court.

3. an order staying paragraph 7(a) of order of Justice McEwan dated March 12, 2019, as amended on April 5, 2019 (the “**Initial Order**”) as it applies to the Genstar U.S Plans, or varying the Initial Order by adding the following underlined language to that paragraph:

7. THIS COURT ORDERS that the Applicants shall be entitled but not required to pay the following expenses whether incurred prior to, on or after the date of this Order:

- (a) all outstanding and future wages, salaries, commissions, compensation, vacation pay, bonuses, incentive and share compensation plan payments, employee and retiree pension and other benefits and related contributions and payments (including, without limitation, expenses related to the Applicants’ employee and retiree medical, dental, disability, life insurance and similar benefit plans or arrangements, employee assistance programs and contributions to or any payments in respect of the Applicants’ other retirement programs, excluding expenses and benefits payable under the Genstar deferred income plan, supplemental executive retirement plan and supplementary pension plan), reimbursement expenses (including, without limitation, amounts charged to corporate credit cards), termination pay, salary continuance and severance pay payable to employees, independent contractors and other personnel, in each case incurred in the ordinary course of business and consistent with existing compensation policies and arrangements or with Monitor approval;

4. an order that the agreements with the Affected Members related to the Genstar U.S Plans are not to be disclaimed or resiliated by the Applicants.

5. an order appointing Robert M. Brown and George A. Foster (the “**Proposed Representatives**”) as representatives of all beneficiaries entitled to pensions or benefits under the Genstar U.S. Plans or any person claiming an interest under or on behalf of such persons and their surviving spouses (excluding individuals who opt-out of such representation, if any) (the “**Affected Members**”), for the purpose of representing the Affected Members in these proceedings including with respect to facilitating the production of Information (defined below) that is necessary for Affected Members to be informed about their rights, assess their claims and make reasonable decisions about how to proceed in this proceeding, and were the event to arise, proving, settling or compromising their rights and claims, in which case the Affected Members shall be bound by the actions of the Proposed Representatives and Representative Counsel (as defined below) in these proceedings.

6. an order appointing Ari Kaplan of Kaplan Law (the “**Proposed Representative Counsel**”) as legal counsel to the Proposed Representatives in their capacity as representatives for the Affected Members, with the mandate to provide assistance to the Affected Members so that they are able to participate in the proceedings and the restructuring process in a more efficient manner, including assisting the Affected Members in the assessment and evaluation of their entitlements and claims in a cost-effective and timely manner.

7. an order that notice of the appointment of the Proposed Representatives and Proposed Representative Counsel be provided to the Affected Members by the Monitor by way of first class mailing and under such other terms and conditions as to be agreed upon by the Proposed Representatives, the Applicant and the Monitor and approved by the Court, such terms to include that any Affected Member who does not wish to be represented by the Proposed Representatives and Proposed Representative Counsel and thereby bound by their subsequent actions and decisions be entitled to notify the Monitor that he or she wishes to opt out of representation by the Proposed Representatives or Proposed Representative Counsel and thereafter he or she shall not be represented by the Proposed Representatives or Proposed Representative Counsel in these proceedings and may represent himself or herself, personally or through counsel that he or she may retain at his or her own expense and as an independent, individual party, to the extent that they wish to participate in these proceedings and the Proposed Representatives and Proposed Representative Counsel shall have no obligation to represent them.

8. an order directing the Applicants to provide to the Proposed Representatives and Proposed Representative Counsel, without charge, the following information, documents and data (the “**Information**”):

- (a) the names, last known address, telephone number and email addresses (if any) of all the Affected Members as well as particulars regarding their entitlements, subject to a confidentiality agreement as applicable and to only be used for the purposes of these proceedings, and that, in so doing, the Applicants are not required to obtain express consent from such Affected Members authorizing disclosure of the Information to the Proposed Representatives and Proposed Representative Counsel and, further, in accordance with section 7(3) of the *Personal Information Protection*

and Electronic Documents Act (Canada) or, if applicable, section 18(9) of *An Act respecting the Protection of Personal Information in the Private Sector*, CQLR c P-39.1, such an order will be sufficient to authorize the disclosure of the Information without the knowledge or consent of the Affected Members; and

- (b) such other documents and data as may be relevant to matters relating to the issues in these proceedings, including all relevant plan texts, agreements, particulars of insurance policies, communications, booklets, and other applicable documents and particulars of the Applicants' financial obligations respecting the plans including with respect to funding or securing the obligations and any other relevant documents and data pertaining to the plans and the Applicants' other pension plans and retirement arrangements, including up to date financial information regarding the funding and investments of any of these arrangements.

9. an order reserving the Proposed Representatives' rights to apply to this Honourable Court for advice and directions in respect of any matter relating to the discharge or variation of their respective powers and duties, or for any other relief, including if necessary to seek further variation of the Initial Order, as amended from time to time, an order for funding the activities and professional fees of the Proposed Representatives and Proposed Representative Counsel in this proceeding, or for declarations and remedies under the *Canadian Charter of Rights and Freedoms*; and

10. such further and other relief as counsel to the Committee and Proposed Representatives may advise and this Honourable Court may deem just.

THE GROUNDS FOR THE MOTION ARE:

A. Overview

11. The Former Genstar U.S. Retiree Group Committee (the "**Committee**") together with the Proposed Representatives propose to represent the interests of 59 former officers, executives and management employees of Genstar Corporation or related entities, and their survivors, who are beneficiaries entitled to benefits under the three Genstar U.S. Plans (the "**Affected Members**"), which are supplementary retirement plans and deferred compensation plans, including:

- (a) a “deferred income plan” for approximately 53 individuals who are either former senior management employees of Genstar or their surviving spouses (“**GCDIP**”);
- (b) a “supplemental executive retirement plan” for approximately 14 individuals who were either former Genstar employees or their surviving spouses (“**SERP**”); and
- (c) a “supplementary pension plan” for 3 individuals who were either former Genstar employees or their surviving spouses (“**SPEN**”).

12. Historically, various senior employees, executives and other management employees of Genstar and related entities in the United States earned benefits including supplementary pensions and deferred compensation benefits under the Genstar U.S. Plans. The plans were expected to be revenue- and cost-neutral to the employer, who secured the benefits with insurance policies on the lives of the participants. In addition, Affected Members of the GCDIP contributed their own funds and deferred their own income to secure these benefits.

13. Pursuant to an agreement dated April 2, 1986 and as a result of the historical acquisition and restructuring of various companies and businesses in the U.S., ITCAN became the guarantor of benefits payable under the Genstar U.S. Plans, all of which became vested (the “**Guarantee**”). Genstar Corporation is currently a wholly-owned Canadian subsidiary of ITCAN and a dormant Canadian company. ITCAN considers the Genstar U.S. Plans to be “legacy obligations”.

14. Until last month, ITCAN has guaranteed the benefits to Affected Members by making monthly payments to its U.S. subsidiary, Imasco Holdings Group, Inc. (“**IHGI**”). IHGI is a largely dormant Delaware corporation that holds certain of ITCAN’s legacy obligations. ITCAN has made capital contributions to IHGI totaling approximately USD \$7.0 million per year and then writes off these amounts. Of this amount, IHGI used approximately \$6 million per year to make payments to Affected Members under the Genstar U.S. Plans.

15. The present value of the pension obligations to the Affected Members under the Genstar U.S. Plans, in the aggregate and as of December 31, 2017, is estimated to be approximately USD \$32 million (approximately CAD \$43 million).

B. CCAA Proceedings

16. On March 12, 2019, the Applicants filed a Notice of Application under the CCAA (the “**CCAA Proceedings**”) and obtained the Initial Order. Schedule “B” to the Initial Order lists all “ITCAN Subsidiaries” (defined at para. 4(f) of the Initial Order), which includes Genstar and IHGI.

17. Para. 7(a) of the Initial Order provides that the Applicants are “entitled but not required to pay the following expenses whether incurred prior to, on or after the date of [the Initial Order]: all outstanding and future ... retiree pension and other benefits and related contributions and payments”.

18. Para. 14 of the Initial Order provides that “except as specifically permitted herein, the Applicants are hereby directed, until further Order of this Court: ... to make no payments ... on account of amounts owing by the Applicants or claims to which they are subject to any of their creditors”.

19. Para. 18 of the Initial Order provides that “until and including April 11, 2019, or such later date as this Court may order (the “**Stay Period**”), no proceeding or enforcement process in any court or tribunal ... shall be commenced, continued or take place against or in respect of the Applicants, the ITCAN Subsidiaries, the Monitor, any of their respective employees and representatives acting in that capacity, ... except with the written consent of the Applicants and the Monitor, or with leave of this Court”.

20. Para. 21 of the Initial Order provides that “during the Stay Period, all rights and remedies of any individual ... against or in respect of the Applicants, the ITCAN Subsidiaries or the Monitor ... are hereby stayed and suspended except with the written consent of the Applicants and the Monitor, or leave of this Court”.

21. Para. 51 of the Initial Order requires the Monitor to provide for notice of the CCAA Proceedings by way of Canadian newspaper publications, and for the Monitor to send “a notice ... to every known creditor who has a claim (contingent, disputed or otherwise) against the Applicants of more than \$5,000, except ... in the case of beneficiaries of the ... pension plans, in which case the Monitor shall only send a notice to the trustees of each of the ... pension plans”.

22. Para. 51 of the Initial Order also provides that the Monitor shall “...prepare a list showing the names and addresses of those creditors and the estimated amounts of those claims, and make it publicly available in the prescribed manner ... not includ[ing] the names, addresses or estimated amounts of the claims of those creditors who are individuals or any personal information in respect of an individual”.

23. Para. 63 of the Initial Order provides that “any interested party ... may apply to this Court to vary or amend this Order on not less than seven (7) days' notice to any other party or parties likely to be affected by the order sought or upon such other notice, if any, as this Court may order”.

24. On April 5, 2019, the Court made orders: (a) amending and restating the Initial Order; and (b) extending the Stay Period as defined in paragraph 18 of the Initial Order “from April 11, 2019, until and including June 28, 2019”. The Court also made an order endorsed on the record that “the extension of the Stay Period is without prejudice to the rights of the Former Genstar U.S. Retiree Group Committee to bring and be heard for relief concerning the Genstar U.S. Plans on April 25 with all rights reserved and without regard to the passage of time until then”.

C. U.S Chapter 15 Proceedings

25. On March 13, 2019, the Monitor on behalf of ITCAN as debtor filed a petition for relief under Chapter 15 of the U.S. Bankruptcy Code (the “**Chapter 15 Proceeding**”) in the United States Bankruptcy Court in the Southern District of New York (the “**U.S. Court**”).

26. On March 14, the Monitor on behalf of ITCAN filed an interim motion in the U.S. Court (Docket 10) (the “**Seal Motion**”) and obtained an Order Granting Interim Motion to Seal (Docket 15) (the “**Seal Order**”) sealing the names and contact information of all 59 Affected Members, the U.S. Court “having found and determined that the relief sought in the Motion is in the best interests of the Monitor in its capacity as foreign representative for the Debtor and all parties in interest and that the legal and factual bases set forth in the Motion establish just cause for the relief granted”. In support of the Seal Order, the Monitor represented as follows:

2. The Debtor is the direct or indirect corporate parent of several subsidiaries in the United States. These include Imasco Holdings Group, Inc. (“Imasco”), Imasco Holdings, Inc., ITL (USA) Limited, and Genstar Pacific Corporation (collectively, the “U.S. Subsidiaries”). The U.S.

Subsidiaries are dormant but administer various legacy liabilities related to their former business operations, including worker's compensation claims and pension and retirement benefit plan liabilities. Pursuant to an agreement dated April 2, 1986, the Debtor guaranteed certain of these pension and retirement obligations and over the years, the Debtor has provided funding for the U.S. Subsidiaries on a monthly basis in the form of a capital contribution to Imasco for these obligations. While the Debtor intends to continue to fund Imasco so that the U.S. Subsidiaries can make ordinary course payments in respect of many of the pension and retirement plan obligations, it will no longer be funding several of the executive-level retirement and pension plans. In light of the Debtor guarantee, out of an abundance of caution, the individual members of these plans are included in the parties against whom the Debtor is seeking provisional relief.

3. ... in the instant case, the Monitor is constrained by the Canadian Order for Relief and federal and provincial statutes in Canada from publicly disclosing the names and addresses of creditors who are individuals or any personal information in respect of such individuals. Specifically the Canadian Order for Relief provides that, with respect to any creditor list, the Monitor "shall not include the names, addresses or estimated amounts of the claims of those creditors who are individuals or any personal information in respect of an individual." See Canadian Order for Relief ¶ 51. ... Given these prohibitions, the Monitor seeks limited relief and authority to file and maintain only the Individual Provisional Relief List under seal. Notably, other parties against whom the Debtor is seeking provisional relief are included on the *List Pursuant To Bankruptcy Rule 1007(a)(4)* [Dkt. No. 2, Ex. C].

27. On March 25, the Monitor obtained an Order Granting Preliminary Injunction from the U.S. Court in the Chapter 15 Proceeding in which the court found that ITCAN is likely the "subject of a pending foreign main proceeding" in Ontario, established the Monitor as the "foreign representative" of ITCAN and stayed proceedings in the U.S. "until such a time as an order adjudicating the Monitor's request for recognition of the Canadian Proceeding is entered, or as otherwise ordered by this Court" (the "**Recognition Hearing**").

28. On April 15, 2019, the Recognition Hearing for the requested relief was scheduled to take place in the U.S. Court. This hearing was rescheduled for April 17, 2019.

D. ITCAN Ceases Funding Payments for Genstar U.S. Plans without Proper Notice

29. On April 1, 2019, with no prior notice to the Affected Members nor their counsel except as described below, ITCAN ceased funding Affected Members' pensions under the Genstar U.S. Plans and effectively caused IHGI to fail to make the required payments under those plans. This

action caused confusion and distress to Affected Members, many of whom noticed that their Genstar U.S. Plan benefits had not been deposited into their bank accounts that day, as was the case on the first day of every prior month, for some people, for up to 30 years.

30. Commencing on or about March 14, 2019, various Affected Members received voluminous court documents from the Monitor's U.S. counsel, Bracewell LLP, respecting the Chapter 15 Proceeding (the "**Initial U.S. Petition Documents**"). There was no personalized letter addressed to Affected Members nor any cover note explaining the content of the package or why they were receiving it.

31. Buried in the voluminous Initial U.S. Petition Documents are two references to the Genstar U.S. Plans (in the "**First Thauvette Affidavit**"), specifically, that ITCAN:

- (a) "proposes that any further payments with respect to these obligations be stayed pursuant to the Initial Order"; and
- (b) "intends to continue to fund contributions [to IHGI so it] can make ordinary course payments in respect of their pension and retirement plan obligations, with the exception of" the Genstar U.S. Plans.

32. Nowhere in the Initial U.S. Petition Documents does it state whether pension payments will actually cease, nor when or for how long, nor whether ITCAN intends to rely solely on the Initial Order or ask the court to give specific relief exempting ITCAN from funding these benefits. Rather, the Initial U.S. Petition Documents merely state that ITCAN is thinking about stopping payments ("proposing", "intending").

33. In the days and weeks following receipt of the Initial U.S. Court Documents, multiple Affected Members attempted, unsuccessfully, to obtain clear and credible information from the Monitor or ITCAN's U.S. subsidiaries concerning whether they will receive their Genstar U.S. Plan payments on April 1.

34. On March 29, the Committee retained Canadian counsel. The Committee's counsel immediately sent a letter to ITCAN's counsel and the Monitor's counsel objecting to the "proposal" to stay payments under the Genstar U.S. Plans. Neither ITCAN's counsel nor the

Monitor's counsel advised the Committee's counsel on March 29 nor over the weekend that, in fact, ITCAN had already stopped the Affected Members' benefits.

35. On April 1, the Committee served a Notice of Appearance and a Notice of Objection to the service list and applied to the Monitor to join the service list. Counsel also requested copies of all court materials served prior to then that were not yet available on the Monitor's website.

36. Between April 1 and 5, various Affected Members received in the regular mail a "Notice to Participants in Non-Qualified Deferred Compensation Plans", from Bracewell LLP, dated March 27 (the "**Cessation Notice**"), stating:

As part of its restructuring efforts, ITCAN has ceased funding the following legacy qualified deferred compensation plans (the "Affected Plans") as of the Filing Date:

- (i) the "deferred income plan" for individuals who are either former senior management employees of Genstar or their beneficiaries ("GCDIP"),
- (ii) the "supplemental executive retirement Plan" for individuals who were either former Genstar employees or their beneficiaries ("SERP"), and
- (iii) the "supplementary pension plan" for individuals who were either former Genstar employees or their beneficiaries ("SPEN").

ITCAN has represented that its decision to cease funding of the Affected Plans was based largely on the fact that the liabilities under these plans constitute unsecured claims. As payment of these claims is not necessary to ITCAN's ongoing business, although ITCAN has honored its commitment to fund these plans for more than 30 years, it is not in a position to continue to do so given the hundreds of billions of dollars in other unsecured claims asserted.

37. The Cessation Notice does not advise Affected Members what it means to them that ITCAN has "ceased funding" their Genstar U.S. Plans as of the filing date, nor that they will not receive payment of their benefits from IHGI on April 1. Moreover, the Cessation Notice was received by Affected Members after many of them discovered they did not receive their pension income that they expected to be deposited in their accounts for the month of April, on April 1.

38. On April 2, the Committee's counsel obtained additional court materials (the "**Second Thauvette Affidavit**") from the Monitor's case website that were posted for the first time that day

and previously not provided nor made available to counsel despite his March 29 letter and him requesting copies of same on April 1. In the Second Thauvette Affidavit, ITCAN made the following statement in reference to the Cessation Notice:

25. On March 27, 2019, Bracewell, in its capacity as U.S. counsel to the Monitor, also sent a notice to participants in the following non-qualified deferred compensation plans, advising the participants that ITCAN had made a determination to discontinue funding such plans during the pendency of the CCAA proceedings:

(a) the "deferred income plan" for individuals who are either former senior management employees of Genstar or their beneficiaries;

(b) the "supplemental executive retirement Plan" for individuals who were either former Genstar employees or their beneficiaries; and

(c) the "supplementary pension plan" for individuals who were either former Genstar employees or their beneficiaries.

39. Also on April 2, ITCAN served a further affidavit (the “**Third Thauvette Affidavit**”) advising as follows with respect to the Genstar U.S Plans:

35. ITCAN makes payments to a U.S. subsidiary Imasco Holdings Group, Inc. ("IHGI"). IHGI is a largely dormant Delaware corporation that holds certain legacy obligations as a result of the historical acquisition and restructuring of various companies and businesses in the U.S. ITCAN makes capital contributions as necessary to IHGI on a monthly basis and then writes off these amounts (approximately USD \$7.0 million a year). These transfers permit IHGI to make necessary payments like pension plan contributions, workers compensation, and expenses such as rent, fees for professional advisors and banking fees.

36. The vast majority of the amounts transferred to IHGI (approximately \$6 million) were used to make payments under certain non-qualified deferred compensation plans for former employees of Genstar Corporation ("Genstar"), an ITCAN subsidiary, or their beneficiaries. ITCAN has decided to discontinue funding these plans during the pendency of the CCAA proceeding and therefore the corresponding transfers to IHGI will no longer be necessary going forward.

40. On April 3, the Committee served its second Notice of Objection. The Monitor also issued its First Report, which states as follows with respect to the Genstar U.S. Plans:

Communications with the Beneficiaries of the Genstar Plans

23. Prior to the commencement of these CCAA Proceedings, Imperial has, for several decades, funded payments to beneficiaries of the Genstar Plans established by Imasco Holdings Group, Inc., a now largely dormant Imperial subsidiary. As a result of these CCAA Proceedings, these payments are no longer being made. Bracewell and the Monitor have received a number of enquiries from beneficiaries of the Genstar Plans regarding the cessation of benefit payments. The Monitor understands that certain beneficiaries of the Genstar Plans have established the Committee and have retained Canadian and U.S. counsel who are seeking to represent the interests of the beneficiaries of the Genstar Plans.

E. The Need for the Appointment of Representatives and Representative Counsel

41. The Committee has formed the Former Genstar U.S. Retiree Group to protect the common interests of Affected Members and is instructing Kaplan Law in this proceeding. The Committee has also retained U.S. counsel in connection with the Chapter 15 Proceeding.

42. The Committee is a steering committee currently comprised of the following former Genstar executives and officers:

- (a) Angus A. MacNaughton, former co-CEO;
- (b) Ross J. Turner, former co-CEO;
- (c) J. Ernest Hartz, former Senior Vice President and General Counsel; and
- (d) Richard D. Paterson, former Senior Vice President and CFO.

43. The Committee's mandate and activities include communicating with Affected Members, instructing counsel, appearing in court, making submissions and bringing motions for the benefit and protection of the Affected Members, including the within motion, and as may further come to its attention.

44. The Committee has been in contact with other Affected Members and are organizing themselves according to their common interests in these proceedings, in which they are significant stakeholders. The Committee continues its efforts to locate and communicate with Affected Members. However, given the length of time that has passed since Genstar was acquired by Imasco and later ITCAN, and the fact that these individuals are elderly and live all over the United States and beyond, it has proved to be a difficult task.

45. The Affected Members are a significant and vulnerable stakeholder group in these proceedings and they require representation. The Affected Members are not yet represented in the proceeding as an organized group and they are exposed to significant losses to their pension benefits. Of urgent importance, the Applicants caused IHGI to fail to make expected payments to the Affected Members on April 1, without proper notice, which has directly and immediately caused confusion, distress, losses and hardship to Affected Members.

46. Separately from the Notices of Objection filed by the Committee in the CCAA Proceedings, a number of Affected Members have filed statements in the U.S. Chapter 15 Proceeding claiming hardship and prejudice from the cessation of funding and discontinuation of payments under the Genstar U.S. Plans, and confusion regarding the inadequate notice thereof. For example,

- (a) Vivian Brennan-Dolezar of Mesa, Arizona objected on behalf of her 89-year-old mother, V.M. Brennan, who was receiving survivor benefits under the GCDIP and SERP following the death of her father in 2012. Ms. Bennis-Dolezar stated that news of the cessation “was devastating” and will “cause extreme financial hardship” to her mother, who is “financially dependent on her pension”. The “very short notice gave no time for preparation for loss of income” and the Imasco retiree center “never returned calls”. She states that “as of April 1, 2019, I have not received any written correspondence from Imperial Tobacco Canada Limited or their Representatives informing retirees of their decision to discontinue pension payments”.
- (b) George Foster of Alamo, California objected on his own behalf and for all Affected Members. Mr. Foster is a member of the GCDIP and states that the agreement supporting those benefits have “binding effect” and “inure to the benefit of the employee [and] heirs and representatives as the case may be and the Company and its successors and assigns”. The agreement requires the company to “have the financial ability to discharge obligations assumed under this plan [and] perform all of the terms and conditions herein contained”. He states that his own funds were “voluntarily deducted from [his] paychecks and contributed” to the GCDIP as “a

significant part of retirement planning”. He states most Affected Members “are retired and unable to return to work” and submits that these court proceedings should not “financially harm any retired employees”.

- (c) Glen Jones of Los Gatos, California states that he is “77 years of age and fully retired” and it is not feasible for him to attend court personally. He states that he “participated voluntarily” in the GCDIP and “made salary deduction contributions” to the plan “in return for stipulated monthly retirement payments”. He states that “the failure to continue contributions to the Plan will inflict significant financial harm to the participants all of whom are of advanced retirement age and who have been relying in receipt of these payments”. He submits that the discontinuance of the payments constitutes an “immediate breach of the contractual obligations” provided in the Guarantee; and
- (d) Alfred Mueller of Fremont, California is a former President of the Genstar Cement division and also a member of the GCDIP. Mr. Mueller also states that attendance in court is not feasible for him. He makes similar objections and statements as Mr. Jones.

47. Two Affected Members, Robert M. Brown and George A. Foster, have come forward as Proposed Representatives. The Proposed Representatives have agreed to act accordingly and are appropriate representatives for the Affected Members. They have specific knowledge of the Genstar U.S. Plans and worked for the company in management capacities at the relevant time.

48. A representation order will provide all Affected Members, who have common interests and are directly affected by the proceedings and the Applicants’ actions, with an organized voice before this Court, avoid a multiplicity of retainers, and benefit the Court, the Applicants and the Monitor.

49. Mr. Kaplan of Kaplan Law is appropriately appointed as Proposed Representative Counsel. He is an experienced lawyer and capable of adequately taking instructions from the Committee and Proposed Representatives and providing assistance to the Affected Members so that they are able to meaningfully participate in the proceedings and the restructuring process.

F. Disclosure of Information and Assessment of Entitlements

50. The Monitor states as follows in its First Report:

24. The Monitor has spoken to proposed Canadian counsel for the beneficiaries of the Genstar Plans and understands that a motion will be brought to determine the entitlement to payments under the Genstar Plans before the end of April (and before the date of the next payments due under the Genstar Plans). The Monitor is also working with Imperial and its Canadian and US counsel to address certain information requests made by proposed counsel for the beneficiaries of the Genstar Plans, and by the Pension Benefit Guaranty Corporation.

51. To date, and despite multiple requests for disclosure of all Information (as defined in para. 8 above), ITCAN has not provided to the Committee nor its counsel with any documentation to assist them to properly assess their rights and those of the Affected Members including for the purpose of having a full and proper record for this Motion.

52. The requested Information is reasonably sought and necessary for the Committee and Proposed Representatives to carry out their activities for the benefit of the Affected Members in these proceedings, and is properly required as part of any advance notice required to be given to Affected Members before implementing a proposed cessation of their benefits under the Genstar U.S. Plans. In particular and without limitation:

a. Plan Documents and Agreements

53. The Committee and Proposed Representatives require copies of documents confirming the applicable Genstar U.S. Plan documents, texts, agreements or booklets, which are the starting point for ascertaining Affected Members' rights.

54. The Committee and Proposed Representatives do not have copies of the Guarantee or related documents including the April 2, 1986 agreement involving Genstar and Imasco that vested Affected Members' benefits and is the source of the Applicants' obligation to fund the Genstar U.S. Plans.

b. Insurance Policies

55. The Committee and Proposed Representative do not have any information or details of the paid-up life insurance premiums purchased to fund and secure the benefits under the Genstar U.S. Plans. In the Third Thauvette Affidavit, ITCAN states as follows:

42. I understand that a proposed Former Genstar U.S. Retiree Group Committee (the "Committee") has filed a Notice of Objection for the Comeback Hearing in this matter. The Committee has asserted that Genstar purchased life insurance policies on the life of each member of a deferred income plan ("GCDIP") and a supplemental executive retirement plan ("SERP") for certain former Genstar employees and their beneficiaries. While Genstar did purchase life insurance policies when the GCDIP and SERP were set up, those policies were all cashed out decades ago. There are no current insurance policies in place related to the GCDIP or SERP.

56. The Committee and Proposed Representatives request full particulars of these life insurance policies, their redemption value, the decisions to "cash out" and to whom the proceeds were paid. The GCDIP and SERP were designed by an independent firm, Clark/Bardes Organization, Inc., to be at least cost/revenue neutral to Genstar. In the case of the GCDIP, a Member could defer as much as 50% of their annual compensation. In the case of the SERP, Genstar offered this as an incentive to senior executives to stay with the company and to attract new hires of senior executives to the company. Under both the GCDIP and SERP, Genstar purchased single-premium life insurance policies on each Member's life, using the Member's own deferred income on account of the GCDIP, or corporate funds on account of the SERP, to pay for the premiums. Genstar was the owner of the life insurance policies used to secure the benefits and fund the payments under the GCDIP and SERP.

57. The information currently thought to be known about the insurance policies is probative evidence of the existence of a constructive trust securing the benefits owed to Affected Members under the Genstar U.S. Plans. The Applicants will receive an unjust enrichment and windfall were they to cease funding the Genstar U.S. Plans and the Affected Members have suffered a corresponding deprivation with no juridical reason. Full disclosure will allow Affected Members to assess these claims and the scope of their rights.

c. Other Pension Plans

58. The Applicants have stated that they are responsible for 11 pension plans in Canada and the United States. It appears that the Applicants intend to treat the Affected Members of the Genstar U.S. Plans differently and prejudicially relative to all other pension obligations. ITCAN has stated that during these proceedings, it “intends to continue to make ordinary course payments” in respect of its Canadian pension plans as well as to the “IHGI U.S. Pension Plan”.

59. However, with respect to the Genstar U.S. Plans, the Affected Members appear to be ITCAN’s only pension beneficiaries whose pension payments have stopped. No information or explanation has been provided respecting the reason for singling out the Genstar U.S. Plans for differential treatment nor about the lack of advance notice of ITCAN’s intention to cease its obligation to pay those pensions.

60. In the Cessation Notice, the Monitor advised Affected Members that a reason for the Applicants’ ceasing funding of their benefits is because “payment of these claims is not necessary to ITCAN’s ongoing business”. However, the Applicants are continuing to fund the IHGI Pension Plan which is not needed for ITCAN’s ongoing business. “IHGI is a largely dormant Delaware corporation that holds certain legacy obligations” and the IHGI Pension Plan covers strictly former employees.

61. Moreover, in support of the relief requested at the Recognition Hearing, the Monitor has stated as follows, offering yet a another, brand new rationale, for singling out the Genstar U.S. Plans for differential treatment vis-à-vis the IHGI Pension Plan:

The IHGI Plan, however, is a defined benefit plan subject to Title IV of the U.S. *Employee Retirement Income Security Act of 1974* [“ERISA”] and has different rights and regulations than the Top-Hat Plans. As contributions under the IHGI Plan are a fraction of the annual contributions required under the Top-Hat Plans and cover more than 50 times the number of participants, the Debtor determined, in its business judgment, that continued payment of that plan was warranted to avoid the significant penalties and legal costs associated with termination.

62. The Committee and Proposed Representatives require details of the Applicants’ other pension plans in order to assess the accuracy of the Monitor’s statement and whether those plans are necessary for ITCAN’s ongoing business. Moreover, some of the Affected Members are also

members of the IHGI Pension Plan and the Committee and Proposed Representatives accordingly seek particulars of those interests.

63. By unnecessarily singling out the Genstar U.S. Plans for differential treatment, and in light of the confusing and contradictory explanations given, the Applicants and Monitor have not acted evenhandedly to treat all similarly situated pension beneficiaries equitably.

64. Moreover, the Pension Benefits Guaranty Corporation, which regulates interests under ERISA-qualified plans, appears to be of the belief that the Applicants sponsor two other pension plans in the U.S. that have not been disclosed in the CCAA Proceedings. It is appropriate for particulars of these plans to be disclosed.

d. Identities of Affected Members

65. The Committee and Proposed Representatives require disclosure of the identity and contact information of the 59 Affected Members so that Proposed Representative Counsel can communicate and inform them as a whole and with regard to each person's particular situation, be a source of reliable information, assist them in evaluating their claims, and advise and represent them on their rights respecting decisions taken during the proceedings, including for a plan of compromise, and bring any concerns to the Court's attention.

66. Of all the pension beneficiaries affected by these proceedings, only the Affected Members are subject to the Seal Order, compounding their difficulty to locate and find one another for the purpose of obtaining information and advancing their common interests.

G. Reinstatement of Payments

67. The Committee states that ITCAN has improperly ceased funding the Genstar U.S. Plans which is *inter alia* a breach of the Guarantee and has *de facto* disclaimed or resiliated the agreements relating to these plans, contrary to the requirements set out in section 32 of the CCAA.

68. It is in the interests of justice and fairness that the Applicants reinstate payments under the Genstar U.S. Plans to Affected Members pending further order of this Court. First, the Applicants and Monitor have not followed the CCAA criteria when a debtor proposes to disclaim or resiliate an agreement, which are applicable in the within circumstances. Second, all other pension

payments are continuing and there is no issue of an unfair priority in favour of the Affected Members. Third, there is nothing prohibiting the Applicants from continuing to fund the Genstar U.S. Plans. Fourth, the Applicants are profitable and liquid, and the amounts are *de minimis* and will not affect the ability of the Applicants to meet their ongoing operations nor propose a plan of arrangement or compromise.

69. In addition:

- (a) there are serious questions to be determined in assessing the Affected Members' claims pending full disclosure from the Applicants and Monitor, including whether a constructive trust arises from the insurance policies purchased to secure the benefits and the serious question raised in the Notice of Constitutional Question, both of which are probative and have *prima facie* merit;
- (b) there will be irreparable harm to Affected Members to deny them an interim continuation of their pensions, not least of which because:
 - i. of the inadequate notice of the cessation of their benefits; it is equitable and necessary to mitigate the effects of those actions; and
 - ii. the Affected members are elderly (in their 70s and 80s), in ill-health, and on fixed incomes; they rely on their pensions for ensuring their physical, mental, psychological and emotional security and stability; and
- (c) the balance of convenience favours the pre-filing *status quo* with respect to the Genstar U.S. Plans; there is no prejudice to the Applicants nor any other creditor or stakeholder for payments to continue to the Affected Members, whereas there is massive prejudice to the Affected Members were the payments not reinstated.

70. Sections 11, 11.52(1)(c), and 32(1), (2), (3) and (4) of the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36 as amended.

71. Rules 2.03, 3.02, 10.01, 14.05(3)(g.1), 37.14(1)(a), (2), and (4), and 39.01(1) and (6) of the *Rules of Civil Procedure*.

72. Section 109(1) of the *Courts of Justice Act*, R.S.O. 1990, c C.43, as amended.
73. Sections 1 and 7 of the *Canadian Charter of Rights and Freedoms*.
74. Such further and other grounds as counsel may advise and this Court may permit.

THE FOLLOWING DOCUMENTARY EVIDENCE will be used at the hearing of the motion:

1. The affidavit of Robert M. Brown, sworn April 15, 2019, and the exhibits attached thereto;
2. The affidavit of George A. Foster, sworn April 15, 2019, and the exhibits attached thereto;
3. The affidavit of Vivian Brennan-Dolezar, sworn April 15, 2019, and the exhibits attached thereto;
4. The affidavit of Richard D. Paterson, to be sworn, and the exhibits attached thereto;
5. Such further and other evidence as counsel may advise and this court may permit.

Date: April 17, 2019

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and Proposed Representatives

TO: **SERVICE LIST**

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, *et al.*

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

PROCEEDING COMMENCED AT
TORONTO

NOTICE OF MOTION

(Motion returnable April 25, 2019)

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Proposed Representatives

TAB 2

NOTICE OF CONSTITUTIONAL QUESTION

(APRIL 9, 2019)

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

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

NOTICE OF CONSTITUTIONAL QUESTION

The Former Genstar U.S. Retiree Group Committee (the “**Committee**”) intends to question the constitutional validity, applicability or operability of the order of Justice T. McEwan dated March 12, 2019, as amended (the “**Initial Order**”) made under the *Companies’ Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the “**CCAA**”) to the extent it authorizes the Applicant Imperial Tobacco Canada Limited (“**ITCAN**”) or the monitor appointed under the Initial Order, FTI Consulting Canada Inc. (the “**Monitor**”), to deprive persons entitled to payments under the “Genstar U.S Plans” (defined below) of the right to life, liberty or security of their person not in accordance with the principles of fundamental justice, contrary to section 7 of the *Canadian Charter of Rights and Freedoms*.

The question is to be argued on April 25, 2019 at 10:00 a.m. at 330 University Avenue, Toronto.

The following are the material facts giving rise to the constitutional question:

A. Overview

1. The Committee represents the interests of 59 former officers, executives and management employees of Genstar Corporation (“**Genstar**”) and their survivors who are beneficiaries (the

“**Affected Members**”) entitled to benefits under three pension and deferred compensation plans (collectively, the “**Genstar U.S. Plans**”) including:

- (a) a “deferred income plan” for approximately 53 individuals who are either former senior management employees of Genstar or their surviving spouses (“**GCDIP**”);
- (b) a “supplemental executive retirement plan” for approximately 14 individuals who were either former Genstar employees or their surviving spouses (“**SERP**”); and
- (c) a “supplementary pension plan” for 3 individuals who were either former Genstar employees or their surviving spouses (“**SPEN**”).

2. Historically, various senior employees, executives and other management employees of Genstar and related entities in the United States earned benefits including supplementary pensions and deferred compensation benefits under the Genstar U.S. Plans. The plans were expected to be revenue- and cost-neutral to the employer, who secured the benefits with insurance policies on the lives of the participants. In addition, Affected Members of the GCDIP contributed their own funds and deferred their own income to secure these benefits.

3. Pursuant to an agreement dated April 2, 1986 and as a result of the historical acquisition and restructuring of various companies and businesses in the U.S., ITCAN became the guarantor of benefits payable under the Genstar U.S. Plans (the “**Guarantee**”). Genstar Corporation is currently a wholly-owned Canadian subsidiary of ITCAN and a dormant Canadian company. ITCAN considers the Genstar U.S. Plans to be “legacy obligations”.

4. Until last month, ITCAN has guaranteed the benefits to Affected Members by making monthly payments to another of its U.S. subsidiaries, Imasco Holdings Group, Inc. (“**IHGI**”). IHGI is a largely dormant Delaware corporation that holds certain of ITCAN’s legacy obligations. ITCAN has made capital contributions to IHGI totaling approximately USD \$7.0 million per year and then writes off these amounts. Of this amount, IHGI used approximately \$6 million per year to make payments to Affected Members under the Genstar U.S. Plans.

5. The present value of the pension obligations to the Affected Members under the Genstar U.S. Plans, in the aggregate and as of December 31, 2017, is estimated to be approximately USD \$32 million (approximately CAD \$43 million).

B. CCAA Proceedings

1. On March 12, 2019, the Applicants filed a Notice of Application under the CCAA (the “**CCAA Proceedings**”) and obtained the Initial Order.

2. Para. 7 of the Initial Order provides that the Applicants are “entitled but not required to pay the following expenses whether incurred prior to, on or after the date of [the Initial Order]: (a) all outstanding and future ... retiree pension and other benefits and related contributions and payments”.

3. Para. 14 of the Initial Order provides that “except as specifically permitted herein, the Applicants are hereby directed, until further Order of this Court: ... to make no payments ... on account of amounts owing by the Applicants or claims to which they are subject to any of their creditors”.

4. Para. 18 of the Initial Order provides that “until and including April 11, 2019, or such later date as this Court may order (the “**Stay Period**”), no proceeding or enforcement process in any court or tribunal ... shall be commenced, continued or take place against or in respect of the Applicants, the ITCAN Subsidiaries, the Monitor, any of their respective employees and representatives acting in that capacity, ... except with the written consent of the Applicants and the Monitor, or with leave of this Court”.

5. Para. 21 of the Initial Order provides that “during the Stay Period, all rights and remedies of any individual ... against or in respect of the Applicants, the ITCAN Subsidiaries or the Monitor ... are hereby stayed and suspended except with the written consent of the Applicants and the Monitor, or leave of this Court”.

6. Para. 51 of the Initial Order requires the Monitor to provide for notice of the CCAA Proceedings by way of Canadian newspaper publications, and for the Monitor to send “a notice ... to every known creditor who has a claim (contingent, disputed or otherwise) against the Applicants

of more than \$5,000, except ... in the case of beneficiaries of the ... pension plans, in which case the Monitor shall only send a notice to the trustees of each of the ... pension plans”.

7. Para. 51 of the Initial Order also provides that the Monitor shall “...prepare a list showing the names and addresses of those creditors and the estimated amounts of those claims, and make it publicly available in the prescribed manner ... not includ[ing] the names, addresses or estimated amounts of the claims of those creditors who are individuals or any personal information in respect of an individual”.

8. Para. 63 of the Initial Order provides that “any interested party ... may apply to this Court to vary or amend this Order on not less than seven (7) days' notice to any other party or parties likely to be affected by the order sought or upon such other notice, if any, as this Court may order”.

9. On April 5, 2019, the Court made orders: (a) amending and restating the Initial Order; and (b) extending the Stay Period as defined in paragraph 18 of the Initial Order “from April 11, 2019, until and including June 28, 2019”. The Court also made an order endorsed on the record that “the extension of the Stay Period is without prejudice to the rights of the Former Genstar U.S. Retiree Group Committee to bring and be heard for relief concerning the Genstar U.S. Plans on April 25 with all rights reserved and without regard to the passage of time until then”.

C. U.S Chapter 15 Proceedings

10. On March 13, 2019, the Monitor on behalf of ITCAN as debtor filed a petition for relief under Chapter 15 of the U.S. Bankruptcy Code (the “**Chapter 15 Proceeding**”) in the United States Bankruptcy Court in the Southern District of New York (the “**U.S. Court**”).

6. On March 25, the Monitor obtained an Order Granting Preliminary Injunction from the U.S. Court in the Chapter 15 Proceeding in which the court found that ITCAN is likely the “subject of a pending foreign main proceeding” in Ontario, established the Monitor as the “foreign representative” of ITCAN and stayed proceedings in the U.S. “until such a time as an order adjudicating the Monitor’s request for recognition of the Canadian Proceeding is entered, or as otherwise ordered by this Court”.

11. On April 15, 2019, a recognition hearing for the requested relief is scheduled to take place in the U.S. Court.

D. ITCAN Ceases Funding of Payments Under Genstar U.S. Plans

12. On April 1, with no prior notice to the Affected Members nor their counsel except as described below, ITCAN ceased funding Affected Members' pensions under the Genstar U.S. Plans and effectively caused IHGI to fail to make the required payments under those plans. This action caused confusion and distress to Affected Members, many of whom noticed that their Genstar U.S. Plan benefits had not been deposited into their bank accounts that day, as was the case on the first day of every prior month, for some people, for up to 30 years.

13. The Committee has alleged that ITCAN's cessation of funding the Genstar U.S. Plans is *inter alia* a breach of the Guarantee. The Affected Members are ITCAN's only pension beneficiaries whose pension payments were stopped because of the CCAA Proceedings.

E. Inadequate and Untimely Notice of Cessation of Benefits

14. Commencing on or about March 14, 2019, various Affected Members received voluminous court documents from the Bracewell LLP firm respecting the Chapter 15 Proceeding (the "**Initial U.S. Petition Documents**"). There was no personalized letter addressed to Affected Members nor any cover note explaining the content of the package or why they were receiving it.

15. Buried in the voluminous Initial U.S. Petition Documents are two references to the Genstar U.S. Plans, specifically, that ITCAN:

- (a) "proposes that any further payments with respect to these obligations be stayed pursuant to the Initial Order"; and
- (b) "intends to continue to fund contributions [to IHGI so it] can make ordinary course payments in respect of their pension and retirement plan obligations, with the exception of" the Genstar U.S. Plans.

16. Nowhere in the Initial U.S. Petition Documents does it state whether pension payments will actually cease, nor when or for how long, nor whether ITCAN intends to rely solely on the

Initial Order or ask the court to give specific relief exempting ITCAN from funding these benefits. Rather, the Initial U.S. Petition Documents merely state that ITCAN is thinking about stopping payments (“proposing”, “intending”).

17. On March 29, the Committee retained Canadian counsel. The Committee’s counsel immediately sent a letter to ITCAN’s counsel and the Monitor’s counsel objecting to the “proposal” to stay payments under the Genstar U.S. Plans. Neither ITCAN’s counsel nor the Monitor’s counsel advised the Committee’s counsel on March 29 nor over the weekend that, in fact, ITCAN had already stopped the Affected Members’ Genstar U.S. Plan benefits.

18. On April 1, the Committee served a Notice of Appearance and a Notice of Objection to the service list and applied to the Monitor to join the service list. Counsel also requested copies of all court materials served prior to then that were not yet available on the Monitor’s website.

7. Late in the day on April 1, one of the Committee members received in the regular mail a “Notice to Participants in Non-Qualified Deferred Compensation Plans”, dated March 27 (the “**Cessation Notice**”), stating:

As part of its restructuring efforts, ITCAN has ceased funding the following legacy qualified deferred compensation plans (the “Affected Plans”) as of the Filing Date:

(i) the "deferred income plan" for individuals who are either former senior management employees of Genstar or their beneficiaries (“GCDIP”),

(ii) the "supplemental executive retirement Plan" for individuals who were either former Genstar employees or their beneficiaries (“SERP”), and

(iii) the "supplementary pension plan" for individuals who were either former Genstar employees or their beneficiaries (“SPEN”).

ITCAN has represented that its decision to cease funding of the Affected Plans was based largely on the fact that the liabilities under these plans constitute unsecured claims. As payment of these claims is not necessary to ITCAN’s ongoing business, although ITCAN has honored its commitment to fund these plans for more than 30 years, it is not in a position to continue to do so given the hundreds of billions of dollars in other unsecured claims asserted.

8. The Cessation Notice does not advise Affected Members what it means to them that ITCAN has “ceased funding” their Genstar U.S. Plans as of the filing date, nor that they will not receive payment of their benefits from IHGI on April 1. Moreover, the Cessation Notice was received by Affected Members after many of them discovered they did not receive their pension income that they expected to be deposited in their accounts for the month of April, on April 1.

9. On April 2, the Committee’s counsel obtained additional court materials (the “**Second Thauvette Affidavit**”) from the Monitor’s case website that were posted for the first time that day and previously not provided nor made available to counsel despite his March 29 letter and him requesting copies of same on April 1. In the Second Thauvette Affidavit, ITCAN made the following statement in reference to the Cessation Notice:

25. On March 27, 2019, Bracewell, in its capacity as U.S. counsel to the Monitor, also sent a notice to participants in the following non-qualified deferred compensation plans, advising the participants that ITCAN had made a determination to discontinue funding such plans during the pendency of the CCAA proceeding:

(a) the "deferred income plan" for individuals who are either former senior management employees of Genstar or their beneficiaries;

(b) the "supplemental executive retirement Plan" for individuals who were either former Genstar employees or their beneficiaries; and

(c) the "supplementary pension plan" for individuals who were either former Genstar employees or their beneficiaries.

10. On April 3, the Committee served its second Notice of Objection, and ITCAN served a further affidavit (the “**Third Thauvette Affidavit**”) advising as follows with respect to the Genstar U.S Plans:

35. ITCAN makes payments to a U.S. subsidiary Imasco Holdings Group, Inc. (“IHGI”). IHGI is a largely dormant Delaware corporation that holds certain legacy obligations as a result of the historical acquisition and restructuring of various companies and businesses in the U.S. ITCAN makes capital contributions as necessary to IHGI on a monthly basis and then writes off these amounts (approximately USD \$7.0 million a year). These transfers permit IHGI to make necessary payments like pension plan contributions, workers compensation, and expenses such as rent, fees for professional advisors and banking fees.

36. The vast majority of the amounts transferred to IHGI (approximately \$6 million) were used to make payments under certain non-qualified deferred compensation plans for former employees of Genstar Corporation ("Genstar"), an ITCAN subsidiary, or their beneficiaries. ITCAN has decided to discontinue funding these plans during the pendency of the CCAA proceeding and therefore the corresponding transfers to IHGI will no longer be necessary going forward.

11. Also on April 3, the Monitor issued its First Report, which states as follows with respect to the Genstar U.S. Plans:

Communications with the Beneficiaries of the Genstar Plans

23. Prior to the commencement of these CCAA Proceedings, Imperial has, for several decades, funded payments to beneficiaries of the Genstar Plans established by Imasco Holdings Group, Inc., a now largely dormant Imperial subsidiary. As a result of these CCAA Proceedings, these payments are no longer being made. Bracewell and the Monitor have received a number of enquiries from beneficiaries of the Genstar Plans regarding the cessation of benefit payments. The Monitor understands that certain beneficiaries of the Genstar Plans have established the Committee and have retained Canadian and U.S. counsel who are seeking to represent the interests of the beneficiaries of the Genstar Plans.

24. The Monitor has spoken to proposed Canadian counsel for the beneficiaries of the Genstar Plans and understands that a motion will be brought to determine the entitlement to payments under the Genstar Plans before the end of April (and before the date of the next payments due under the Genstar Plans). The Monitor is also working with Imperial and its Canadian and US counsel to address certain information requests made by proposed counsel for the beneficiaries of the Genstar Plans, and by the Pension Benefit Guaranty Corporation.

12. To date, despite multiple requests for information, and the Monitor's intentions expressed at para. 24 of its First Report, ITCAN has not provided to the Committee nor its counsel any disclosure of information to assist them to assess their rights and those of the Affected Members.

F. Affected Member filings in the U.S. Chapter 15 Proceedings

13. Separately from the Notices of Objection filed by the Committee in the CCAA Proceedings, a number of Affected Members have filed statements in the U.S. Chapter 15 Proceeding claiming hardship and prejudice from the cessation of funding and discontinuation of

payments under the Genstar U.S. Plans, and confusion regarding the inadequate notice thereof. For example,

- (a) Vivian Brennan-Dolezar of Mesa, Arizona objected on behalf of her 89-year-old mother, V.M. Brennan, who was receiving survivor benefits under the GCDIP and SERP following the death of her father in 2012. Ms. Brennan-Dolezar stated that news of the cessation “was devastating”, will “cause extreme financial hardship” to her mother, who is “financially dependent on her pension”. The “very short notice gave no time for preparation for loss of income” and the Imasco retiree center “never returned calls”. She states that “as of April 1, 2019, I have not received any written correspondence from Imperial Tobacco Canada Limited or their Representatives informing retirees of their decision to discontinue pension payments”.
- (b) George Foster of Alamo, California objected on his own behalf and for all Affected Members. Mr. Foster is a member of the GCDIP and states that the agreement supporting those benefits have “binding effect” and “insure to the benefit of the employee [and] heirs and representatives as the case may be and the Company and its successors and assigns”. The agreement requires the company to “have the financial ability to discharge obligations assumed under this plan [and] perform all of the terms and conditions herein contained”. He states that his own funds were “voluntarily deducted from [his] paychecks and contributed” to the GCDIP as “a significant part of retirement planning”. He states most Affected Members “are retired and unable to return to work” and submits that these court proceedings should not “financially harm any retired employees”.
- (c) Glen Jones of Los Gatos, California states that he is “77 years of age and fully retired” and it is not feasible for him to attend court personally. He states that he “participated voluntarily” in the GCDIP and “made salary deduction contributions” to the plan “in return for stipulated monthly retirement payments”. He states that “the failure to continue contributions to the Plan will inflict significant financial harm to the participants all of whom are of advanced retirement age and who have

been relying in receipt of these payments”. He submits that the discontinuance of the payments constitutes an “immediate breach of the contractual obligations” provided in the Guarantee; and

- (d) Alfred Mueller of Fremont, California is a former President of the Genstar Cement division and also a member of the GCDIP. Mr. Mueller also states that attendance in court is not feasible for him. He makes similar objections and statements as Mr. Jones.

G. Additional Material Facts

14. Such further and other material facts that will be put forward in the Notice of Motion and affidavits filed in support of same and such other evidence as shall be adduced and accepted by the court. All court filings for the proceeding can be obtained from the Monitor’s website at: <http://cfcanada.fticonsulting.com/imperialtobacco/motions.htm>.

The following is the legal basis for the constitutional question: (Set out concisely the legal basis for each question, identifying the nature of the constitutional principles to be argued.)

15. Section 7 of the *Canadian Charter of Rights and Freedoms* states that “Everyone has the right to life, liberty and security of the person and the right not to be deprived thereof except in accordance with the principles of fundamental justice”.

16. Orders made by judges under the CCAA are subject to the *Charter*. Where a court order is issued in a private proceeding governed by statute law, including the CCAA, then the *Charter* will apply to the terms of the order. Actions taken by private parties pursuant to or under the authority of that order, including by ITCAN or the Monitor, must comply with *Charter* values.

17. A court order made under the CCAA, or actions taken under that order, which operate to deprive people of their ability to provide for themselves engage the right to life, liberty and security of the person protected by Section 7 of the *Charter*. The ability to provide for one’s self is an interest that falls within the ambit of section 7 providing for the necessities of life. Those necessities include, for pensioners on fixed incomes, the need for as much financial certainty as possible as they budget for the end of their lives.

18. A court order made under the CCAA, or actions taken under that order, that have the effect of ceasing or discontinuing payment of people's vested retirement savings in their old age on very short notice prejudices their ability to provide for themselves and deprives them of their right to life, liberty and security of the person which are protected by Section 7.

19. Where Affected Members are very advanced in age, on fixed incomes and no longer able to actively work, and suffer from ill-health and, in some cases, incapacity, and rely on their vested pensions for ensuring their physical, mental, psychological and emotional security and stability and have budgeted accordingly, then ceasing or discontinuing those payments on very short notice pursuant to authority granted in an order under the CCAA will have a serious and profound effect on the person's psychological integrity and physical health and thereby deprive them of life, liberty and security of person not in accordance with fundamental justice.

20. A court making an order under the CCAA authorizing a debtor to stay vested pension payments and prescribing the manner and content of providing notice thereof must be mindful of whether that order, or the exercise of authority pursuant to that order, will result in depriving Affected Members of life, liberty or security of person in accordance with principles of fundamental justice and the court must be reasonably satisfied that such order will not in actual fact do so.

21. Affected Members residing in the United States of America are entitled to the protections accorded in section 7 of the *Charter* where, *inter alia*, they are prejudicially impacted by a Canadian court order made under the CCAA, the Canadian court making that order is recognized in the U.S. as the foreign main proceeding, and the Monitor acts as the foreign representative.

22. The terms of the Initial Order and the actions of ITCAN and the Monitor under that order, in these circumstances, do not accord with principles of fundamental justice and procedural fairness, are arbitrary, overbroad and disproportionate, and have mismatched the legislative objectives of the CCAA with the means chosen to achieve it. Their actions are:

- (a) arbitrary because they single out the Genstar U.S. Plans for differential treatment and there is no rational connection between the effect of singling out these plans and the object of the Initial Order;

- (b) overbroad because they are not necessary for the interim viability of the company's operations during the pendency of the CCAA proceedings nor for the successful restructuring of the company and therefore overreach in their effect; and
- (c) disproportionate because the immediacy and effect of the actions are grossly disproportionate to the purpose of the Initial Order and result in extreme prejudice, harm and hardship to the Affected Members,

whereas continuing the payments until a reasonable notice period has passed and full disclosure is made such that Affected Members' claims can be assessed will cause no prejudice to the company nor to the remaining stakeholders and creditors.

23. There is a pressing and substantial public policy interest in ensuring that people have an ability to provide for oneself in old age, and this includes the ability to fairly budget within expected means. Poverty amongst seniors is a social ill increasing in scope, due to a rapidly aging demographic and the increased costs which come with increased longevity.

24. The Initial Order or the actions taken under it affecting the Affected Members are not demonstrably justifiable in a free and democratic society within the meaning of section 1 of the *Charter*.

25. Such further and other legal principles that will be put forward in the Notice of Motion, Motion Record, Factum and Authorities, to be filed.

April 9, 2019

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AND TO: **SERVICE LIST** (attached)

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

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

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

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(as of April 5, 2019)

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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, *et al.*

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

PROCEEDING COMMENCED AT
TORONTO

**NOTICE OF CONSTITUTIONAL
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TAB 3

AFFIDAVIT OF ROBERT M. BROWN

(APRIL 15, 2019)

FLORIDA JURAT
FS 117.05

State of Florida }
County of Lee }

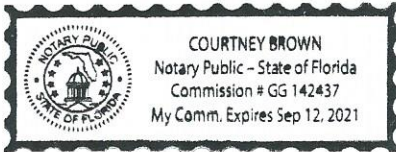
Sworn to (or affirmed) and subscribed before me this

15th day of April, 2019.
Day Month Year

by Robert M. Brown
Name of Person Swearing or Affirming

[Signature]
Signature of Notary Public – State of Florida

Courtney Brown
Name of Notary Typed, Printed or Stamped



Place Notary Seal Stamp Above

- Personally Known
- Produced Identification

Type of Identification Produced: FL Drivers License

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Title or Type of Document: Affidavit of Robert M. Brown

Document Date: April 15th, 2019 Number of Pages: 9

Signer(s) Other Than Named Above: No Other Signers

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

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

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

**AFFIDAVIT OF ROBERT M. BROWN
(Sworn April 15, 2019)**

I, ROBERT M. BROWN, of Lee County, Florida, HEREBY SWEAR:

1. I am a former executive employee of Genstar Company entitled to vested benefits and payments under the Genstar Corporation "deferred income plan" ("**GCDIP**") and am directly affected by these CCAA Proceedings. As such, I have personal knowledge of the matters deposed to herein. Where I have relied on the other sources for information, I have stated the sources of my information and believe them to be true.
2. I swear this affidavit in support of the motion by the Former Genstar U.S. Retiree Group Committee for an order reinstating our pension payments and appointing myself as a "representative" of beneficiaries entitled to pensions or benefits under the Genstar "deferred income plan", "supplemental executive retirement plan" and "supplementary pension plan" ("**Genstar U.S. Plans**"), or any person claiming an interest under or on behalf of such persons and their surviving spouses (excluding individuals who opt-out of such representation, if any) (the "**Affected Members**").

3. I am currently 71 years old and live at 20082 Seadale Ct., Estero, Florida, 33928-7728 with my wife Carol Sonstrom-Brown, to whom I have been married for almost 40 years. I have a bachelor of science degree from Fairfield University in Connecticut with a major in accounting (1969) and am also a Certified Public Accountant.

4. In 1984, I worked as the Assistant Controller for SCA Services, Inc. in Boston, Massachusetts. At the time, SCA was the third-largest national waste disposal company in the U.S. with annual revenues of almost \$400 million. In August, 1984, SCA was acquired by Waste Management Inc. (60%) and Genstar Corporation (40%). I was offered a position to remain as Controller for Genstar's newly-acquired waste subsidiary, which I accepted.

5. At the time, Genstar was based in San Francisco and active in land and real estate development, and financial services. Genstar's solid waste disposal business involved the weekly, or periodic, collection of waste from residential, municipal and commercial accounts across the United States and the disposal at recycling centers, transfer stations and solid waste landfills.

6. I worked for Genstar from August 1984 to October 1986, when Genstar was acquired by Imasco. Almost immediately after the Imasco acquisition, Genstar's waste disposal business was sold by Imasco to Laidlaw. I remained with the business until Laidlaw was able to merge the management of its U.S. business with its Canadian management. I left Genstar for other employment on October 14, 1986.

7. Effective September 1, 1985, I was designated by my employer as eligible to join the GCDIP for the 1985 plan year and was provided with various documents describing the plan and benefit scenarios. Attached as **Exhibit "A"** are copies of two letters dated March 7, 1986 informing me of my eligibility for the 1986 plan year and enclosing a matrix illustrating my benefits at varying deferral levels. Attached as **Exhibit "B"** is a copy of my executed Beneficiary Designation Form dated March 27, 1986 wherein I designated my wife Carol as Primary Beneficiary. By agreement dated March 28, 1986, I continued as a participant in the GCDIP. Attached hereto as **Exhibit "C"** is a copy of my Deferred Income Plan (U.S.) Executive Agreement dated March 28, 1986, signed in counterparts. As a participant, I agreed to defer \$47,000 of my annual salary to fund this benefit.

8. At the time of my enrollment in the GCDIP, I received various documents related to that plan, including a plan document with cover letter dated May 8, 1986 (attached as **Exhibit “D”**), a plan summary (attached as **Exhibit “E”**), and a “Questions and Answers” document (attached as **Exhibit “F”**). I also received benefits statements showing my expected normal payments. Attached as **Exhibit “G”** are copies of my benefit statement for the 1985 plan year ending March 31, 1986, and for the 1986 plan year ending March 31, 1987.

9. In consideration for my enrollment in the GCDIP, I understood that the company took out a “key man” insurance policy on my life to secure my benefits, based on a single paid-up premium. As part of the application for the insurance policy, I visited a doctor and released my personal health information. I did not retain any information or documentation concerning this policy. My understanding was that the company used my deferred income contribution to the GCDIP to pay for the insurance policy.

10. In late 1986, after I left employment at Genstar, I was advised that my benefits in the GCDIP were fully vested “by reason of the change of control of Genstar”. Attached as **Exhibit “H”** is a copy of the letter dated December 19, 1986 from Genstar Senior V.P. Human Resources informing me as such and a Benefit Statement showing my schedule of expected payments.

11. I received various communications from the company from time to time concerning the GCDIP, including letters dated July 21, 1987, September 10, 1987, June 5, 1989, May 26, 1992, November 5, 1992, December 23, 1993 and November 22, 1994 (attached as **Exhibit “I”**). Other than for these administrative matters, I had no communications with the company.

12. In subsequent years, I was privileged to have a career that included being Chief Financial Officer of Uno Restaurant Corporation (1987-2001) for which I helped complete an initial public offering. From 2005 to 2010, I participated in two additional IPOs as CFO, the first with Baby Universe, Inc., an online retailer of baby products, and the second with Gulfstream International Airlines, an intrastate Florida commercial airline that flew 19-seat Beechcraft turboprops to 10 airports in the Bahamas.

13. I have been retired since November 2010, when I was 63 years old. Since 2002, my wife Carol and I have lived in a relatively modest two-bedroom 2,000 sf home in Florida.

14. On or about August 1, 2012, I received correspondence from Imasco Holdings Group Inc. advising that I was scheduled to commence post-retirement benefits under the GCDIP effective October 1, 2012, in monthly instalments of \$5,781.07, for 15 years. Enclosed with the correspondence were various forms for me to fill out, which I did. Attached as **Exhibit “J”** are copies of the August 1, 2012 correspondence together with my executed beneficiary designation form (in which I re-designated my wife Carol as survivor), a direct deposit form, void check, and Form W-4 employee withholding allowance certificate.

15. As mentioned in the August 1, 2012 letter, the company stated that it would consider requests for a lump sum distribution of the GCDIP in lieu of monthly payments. I opted for monthly payments because a lump sum was fully taxable in the year received, and further, I knew that the company and its parents were profitable and liquid and an insolvency was not reasonably foreseeable.

16. From October 2012 through March 2019, on the first day of each calendar month (except if the first of the month was on a weekend), I received monthly payments from the GCDIP totaling approximately \$69,372.84 per year (\$450,923.46 total during the prior 6.5 years).

17. On March 14, 2019, I was surprised to receive a large packet of U.S. court documents from Bracewell LLP. There was no cover letter addressed to me nor any explanation as to why I was receiving these documents. Buried inside these voluminous documents were statements that Imperial Tobacco was proposing to “stay” further payments of my GCDIP benefits and intended to make an exception to funding them. I found these documents confusing and unclear.

18. On Monday, April 1, 2019, I noticed that my monthly GCDIP benefit had not been deposited into my bank account. This was unexpected. Later that day, I received in the mail a “Notice to Participants in Non-Qualified Deferred Compensation Plans” from Bracewell LLP informing me that Imperial Tobacco “has ceased funding” my GCDIP benefit, which after much pondering, led me to believe that the company stopped my pension payments.

19. The loss of my GCDIP income will have a staggering and profoundly adverse effect on my financial and emotional security as well as peace of mind. The GCDIP promised me vested income

payments through September 2026 when I reach age 80. Were the GCDIP to be terminated at this time, I stand to lose up to \$589,669.14 of retirement income.

20. My wife and I have carefully planned for our retirement security in reliance on my GCDIP. Unlike many people with whom I worked, a defined benefit pension plan was not available to me through my employment. The only other source of pension income I have is my social security payments, which equals approximately \$4,500 per month.

21. We live a modest retirement lifestyle. We own two vehicles of 2007 and 2008 vintage.

22. To give some specific particulars of our retirement planning, we have saved and planned for our financial security on the assumption that my actuarial life expectancy will reach age 88, in 2035, and that Carol's life expectancy will be age 92, in 2047. Because of this, we planned for contingencies to deal with the uncertain issues of declining health and long-term care, if needed, as we age. I also felt a particular obligation to assure that sufficient resources were available for Carol's care, since her life expectancy is four years longer than mine, and she is 7.5 years younger than me.

23. In addition, we have planned for resources to support our expected age-related declining health. We do not have a post-retirement health benefits plan. Fortunately, we do not yet suffer from serious or chronic illness. Yet it is very unsettling and stressful to face an uncertain future with limited resources to deal with possible sudden onset of age-related illness. Carol's maternal grandmother and mother both contracted breast cancer and she is at very high risk of same. Her mother was later diagnosed with Alzheimer's Disease. I have recently been treated for skin cancer. We know that our future health will decline. The loss of my GCDIP will significantly increase our stress levels and undermine our security and peace of mind not knowing if we will be able to afford to deal with these unknowns.

24. In the past two weeks, Carol and I have started to wonder how we will be able to afford our retirement. I am too old to look for a new job. Carol is aged 64 and we are considering her going back to work as a result of the Imperial Tobacco insolvency. We are also considering downsizing our home to a more affordable lower-cost housing alternative.

25. On April 7, 2019, I contacted Ari Kaplan of Kaplan Law, whose contact information I obtained from the Monitor's website. I was very interested to learn more about the Committee's efforts to protect the benefits of the 59 Affected Members of the Genstar U.S. Plans, of which I am one. I spoke to Mr. Kaplan and have offered to be of assistance to the group. I understand that there is no formal representation yet to advance our common interests.

26. I have been asked to put my name forward as a court-appointed "representative" for the Affected Members, and I agree to take this on. I have also connected with Mr. George Foster, who has also agreed to be put forward as a proposed representative. We are asking this Honourable Court to appoint the two of us, accordingly, as representatives. I believe we are both qualified to be such representatives.

27. Even though I am strictly an Affected Member of the GCDIP, affecting 53 individuals who are either former senior management employees of Genstar or their surviving spouses, I am aware that there are two other Genstar U.S. Plans being discontinued by ITCAN namely the "supplemental executive retirement plan" for approximately 14 individuals who were either former Genstar employees or their surviving spouses ("SERP") and a "supplementary pension plan" for 3 individuals who were either former Genstar employees or their surviving spouses ("SPEN"). I undertake to represent all Affected Members evenhandedly and believe there is no conflict of interest preventing me from doing so, especially if I take advice on such matters from proposed representative counsel.

28. There is a substantial need for representation and representative counsel. In particular,

- (a) ITCAN's actions taken pursuant to the Initial Order have directly and detrimentally impacted my and other Affected Members' vested benefits and entitlements. The proposed cessation of funding, if upheld by this court, will directly and immediately cause losses to Affected Members, and will worsen our financial security. I believe that these actions will cause immediate and substantial hardship for Affected Members and I support the Committee's efforts to oppose these actions;

- (b) Affected Members are a significant creditor group. The present value of the pension obligations to the Affected Members under the Genstar U.S. Plans, in the aggregate and as of December 31, 2017, is estimated to be approximately USD \$32 million;
- (c) Affected Members are a vulnerable stakeholder group in these proceedings and therefore require representation. Affected Members are elderly (in their 70s and 80s), and many are in ill-health and on fixed incomes. We have organized our financial affairs in expectation of funding our old age. We rely on our pensions for ensuring our physical, mental, psychological and emotional security and stability;
- (d) Affected Members have not received proper notice of the cessation of our benefits, disclosure of any documentation necessary to assess our claims and rights, nor any consistent explanation concerning the reason for singling out the Genstar U.S. Plans for cessation. Having representation will serve to mitigate the confusion generated by ITCAN and the Monitor in this respect;
- (e) it is very difficult for Affected Members to organize and coordinate with each other. Of all the pension beneficiaries affected by these proceedings, only the Affected Members are subject to the Seal Order of the U.S. Court, compounding our difficulty to locate and find one another for the purpose of obtaining information and advancing our common interests;
- (f) no other pension plan for which ITCAN is responsible is being proposed to be suspended or discontinued; and
- (g) there is no other agency or entity available in these proceedings that can adequately represent the common interests of Affected Members. Since the Genstar U.S. Plans are “non-qualified” (not registered under U.S. pension standards legislation), they fall outside the jurisdiction of the Pension Benefits Guaranty Corporation. As former employees and pensioners, there is no trade union to represent us. Our group also falls outside the purview of the “Court-Appointed Mediator”.

29. I believe that with the appointment and presence of representative counsel for Affected Members in place from the outset of these proceedings, our rights and legitimate interests will be

represented and all claims arising from such rights and interests will be properly presented in a streamlined, coherent manner, without an issue of conflict of interest. As a proposed representative, I undertake to work closely with Mr. Kaplan, if he is appointed. I believe that having representative counsel will have numerous advantages to both the Affected Members and to the CCAA proceeding as a whole. The role of representative counsel will include:

- (a) securing information from the company or Monitor with respect to the Genstar U.S. Plans, the current cash flow and resources of the company and its intentions while under CCAA, in particular whether it intends to restructure and continue in some form or liquidate its assets and distribute the assets in a claims process;
- (b) informing Affected Members, both as a whole and with regard to each person's particular situation, of their rights and of the progression of the proceedings;
- (c) advising Affected Members with respect to matters related to any plan of compromise or arrangement that may be put forward by the parties;
- (d) representing the interests of Affected Members for the purpose of decisions which might affect their rights in the course of these proceedings and, if necessary, bringing to the Court's attention any matters requiring resolution; and
- (e) contributing to overall costs savings and a streamlining of the CCAA process by being the single point of contact for Affected Members, and as such provide consistent representation for a variety of retiree entitlements and claims in the proceedings.

30. Moreover, representative counsel will be able to assist the Affected Members in evaluating claims as required. Affected Member claims will likely be valued based on actuarial assumptions and methodologies and it is likely they will require the assistance of actuarial and/or benefit experts to confirm these calculations. Most individual Affected Members likely do not have the means to obtain such expert advice in a cost-efficient and timely manner.

31. The requested representation order contemplates a notice and opt-out process to allow any Affected Member to not be represented by the representatives or representative counsel in the event they do not wish to be so represented. I support that process.

SWORN BEFORE ME at _____
in Lee County, the State of Florida,
this 15th day of April, 2019

A Commissioner for Taking Oaths, etc.



ROBERT M. BROWN

FLORIDA JURAT
FS 117.05

State of Florida
County of Lee }

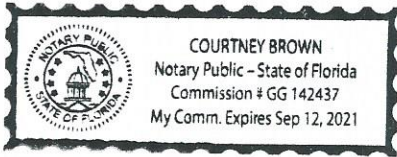
Sworn to (or affirmed) and subscribed before me this

15th day of April, 2019,
Day Month Year

by Robert M Brown
Name of Person Swearing or Affirming

[Signature]
Signature of Notary Public – State of Florida

Courtney Brown
Name of Notary Typed, Printed or Stamped



Place Notary Seal Stamp Above

- Personally Known
- Produced Identification

Type of Identification Produced: FL Drivers License

OPTIONAL

Completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document

Title or Type of Document: Exhibit A

Document Date: April 15th 2019 Number of Pages: 4

Signer(s) Other Than Named Above: No other signers

RECEIVED

MAR 13 1986

RMB

March 7, 1986

To: R.M. Brown

From: P.J. Kehoe

Again this year, you have been designated eligible to participate in the Genstar Deferred Income Program.

Enclosed is a matrix which outlines the benefits relating to a specific level of deferral for the '86 plan year--April through to March of '87. Column one shows the range of deferral possible for you with the maximum calculated at 50% of your current salary and last year's incentive, if any. Your actual maximum will be 50% of your current compensation as of April 1, 1986 (salary as of April 1 plus incentive for 1985 if any). Column two outlines the interim or pre-retirement payments, while column three shows the annual post-retirement payments that flow from that one deferral in this plan year. Of course, column four reflects the total benefit you will receive from your deferral.

You are invited to a meeting at the offices of GSX Corporation, 60 State Street, Boston, on Friday, March 28, at 8:30 a.m. for a brief presentation of the Deferred Income Program. Please review this material before the meeting and give some thought to whether you want to participate and what your deferral might be. Following the meeting, private interviews with Clark/Bardes personnel will be scheduled to answer any questions you have and to complete your deferral agreement if you wish to participate. This deferral agreement must be completed prior to April 1, 1986.

Please let me know if you will not be able to attend the above meeting.

PJK:edc
Encls.

BROWN, R. M.

AGE: 39

ILLUSTRATION DEPICTING BENEFITS
FOR VARYING DEFERRAL LEVELS

(1)	(2)	(3)	(4)	(5)
ANNUAL SALARY DEFERRED FOR 1 YEAR	MONEY RECEIVED BACK EACH YEAR IN YEAR 8, 9, 10 & 11	ANNUAL PAYMENTS BEGINNING AT AGE 65	TOTAL GUARANTEED PAYMENTS FOR 15 YEARS	TOTAL DEFERRED INCOME PAYMENTS (COL 2+4)
* 47,000	47,000	79,467	1,192,007	1,380,007
10,000	10,000	16,908	253,619	293,619
9,000	9,000	15,217	228,257	264,257
8,000	8,000	13,526	202,895	234,895
7,000	7,000	11,836	177,533	205,533
6,000	6,000	10,145	152,171	176,171
5,000	5,000	8,454	126,809	146,809
4,000	4,000	6,763	101,447	117,447
3,000	3,000	5,072	76,086	88,086
2,000	2,000	3,382	50,724	58,724
1,000	1,000	1,691	25,362	29,362

*MAXIMUM DEFERRAL THAT CAN BE MADE BASED ON 50% OF TOTAL COMPENSATION
DEFERRALS MUST BE MADE IN \$1,000 INCREMENTS

March 7, 1986

To: D. Smith

From: P.J. Kehoe

You have been designated as eligible to participate in a relatively new Genstar program and are invited to a meeting at the offices of GSX Corporation, 60 State Street, Boston, on Friday, March 28, at 8:30 a.m. for a presentation of our Deferred Income Program. Your attendance is most important because, if you do wish to participate, you will need to gain full knowledge of the plan and enrollment requirements and to sign and return a deferral income participation agreement before March 31, 1986.

We feel this plan is unique and offers an outstanding capital accumulation opportunity for those employees who make a significant contribution to our near and longer-term success. You will find that this new program will aid you in building substantial capital values. It is closely related to the incentive awards and salary increases earned by your performance, and the more you earn the more you can defer.

Please review the material in this binder before the meeting. Any questions you have will be answered at the meeting or at a private interview following the meeting with Clark/Bardes personnel.

It is imperative that you attend a presentation of the plan details. If it is not possible for you to be present at the above time, please let me know in order to make arrangements for your attendance at a meeting scheduled in another city during March to discuss this program.

This is an important part of Genstar's compensation programs and one, I am confident, you will find most beneficial.



PJK:edc
Encls.

FLORIDA JURAT
FS 117.05

State of Florida }
County of Lee }

Sworn to (or affirmed) and subscribed before me this

15th day of April, 2019.
Day Month Year

by Robert M. Brown
Name of Person Swearing or Affirming

[Signature]
Signature of Notary Public – State of Florida

Courtney Brown
Name of Notary Typed, Printed or Stamped



Place Notary Seal Stamp Above

- Personally Known
- Produced Identification

Type of Identification Produced: FL Drivers License

OPTIONAL

Completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document

Title or Type of Document: Exhibit B

Document Date: April 15, 2019 Number of Pages: 2

Signer(s) Other Than Named Above: No Other Signers

BENEFICIARY DESIGNATION FORM

I, ROBERT M BROWN, hereby designate _____

CAROL A. BROWN - wife

(Business Address or Residence) 28 EVERETT ST., STONEHAM, MA.
02180

as Primary Beneficiary to receive any benefits payable to me under the Genstar Corporation Deferred Income Plan Agreement (the "Agreement") executed by and between the undersigned and Genstar Corporation on _____, 19__.

Should Primary Beneficiary predecease me or otherwise be unable or unwilling to accept the aforementioned benefits payable to me, I then designate

ALLISON H. BROWN

(Business Address or Residence) BEAR HILLS RD., WENTOWN, CT.
06470

as Secondary Beneficiary under the Agreement.

March 27, 1986

Date

Robert M Brown

Employee

John J. Fleshi

Witness

Witness

FLORIDA JURAT
FS 117.05

State of Florida
County of Lee }

Sworn to (or affirmed) and subscribed before me this

15th day of April, 2019.
Day Month Year

by Robert M. Brown
Name of Person Swearing or Affirming

[Signature]
Signature of Notary Public – State of Florida

Courtney Brown
Name of Notary Typed, Printed or Stamped



Place Notary Seal Stamp Above

- Personally Known
- Produced Identification

Type of Identification Produced: FL Drivers License

OPTIONAL

Completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document

Title or Type of Document: Exhibit C

Document Date: April 15, 2019 Number of Pages: 11

Signer(s) Other Than Named Above: No other signers

DEFERRED INCOME PLAN (U.S.)

EXECUTIVE AGREEMENT

This Deferred Income Plan Agreement (the "Agreement") is made and entered into this ___ day of March, 1986, by and between Genstar Company and its affiliates (the "Employer") and Robert M. Brown (the "Employee").

WHEREAS, the Employee is currently employed by the Employer in an executive capacity, has been duly designated as an Employee eligible to become a participant in the Genstar Corporation Deferred Income Plan (the "Plan") and desires to become a participant;

NOW, THEREFORE, IT IS AGREED by the parties hereto, as follows:

1. Deferral of Compensation. The Employee hereby agrees to defer \$ 47,000.00 of the amount of the base salary to be earned by Employee for services rendered to the Employer during either the participation period beginning on April 1, 1986 (the "Commencement Date") and ending on March 31, 1987 (the "March 31, 1987 Period") or the period beginning on the Commencement Date and ending on December 31, 1986 (the "December 31, 1986 Period"). The March 31, 1987 Period and December 31, 1986 Period are sometimes referred to as the "Period". Any amounts not deferred during the December 31, 1986 Period will be deferred in equal monthly installments through March 31, 1987. The employee shall elect such Period by giving notice to the Employer. Such amount will be deferred by reducing each periodic salary payment received by Employee during such Period by an amount equal to the quotient of the amount deferred divided by the total number of periodic salary payments during such Period. If the Employee is not employed by the Employer during the entire term of this Period, only a pro rata portion of the original amount proposed to be deferred will be deferred as determined by the portion of the Period that the Employee was employed by the Company.

2. Employee Pre-Retirement Payments. Subject to the provisions of paragraphs ten (10) and eleven (11) herein, the Employer agrees that if the Employee remains in the continuous employ of the Employer until March 31, 1993, the Employer will commence pre-retirement payments (the "Pre-Retirement

-2-

Payments") to the Employee in the amount of \$ 188,000.00, in 4 equal annual installments of \$ 47,000.00, beginning in April, 1993. Except as otherwise provided, Employee must have been continuously employed with the Employer on the date the installment is due in order for Employee to be entitled to annual installments. The Employer also agrees that if the Employee's employment with Employer terminates prior to Employee's sixty-fifth (65th) birthday for any reason, other than Employee's death, disability or for Cause, as defined in paragraph nine (9) herein, the Employer will pay to the Employee, within five (5) business days after Employee's termination, in a lump sum, the amount actually deferred pursuant to the provisions of paragraph one (1) next above with interest thereon at the effective rate of ten percent (10%) per annum, compounded annually, from the Commencement Date to the date of payment, less any Pre-Retirement Payments made to Employee. If Employee's employment is terminated for any reason other than death or disability during Employee's initial Period for which Employee has elected to defer compensation, then the amount of Employee's compensation deferral shall be returned to Employee within five (5) business days after Employee's termination but without interest thereon being paid.

3. Employee Post-Retirement Payments. Subject to the provisions of paragraphs ten (10) and eleven (11) herein, the Employer will pay to the Employee as post-retirement payments (the "Post-Retirement Payments") the amount of \$ 1,192,005.00, in 15 equal annual installments of \$ 79,467.00 payable monthly, commencing with the calendar month next following the later of the Employee's sixty-fifth (65th) birthday or the Employee's retirement from the employ of the Employer, or in the alternative, the month following the birthday nearest five (5) years after the Commencement Date where Employee is eligible to so elect, being of age sixty-one (61) or older, and makes such election before the Commencement Date.

4. Beneficiary Lump Sum Payment. In the event that the Employee dies while employed by Employer prior to Employee's sixty-fifth (65th) birthday, the Employer shall pay the Employee's designated beneficiary in respect of this Period, determined in accordance with paragraph six (6) herein

-3-

(the "Beneficiary"), in a lump sum, the amount actually deferred by the Employee pursuant to paragraph one (1) hereof with respect of this Period, with interest thereon at the rate of twenty percent (20%) per annum, compounded annually, from the Commencement Date to the date of payment, less any Pre-Retirement Payments made to Employee in respect of this Period.

5. Beneficiary Installment Payments. In the event the Employee dies after Employee's sixty-fifth (65th) birthday, but prior to receiving all Post-Retirement Payments due Employee in accordance with paragraph three (3) hereof, the Employer shall continue to pay to the Beneficiary any unpaid annual payments in the same manner in which the Employee had been receiving or would have received payments.

6. Beneficiary Designation. The Employee may, from time to time, designate any person or persons (who may be designated contingently or successively) to whom payments are to be made if the Employee dies before receiving payment of all amounts due hereunder, by signing a form approved by the Employer. A beneficiary designation form will be effective only after the signed form is filed with the Employer's Corporate Compensation Department while the Employee is alive and will cancel all beneficiary designation forms signed and filed earlier with that Department. If the Employee fails to designate a Beneficiary as provided above, or if all designated beneficiaries of the Employee die before the Employee or before complete payment of all amounts due hereunder, the Employer will pay the unpaid amounts to the legal representative or representatives of the estate of the last to die of the Employee and the Beneficiary (or Beneficiaries) in accordance with paragraphs five (5) and six (6) herein.

7. Disability. If the Employee's employment with Employer is terminated prior to the Employee's sixty-fifth (65th) birthday by reason of the Employee becoming permanently and totally disabled, as determined in accordance with the Employer's Long-term Disability Plan in force on the date hereof, the Employee's employment with Employer, for purposes of this Agreement, shall be deemed to continue during the period of the Employee's

-4-

permanent and total disability and the provisions of this Agreement shall be applicable to the Employee to the same extent as if the Employee were, in fact, employed by Employer during that period, except that the Employee shall only be entitled to defer any incentive compensation to be received during the period of the Employee's permanent and total disability.

8. Incapacity. If the Employer shall find that any person to whom any payment is payable under this Agreement is unable to care for their affairs because of illness or accident or is a minor, any payment due (unless a prior claim therefor shall have been made by a duly appointed guardian, committee, or other legal representative) may be paid by the Employer to the spouse, a child, a parent, or a brother or a sister, or to any person deemed by the Employer to have incurred expense for such person otherwise entitled to payment, in accordance with the applicable provisions herein. Any such payment shall be a complete discharge of the liabilities of the Employer under this Agreement.

9. Termination for Cause. For purposes of this Agreement the term Cause shall mean termination upon (i) the willful or continued failure by Employee to substantially perform Employee's duties with the Employer (other than any such failure resulting from Employee's incapacity due to physical or mental illness) after a written demand for substantial performance is delivered to Employee by the Chief Executive Officer of the Employer, which demand specifically identifies the manner in which the Chief Executive Officer believes that Employee has not substantially performed Employee's duties, (ii) the willful engaging by Employee in conduct which is demonstrably and materially injurious to the Employer or (iii) the willful rendering of any services of an advisory nature or otherwise to or becoming employed by or participating or engaging in any business competitive with any of the businesses of the Employer, or becoming the beneficial or record owner of more than one percent (1%) of the stock of any corporation engaging in any business competitive with any of the businesses of the Employer without the prior written consent of the Employer. In the event the Employer has determined

-5-

that the Employee is in breach of this paragraph, the Employer may terminate this Agreement after written notice has been given to the Employee and the Employee has been given ten (10) business days to cure the breach of this paragraph and the sole amount payable to Employee pursuant to the terms of this Agreement shall be the amount that Employee has actually deferred, with interest thereon at the effective rate of five percent (5%) per annum, compounded annually, from the Commencement Date of this Period to the date of payment, less any Pre-Retirement Payments made to Employee as of such date. Payment shall be made no later than five (5) business days following termination for Cause.

10. Obligation to Make Payments. It is specifically agreed by the Employee and the Employer that the Employer's obligation to make payments to any person under this Agreement is purely contractual and that the parties do not intend that the amounts payable hereunder be held by the Employer in trust or as a segregated fund for the Employee, the Beneficiary, or other person entitled to payments hereunder. The benefits provided under this Agreement shall be payable solely from the general assets of the Employer, and neither the Employee, the Beneficiary or other person entitled to payments hereunder shall have any interest in any assets of the Employer by virtue of this Agreement. The Agreement merely grants the Employee, the Beneficiary or other person entitled to payments hereunder the contractual right to receive future benefits. Employer's obligation under the Plan shall be merely that of an unfunded and unsecured promise of Employer to pay money in the future.

11. Vesting. Employee shall be entitled to all Post-Retirement Payments in respect of this Period if Employee has (i) attained Employee's sixty-fifth (65th) birthday, provided that Employee has been continuously employed by the Employer from the Commencement Date of this Period or (ii) thirty-five (35) years of benefit service accrued as defined under the Employer's qualified retirement plan, or (iii) qualified for a full pension entitlement under the Employer's Supplemental Executive Retirement Plan. Nothing in this paragraph shall affect the Employee's entitlement to or the payment to Employee of Pre-Retirement Payments pursuant to paragraph two (2) herein.

-6-

12. Binding Effect. This Agreement shall be binding upon and inure to the benefit of the Employee and Employee's heirs and legal representatives and the Employer and its successors and assigns. The Employer will not consolidate with or merge into another entity, or sell all or substantially all of its assets to another entity, unless such other entity shall have the financial ability to discharge obligations assumed under this Agreement and in fact assumes this Agreement and upon such assumption Employee and the successor shall become obligated to perform all of the terms and conditions herein contained.

13. Counterparts. This Agreement may be executed in two or more counterparts, any one of which shall be deemed an original without reference to the others.

14. Governing Law. The provisions of this Agreement and the rights of the parties hereunder shall be interpreted and construed in accordance with the laws of the State of California.

15. Assignment or Alienation. The right of the Employee or any other person to the payment of deferred income or any other benefits under this Agreement shall not be assigned, transferred, pledged, or encumbered except as provided herein or by will or by the laws of descent and distribution.

16. Amendment or Termination of Agreement. With the approval of the Employer's Executive Remuneration Committee, the Employer and the Employee, this Agreement may be amended by a writing signed by each of the parties hereto and given to the other party. However, should the Board of Directors, in its sole discretion, determine that due to a change in federal or state law (i) the combined United States Federal and California maximum marginal tax rate has been reduced below thirty-three percent (33%) or (ii) if the Employer's cost of providing the benefits otherwise payable to Employee pursuant to paragraphs two (2) through five (5) herein has materially increased due to tax law changes, then, upon the commendation of the Board of

-7-

Directors, the Employer may reduce the interest rates otherwise utilized in the determination of benefit payments due hereunder for intervals subsequent to the date thereof to reflect such increase; provided, however, that such interest rate in respect of subsequent intervals shall not be decreased to less than ten percent (10%). In the event clause (i) or (ii) of the preceding sentence occurs, the Employer, in its sole discretion, may, upon notice to the Employee, terminate the Plan and commence a deferred income program with subsequent interest rates tied to outside market rates. However, once vested, no payments shall be reduced to an Employee, nor shall any payments to an Employee (even if not vested) be reduced where said payments have not been materially affected by said tax law changes, and all adjustments shall be prospective, not retrospective.

17. Change in Control. Notwithstanding any other provision of this Agreement, in the event of a change in control prior to Employee vesting under the criteria set forth in paragraph eleven (11) herein, Employee will immediately become fully vested in all rights hereunder, including paragraphs two (2) and three (3), as if Employee had satisfied the requirements of paragraph eleven (11) herein and shall be entitled to all payments when and as otherwise due hereunder as though Employee had remained employed with the Employer until the earlier of (i) such Employee's death or (ii) such Employee's sixty-fifth (65th) birthday. A change in control shall mean an occurrence whereby:

- (a) any person, partnership, corporation, trust or similar entity or group shall acquire or control, after the commencement date of the plan, more than twenty-five percent (25%) of the voting securities of the Employer in a transaction or series of transactions; or
- (b) at any time during any two (2) year period a majority of the Board of Directors of the Employer is not comprised of individuals who were members of such Board of Directors at the commencement of such two (2) year period.

For the purposes of this definition the term "group" shall mean any persons who act in concert within the meaning of Section 14(d)(2) of the Securities Exchange Act of 1934, as amended.

-8-

In the event that any portion of the payments received or to be received by the Employee pursuant to this paragraph seventeen (17) would cause an "excess parachute payment" to exist within the meaning of Sections 280G or 4999 of the Internal Revenue Code, as amended, or any successor provisions thereto, then that portion of the amount deferred shall not be vested such that no portion of the payments would result in the imposition of an excise tax on the Employee.

This paragraph seventeen (17) shall not be applicable to any Employee who, at the time of a Change of Control, is a Senior Officer of the Company, defined here to mean the Chairman, Vice Chairman, Chief Executive Officer, President, Vice President, Treasurer, Controller or Secretary of Genstar Corporation.

18. Employment Not Guaranteed. Nothing contained in this Agreement nor any action taken hereunder shall be construed as a contract of employment or as giving Employee any right to be retained in the employ of the Employer.

19. Taxes. The Employer reserves the right to withhold all applicable Federal, state and local taxes on any monies paid to Employee under the Plan.

20. Notice. For the purpose of this Agreement, notices and all other communications provided for in this Agreement shall be in writing and shall be deemed to have been duly given when delivered or mailed by United States registered mail, return receipt requested, postage prepaid, addressed to the respective addresses set forth on the last page of this Agreement.

21. Benefit Offsets. The Employer shall not offset any amount or benefit due to the Employee or the Employee's Beneficiary under the Plan by any liability or obligation owed to the Employer by the Employee arising during or after the Employee's employment with the Employer.

IN WITNESS WHEREOF, the Employer has caused this Agreement to be executed by a duly authorized agent or representative and the Employee has hereunto affixed Employee's signature, all as of the day and year first written above.

By 
Employer

Four Embarcadero Center, Suite 3800
San Francisco, California 94111

By _____
Employee

Address

IN WITNESS WHEREOF, the Employer has caused this Agreement to be executed by a duly authorized agent or representative and the Employee has hereunto affixed Employee's signature, all as of the day and year first written above.

By _____
Employer

Four Embarcadero Center, Suite 3800
San Francisco, California 94111

By Robert M Brown
Employee

28 Everett St.
Stoneham MA. 02180
Address

FLORIDA JURAT
FS 117.05

State of Florida }
County of Lee }

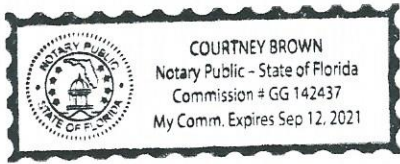
Sworn to (or affirmed) and subscribed before me this

15th day of April, 2019
Day Month Year

by Robert M. Brown
Name of Person Swearing or Affirming

[Signature]
Signature of Notary Public – State of Florida

Courtney Brown
Name of Notary Typed, Printed or Stamped



Place Notary Seal Stamp Above

- Personally Known
- Produced Identification

Type of Identification Produced: FL Drivers License

OPTIONAL

Completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document

Title or Type of Document: Exhibit D

Document Date: April 15th 2019 Number of Pages: 17

Signer(s) Other Than Named Above: No other signers

To: 1986 Deferred Income Plan Participants Date: May 8, 1986
From: Paul Hoge Subject: 1986 Deferred Income Plan

Enclosed is your 1986 Deferred Income Plan. This has been prepared by the Clarke/Bardes Organization Consultants and shows the agreement and amount of the deferral you designated in March, 1986 with the Company. Please read the agreement and maintain in your personal file. We have a duplicate with your signature in the Corporate Compensation department files.

Don't hesitate to call if there are questions.



POH:gfm

Attach.

Genstar Corporation
1986 Deferred Income Plan

For

**Senior Officers, Division Presidents and
Key Corporate and Division Managers**

December 1, 1985

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GENSTAR CORPORATION DEFERRED INCOME PLAN
(U.S. PLAN)

1. PURPOSE

The purpose of this Deferred Income Plan (the "Plan") is to provide a means whereby Genstar Corporation and its affiliates (the "Company"), may afford financial incentive to a select group of key employees of the Company not resident in Canada (individually the "Employee") and to Directors of Genstar Corporation not resident in Canada, (individually the "Director"), all of whom have rendered and continue to render valuable services to the Company constituting an important contribution towards its continued growth and success. The Plan provides for the opportunity for additional future compensation so that present and future participants may be attracted, retained and their productive efforts encouraged.

2. ADMINISTRATION

This Plan is to be administered by the Company's Executive Remuneration Committee (the "Committee") in accordance with the General Administrative Resolutions of the Company.

3. MANAGEMENT

The Corporate Compensation Department (the "Department") is responsible for the routine management of the Plan in accordance with a delegation of power from the Committee.

4. PARTICIPATION AND CONTRIBUTIONS

All Eligible Employees: Up to fifty percent (50%) of annual base salary and incentive award, but not to include pre-retirement payments payable during a Period (as defined in paragraph five (5) herein), in increments of thousands of dollars. All deferrals will be made from base monthly periodic payments, and no deferrals will be made from incentive awards or pre-retirement payments.

All Eligible Directors: Up to one hundred percent (100%) of the estimated amount of the annual retainer, meeting fees and committee fees ("Fees") to be earned by the director for services rendered to the Company during a Period (as defined in paragraph five (5) herein), in increments of thousands.

Minimum Deferral: One thousand dollars (\$1,000) per annum.

5. DEFERRAL OF COMPENSATION

The Employee or Director may defer an amount (consistent with the Plan contribution schedule) of the base salary or Fees earned for services rendered to the Company during a participation period beginning:

(i) in the case of an Employee, August/September 1, 1985 through either December 31, 1985 or March 31, 1986 as the Employee shall elect, and every April 1 through March 31 thereafter, and

(ii) in the case of a Director, September 1, 1985 through December 31, 1985 and every January 1 through December 31 thereafter

(hereinafter each such interval is referred to as a "Period" and the initial day of each Period is the "Commencement Date" of such Period), for the life of the Plan, which shall be ten (10) years or such longer or shorter time as may be approved by the Board of Directors. Such amount will be deferred by reducing each periodic salary payment received by Employee during a Period by

an amount equal to the quotient of the amount deferred divided by the total number of payments during such Period or for each Director, reducing each Fee payment by the percentage deferred. For the Period commencing August/September 1, 1985, the Employee may elect to make all deferral payments prior to December 31, 1985 and the method of deferral shall be the same as in the previous sentence. Prior to the Commencement Date of each Period the Employee or Director shall enter into an agreement with the Company indicating the amount to be deferred in accordance with the terms of the Plan (the "Agreement"). If the Employee is not employed by the Company during the entire term of a Period, or the Director ceases to be a Director during the Period, only a pro rata portion of the original amount proposed to be deferred will be deferred, as determined by the portion of the Period that the Employee was employed by the Company or the Director was a director of the Company. No Employee shall be entitled to make deferrals hereunder in months after the month of the Employee's sixty-fifth (65th) birthday, but may make such deferrals in each month prior to and including the month of the Employee's Birthday and no Director shall be entitled to make deferrals hereunder in months after the month of the Director's mandatory retirement, but may make such deferrals in each month prior to and including the month of the Director's mandatory retirement.

6. PRE-RETIREMENT PAYMENTS

Subject to the provisions of paragraphs fourteen (14) and fifteen (15) herein and this paragraph, the Company agrees that if the Employee or Director has not attained the age of fifty-four (54) and in the Employee's case he remains in the continuous employment of the Company through the payment date for the particular payment, the Company will pay to the Employee or Director, in a lump sum, on each of the seventh (7th), eighth (8th), ninth (9th) and tenth (10th) anniversaries of the Commencement Date for such Period, an amount equal to the original amount deferred during such Period (the "Pre-Retirement Payments"). "Age" shall be defined, for purposes of the calculations to be made pursuant to paragraphs six (6) and seven (7), as the Employee's or Director's age as of his birthday nearest the Commencement Date for such Period.

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If the Employee or the Director has attained the age of fifty-four (54) but has not yet attained the age of fifty-eight (58), the Employee or the Director may elect, prior to such Commencement Date, to defer all benefits in respect of such Period in lieu of taking Pre-Retirement Payments until:

(i) in the case of an Employee, after the Employee's sixty-fifth (65th) birthday, or

(ii) in the case of a Director, after the Director's mandatory retirement.

In the event that no election is timely made to defer benefits in accordance with this paragraph, annual Pre-Retirement Payments in an amount equal to the amount deferred in such Period shall be made as follows, commencing on the seventh (7th) anniversary of the Commencement Date for such Period and depending upon the Employee's or Director's age on such Commencement Date:

- 1) if the Employee or Director is age fifty-four (54), four (4) payments;
- 2) if the Employee or Director is age fifty-five (55), three (3) payments;
- 3) if the Employee or Director is age fifty-six (56), two (2) payments; and
- 4) if the Employee or Director is age fifty-seven (57), one (1) payment.

If the Employee's employment with the Company terminates prior to vesting in accordance with paragraph fifteen (15) herein for any reason, other than Employee's death, disability or for Cause, the Company will pay the Employee in respect of each Period, on the fifth (5th) business day following Employee's termination, in a lump sum, the amount actually deferred pursuant to the provisions of paragraph five (5) during such Period, with interest thereon at the rate of ten percent (10%) per annum, compounded annually, from the Commencement Date of such Period to the date of payment less any Pre-Retirement Payments made to Employee in respect of such Period; provided, however, that should Employee's employment terminate during the initial Period for which such Employee has elected to defer compensation, for any reason other than Employee's death or disability, the Company will pay Employee, on the fifth (5th) business day following Employee's resignation, in a lump sum, only the amount actually deferred.

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7. POST-RETIREMENT PAYMENTS

7.1 Subject to the following provisions of this subparagraph and the provisions of paragraphs fourteen (14) and fifteen (15) herein, the Company further agrees that if the participating Employee remains in the continuous employ of the Company until the Employee's sixty-fifth (65th) birthday, the Company will pay to the Employee the post-retirement benefits in respect of a Period, which amounts have been individually and actuarially determined and separately communicated to the Employee, as follows:

<u>AGE</u>	<u>PAYMENTS</u>
60 or Younger	Company pays post-retirement benefit in fifteen (15) equal annual installments, each annual installment being paid monthly commencing with the first (1st) calendar month next following the Employee's sixty-fifth (65th) birthday.
61 through 64	<p>Employee may elect prior to the Commencement Date for the Period between:</p> <p>The payment by the Company of post-retirement benefit in fifteen (15) equal annual installments, each annual installment being paid monthly commencing with the first (1st) calendar month next following the Employee's sixty-fifth (65th) birthday;</p> <p>or</p> <p>Deferral of payments for a longer period with equal annual installments, to begin the month following the birthday nearest five (5) years after Commencement Date for the Period, each annual installment to be paid monthly thereafter until age eighty (80).</p>

7.2 Subject to the following provisions of this subparagraph and the provisions of paragraphs fourteen (14) and fifteen (15) herein, the Company further agrees that the Company will pay to the Director the post-retirement benefits in respect of a Period, which amounts have been individually and actuarially determined and separately communicated to the Director, as follows:

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<u>AGE</u>	<u>PAYMENTS</u>
At least five (5) years prior to mandatory retirement birthday	Company pays post-retirement benefit in fifteen (15) equal annual installments, each annual installment being paid monthly commencing with the first (1st) calendar month next following the Director's mandatory retirement until May 31 following the members eightieth (80th) birthday.
Within five (5) years of mandatory retirement birthday	<p>Director may elect prior to the Commencement Date for the Period between:</p> <p>The payment by the Company of post-retirement benefit in equal annual installments, each annual installment being paid monthly commencing with the first (1st) calendar month next following the Director's mandatory retirement;</p> <p>or</p> <p>Deferral of payments for a longer period with equal annual installments, to begin June following five (5) years after Commencement Date for the Period, each annual installment to be paid monthly thereafter, until May 31 following Director's eightieth (80th) birthday.</p>

8. BENEFICIARY LUMP SUM PAYMENT

In the event that the Employee dies while employed by the Company prior to Employee's sixty-fifth (65th) birthday or in the event that the Director dies whether or not a member of the Board of Directors prior to the Director's mandatory retirement birthday, the Company shall pay the Employee's or Director's designated beneficiary determined in accordance with paragraph ten (10) herein (the "Beneficiary"), in respect of each Period, in a lump sum, the amount actually deferred by the Employee or Director pursuant to the provisions of paragraph five (5) herein with respect to such Period, with interest thereon at the rate of twenty percent (20%) per annum, compounded annually, from the Commencement Date to the date of payment, less any Pre-Retirement Payments made to the Employee or Director in respect of such Period.

9. BENEFICIARY INSTALLMENT PAYMENTS

In the event the Employee dies after Employee's sixty-fifth (65th) birthday or the Director dies after the Director's mandatory retirement, but prior to receiving all post-retirement benefits due Employee or Director in accordance with paragraph seven (7) hereof, the Company shall continue to pay to the Beneficiary any unpaid annual payments then being paid to the Employee or Director in the same manner in which the Employee or Director had been receiving payments.

10. BENEFICIARY DESIGNATION

The Employee or Director may, from time to time, designate any person or persons (who may be designated contingently or successively) to whom payments are to be made if the Employee or Director dies before receiving payment of all amounts due hereunder, by signing a form approved by the Company. A beneficiary designation form will be effective only after the signed form is filed with the Department while the Employee or Director is alive and will cancel all beneficiary designation forms signed and filed earlier with the Department. If the Employee or Director fails to designate a Beneficiary as provided above, or if all designated Beneficiaries of the Employee or Director die before the Employee or Director or before complete payment of all amounts due hereunder, the Company will pay the unpaid amounts to the legal representative or representatives of the estate of the last to die of the Employee or Director as the case may be and the Beneficiary (or Beneficiaries) in accordance with paragraphs eight (8) and nine (9) herein.

11. DISABILITY

11.1 If the Employee's employment with the Company is terminated prior to the Employee's sixty-fifth (65th) birthday by reason of the Employee becoming permanently and totally disabled, as determined in accordance with the Company's Long-term Disability Plan in force from time to time, the Employee's employment with the Company, for purposes of this Plan, shall be deemed to continue during the period of the Employee's permanent and total disability and

the provisions of this Plan shall be applicable to the Employee to the same extent as if the Employee were, in fact, employed by the Company during that period, except that the Employee shall only be entitled to defer any incentive compensation to be received during the period of the Employee's permanent and total disability.

11.2 If the Director's service with the Company ceases due to the Director becoming permanently and totally disabled as determined by an independent physician selected by the Company, deferral shall continue to be made from any Fees payable until the Annual Meeting of Shareholders of Genstar Corporations next following the determination of the Director's disability.

12. INCAPACITY

If the Company shall find that any person to whom any payment is payable under this Plan is unable to care for their affairs because of illness or accident or is a minor, any payment due (unless a prior claim therefor shall have been made by a duly appointed guardian, committee, or other legal representative) may be paid by the Company to the spouse, a child, a parent, or a brother or a sister or to any person deemed by the Company to have incurred expense for such person otherwise entitled to payment, in accordance with the applicable provisions herein. Any such payment shall be a complete discharge of the liabilities of the Company under this Plan.

13. TERMINATION FOR CAUSE

For purposes of this Plan the term Cause shall mean termination upon (i) the willful or continued failure by Employee or Director to substantially perform that person's duties with the Company (other than any such failure resulting from that person's incapacity due to physical or mental illness) after a written demand for substantial performance is delivered to Employee or Director by:

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(a) in the case of an Employee, the Chief Executive Officer of the Company, or

(b) in the case of a Director, the Executive Remuneration Committee of Genstar Corporation (the "Committee"),

which demand specifically identifies the manner in which the Chief Executive Officer believes that Employee or the Committee believes that Director has not substantially performed that person's duties, (ii) the willful engaging by Employee or Director in conduct which is demonstrably and materially injurious to the Company or (iii) the willful rendering of any services of an advisory nature or otherwise to or becoming employed by or participating or engaging in any business competitive with any of the businesses of the Company, or becoming the beneficial or record owner of more than one percent (1%) of the stock of any corporation engaging in any business competitive with any of the businesses of the Company without the prior written consent of the Company. In the event the Company has determined that the Employee or Director is in breach of this paragraph, the Company may terminate that Employee's or Director's Agreement or Agreements after written notice has been given to the Employee or Director and the Employee or Director has been given ten (10) business days to cure the breach of this paragraph, and the sole amount payable to Employee or Director pursuant to the terms of this Plan shall be the amount that Employee or Director has actually deferred, with interest thereon at the effective rate of five percent (5%) per annum, compounded annually, from the Commencement Date of the appropriate Period to the date of payment, less any Pre-Retirement Payments made to Employee or Director as of such date. Payment shall be made no later than five (5) business days following termination for Cause.

14. OBLIGATION TO MAKE PAYMENTS

The Company's obligation to make payments to any person under this Plan is purely contractual and the Company will not hold the amounts deferred by the Employee or Director in trust or as a segregated fund for the Employee or Director, the Beneficiary, or other person entitled to payments hereunder. The Employee or Director, the Beneficiary, or other person entitled to payments hereunder stands in the same position as any general creditor of the

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Company. The benefits provided under this Plan shall be payable solely from the general assets of the Company, and neither the Employee or Director, the Beneficiary, or other person entitled to payments hereunder shall have any interest in any assets of the Company by virtue of this Plan. The Plan merely grants the Employee or Director, the Beneficiary, or other person entitled to payments hereunder the contractual right to receive future benefits. The Company's obligation under the Plan shall be merely that of an unfunded and unsecured promise of the Company to pay money in the future.

15. VESTING

15.1 Employee shall be entitled to all Post-Retirement Payments (and any remaining Pre-Retirement Payments when due) in respect of a Period if Employee has (i) attained Employee's sixty-fifth (65th) birthday, provided that Employee has been continuously employed by the Company from the Commencement Date for such Period or (ii) thirty-five (35) years of benefit service accrued as defined under the Company's qualified retirement plan, or (iii) qualified for a full pension entitlement under the Company's Supplemental Executive Retirement Plan. Nothing in this paragraph shall affect the Employee's entitlement to or the payment to Employee of Pre-Retirement Payments pursuant to paragraph six (6) herein.

15.2 A Director, subject to the provisions of Sections Thirteen (13) and Twenty (20) herein, is fully vested immediately upon being elected a Director and completing the deferral of Fees.

16. BINDING EFFECT

The Agreement shall be binding upon and inure to the benefit of the Employee or Director and Employee's or Director's heirs and legal representatives as the case may be and the Company and its successors and assigns. The Company will not consolidate with or merge into another entity or sell all or substantially all of its assets to another entity, unless such other entity shall have the financial ability to discharge obligations assumed under this Plan and in fact assumes this Plan and upon such assumption

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Employee or Director and the successor shall become obligated to perform all of the terms and conditions herein contained.

17. COUNTERPARTS

The Agreement may be executed in two or more counterparts, any one of which shall be deemed an original without reference to the others.

18. GOVERNING LAW

The Agreement and the rights of the parties therein shall be interpreted and construed in accordance with the laws of the State of California.

19. ASSIGNMENT OR ALIENATION

The right of the Employee or Director or any other person to the payment of deferred income or any other benefits under this Plan shall not be assigned, transferred, pledged, or encumbered except as provided herein or by will or by the laws of descent and distribution.

20. AMENDMENT OR TERMINATION OF AGREEMENT

With the approval of the Committee, the Company and the Employee or Director, this Plan may be amended by a writing signed by each of the parties to the Agreement and given to the other party. However, should the Board of Directors of the Company, in its sole discretion, determine that due to a change in federal or state law (i) the combined United States Federal and California maximum marginal tax rate has been reduced below thirty-three percent (33%) or (ii) if the Company's cost of providing the benefits otherwise payable pursuant to paragraphs six (6) through nine (9) above has materially increased due to tax law changes, then, upon the recommendation of the Board of Directors, the Company may reduce the interest rates otherwise utilized in the determination of benefit payments due hereunder for intervals subsequent to the date thereof to reflect such increase; provided, however, that such interest rate in respect of subsequent intervals shall not be

decreased to less than ten percent (10%). In the event clause (i) or (ii) of the preceding sentence occurs, the Company, in its sole discretion, may, upon notice to the Employee or Director, terminate the Plan and commence a deferred income program with subsequent interest rates tied to outside market rates. However, once vested, no payments shall be reduced to an Employee or Director nor shall any payments to an individual (even if not vested) be reduced where said payments have not been materially affected by said tax law changes, and all changes shall be prospective, not retrospective.

21. CHANGE IN CONTROL

Notwithstanding any other provisions of this Plan, if the Employee's employment with the Company terminates due to a change in control prior to Employee vesting under paragraph fifteen (15) herein, Employee will immediately become fully vested in all rights hereunder, including paragraphs six (6) and seven (7), as if Employee had satisfied the requirements of paragraph fifteen (15) herein and shall be entitled to all payments when and as otherwise due hereunder as though Employee had remained employed with the Company until the earlier of (i) such Employee's death or (ii) such Employee's sixty-fifth (65th) birthday. A change in control shall mean an occurrence whereby:

- (i) any person, partnership, corporation, trust or similar entity or group shall acquire or control, after the date hereof, more than twenty-five percent (25%) of the voting securities of the Company in a transaction or series of transactions; or
- (ii) at any time during any two (2) year period a majority of the Board of Directors of the Company is not comprised of individuals who were members of such Board of Directors at the commencement of such two (2) year period.

For the purposes of this definition the term "group" shall mean any persons who act in concert within the meaning of Section 14(d)(2) of the Securities Exchange Act of 1934, as amended.

In the event that any portion of the payments received or to be received by the Employee pursuant to this paragraph twenty-one (21) would cause an "excess parachute payment" to exist within the meaning of Sections 280G or 4999 of the Internal Revenue Code, as amended, or any successor provisions thereto, the Company shall have the right to reduce the payments until no portion of the payments would result in the imposition of an excise tax on the Employee.

Note: The provisions of this paragraph twenty-one (21) shall not be applicable to Senior Officers of the Company or to Directors.

22. EMPLOYMENT NOT GUARANTEED

Nothing contained in this Plan nor any action taken hereunder shall be construed as a contract of employment or for services or as giving an Employee any right to be retained in the employ of the Company, or any Director any right to be retained as a member of the Board of Directors of the Company.

23. TAXES

The Company reserves the right to withhold all applicable Federal, state and local taxes on any monies paid to Employee or Director under the Plan.

24. BENEFIT OFFSETS

The Company shall not offset any amount or benefit due to the Employee or Director or the Employee's or Director's Beneficiary under this Plan by any liability or obligation owed to the Company by the Employee or Director arising during or after the Employee's or Director's service with the Company.

FLORIDA JURAT
FS 117.05

State of Florida }
County of Lee }

Sworn to (or affirmed) and subscribed before me this

15th day of April, 2019.
Day Month Year

by Robert M. Brown
Name of Person Swearing or Affirming

[Signature]
Signature of Notary Public – State of Florida

Courtney Brown
Name of Notary Typed, Printed or Stamped



Place Notary Seal Stamp Above

- Personally Known
- Produced Identification

Type of Identification Produced: FL Drivers License

OPTIONAL

Completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document

Title or Type of Document: Exhibit E

Document Date: April 15th, 2019 Number of Pages: 6

Signer(s) Other Than Named Above: No other signers

GENSTAR CORPORATION
AND ITS AFFILIATES
DEFERRED INCOME PLAN

INTRODUCTION

Genstar Corporation Deferred Income Plan (U.S. Plan) became effective on December 1, 1985 and has the following major objectives:

- * The Plan is designed to provide participants with an opportunity to supplement their retirement income through deferral of pre-tax income.
- * The Plan provides a method of early interim distribution of funds (pre-retirement payments) to accommodate college education requirements and other near-short range needs.

The following summary describes the key Plan features. If you are interested in more detailed information, you will find it in your copy of the Plan Document, which is available by request. The Plan Document contains all of the provisions of the Deferred Income Plan, and therefore, governs any interpretation of the Plan.

The main features of the Plan provide:

- * Supplemental post-retirement payments, payable monthly, normally beginning the first day of the month following age 65, or the employee's retirement, until age 80.
- * The deferred income retirement benefit payments continue to the beneficiary should death occur before all payments are made.
- * Four annual pre-retirement payments aggregating four times the original deferral are paid to participants who are age 57 or less at the time of entry into the Plan. These payments are made at the beginning of years 8, 9, 10, and 11.

- * In the event of death prior to retirement, the amount deferred plus interest compounded annually at twenty percent (20%) to the date of death will be paid to your beneficiary less the value of any pre-retirement payments already received.
- * In the event of your termination, the amount deferred plus interest compounded annually from the date of deferral until the date of termination will be returned to you. The interest rate used in such calculations will be ten percent (10%), unless the termination was for Cause.
- * In the event of disability, you may elect to continue in the Plan on a recalculated basis reflecting the amount of any deferrals already made. The benefit payments, both pre and post-retirement, will be made as if you were actually employed until normal retirement.

ELIGIBILITY

Your participation in the Plan results from a designation by the Chief Executive Officer(s) of the Company. Only employees who constitute a select group of officers, key management and other key employees of the Company or its subsidiaries are eligible to participate in the Genstar Corporation Deferred Income Plan.

Participation in the Plan shall be on a Plan Year-to-Plan Year basis at management's discretion.

AMOUNTS PARTICIPANTS MAY DEFER

The second Plan Year allows a voluntary deferral of an amount equal to or less than fifty percent (50%) of your total compensation earned during this period.

TIME AND METHOD OF ELECTION

Election to defer must be made prior to the beginning of the Plan Year for which compensation is earned and deferred.

PAYMENTS EXPLAINED

Pre-retirement payments are paid annually in a lump sum beginning on the seventh anniversary of the Commencement Date provided you remain in the continuous employment of the Company or its subsidiaries through the date of payment. Each payment will equal your original deferral.

Post-retirement payments are paid in equal monthly installments over 15 years commencing the first day of the month following age 65 provided you remain in the continuous employment of the Company or its subsidiaries until age 65. Executives age 61 through age 64 have the option of postponing the receipt of these payments for five years. In either case all benefits will cease at age 80, so Executives age 61 through age 64 who choose this option will have less than 15 payments. Retirement later than age 65 will defer the receipt of these payments.

PAYMENT UPON TERMINATION OF EMPLOYMENT

Except as indicated in the following section, if your employment is terminated for any reason other than death, termination for Cause, retirement at or after age 65 or under the provision of early retirement, you will receive within five (5) business days of your termination the amount of your deferral plus interest at the rate of ten percent (10%), compounded annually, from the Commencement Date to the date of payment, less the value of any pre-retirement benefits paid prior to your termination.

DEATH

If prior to your attainment of age 65 and while in the continuous employment of the Company you should die, the Company shall not make the annual installment payments as agreed. Rather, the Company shall pay your designated beneficiary the sum of money you have actually deferred with interest thereon compounded annually at twenty percent (20%) from the Commencement Date through the date of payment, less the value of any pre-retirement payments already received.

If you die (1) after attaining age 65 while in the continuous employ of the Company, (2) after your termination of continuous employment provided you attain age 65 on or before the date of your termination, or (3) after commencement of the post-retirement installment payments, the Company shall make all such payments as agreed.

DISABILITY PROVISION

In the event you become disabled (as defined by the Company's long term disability program) while employed by the Company or its subsidiaries, you shall be considered to remain in the continuous employment of the Company during your disability prior to the earlier of your death or your attainment of age 65. Disability has no effect on the time or the amounts you are paid under the Plan, which are based upon the actual amounts deferred.

VESTING

Under the Plan you will be entitled to receive post-retirement payments (vested) when you satisfy one of the three following criteria: (1) attain age 65 while still working for Genstar, (2) attain a full pension entitlement after thirty-five (35) years of service, under the Genstar Pension Plan for salaried employees, or (3) qualify under Genstar's Supplemental Executive Retirement Plan for a full pension entitlement.

CHANGE IN CONTROL

In the event of a Change in Control prior to being vested, you will immediately become fully vested in all rights and entitled to all pre- and post-retirement benefits as if you had remained employed until the earlier of either your death or your 65th birthday. A Change in Control shall be deemed to have occurred when (1) after the commencement date any person or other entity acquires or controls more than twenty-five percent (25%) of the voting securities in Genstar, or (2) a majority of the Board of Directors were not members of the Board two years ago.

This provision shall not be applicable to you if at the time of the Change in Control you are a Senior Officer of the Company, i.e., Chairman, Vice Chairman, Chief Executive Officer, President, Vice President, Treasurer, Controller, or Secretary of Genstar Corporation.

**GENSTAR CORPORATION
AND ITS AFFILIATES
DEFERRED INCOME PLAN**

<u>ELIGIBILITY</u>	Senior Officers, Division Presidents and Key Corporate and Division Managers
<u>PARTICIPANT ANNUAL DEFERRAL OPPORTUNITY</u>	Up to 50% of total annual compensation
<u>COMPANY MATCHING CONTRIBUTIONS</u>	None
<u>BENEFIT SCHEDULE</u>	<p><u>Pre-Retirement Payments:</u> Return of deferral amount in each of years 8, 9, 10 and 11 after deferral, plus</p> <p><u>Post-Retirement Payments:</u> Monthly benefit beginning at normal retirement over a 15-year period certain</p> <p>Option 1: Allow executives age 54-57 to opt at time of deferral to receive post-retirement benefits only</p> <p>Option 2: Allow executives age 61 or older to opt at time of deferral to postpone receipt of post-retirement payments for 5 years, and such payments would continue to cease at age 80</p>
<u>VESTING</u>	No vested rights granted to benefit schedule; have to be employed by Genstar for rights to benefits
<u>TERMINATION BENEFIT</u>	Lump sum return of deferral plus interest at 10%, less the value of any pre-retirement payments received (except for termination for Cause)
<u>PRE-RETIREMENT DEATH BENEFIT</u>	Lump sum return of deferrals plus interest at 20%, less the value of any pre-retirement payments received
<u>PLAN INTEREST RATE</u>	18.5% to 24% approximate return based on nearest age as of April 1, 1986, as follows:

<u>AGE</u>	<u>YIELD</u>
32	18.5 %
33	18.6 %
34	18.7 %
35	18.8 %
36	18.9 %
37	19.0 %
38	19.2 %
39	19.4 %
40	19.6 %
41	19.8 %
42	20.0 %

<u>AGE</u>	<u>YIELD</u>
43	20.2 %
44	20.4 %
45	20.6 %
46	20.8 %
47	21.0 %
48	21.2 %
49	21.4 %
50	21.6 %
51	21.8 %
52	22.0 %
53	22.2 %

<u>AGE</u>	<u>YIELD</u>
54	22.4 %
55	22.6 %
56	22.8 %
57	23.0 %
58	23.2 %
59	23.4 %
60	23.6 %
61	23.8 %
62	24.0 %
63	24.0 %
64	24.0 %

PLAN AMENDMENT

Upon changes in U.S. tax laws affecting Genstar's costs, the Board of Directors may terminate the Plan or amend the Plan interest rates.

FLORIDA JURAT
FS 117.05

State of Florida }
County of Lee }

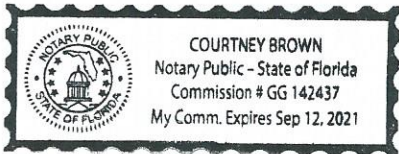
Sworn to (or affirmed) and subscribed before me this

15th day of April, 2019.
Day Month Year

by Robert M. Brown
Name of Person Swearing or Affirming

[Signature]
Signature of Notary Public - State of Florida

Courtney Brown
Name of Notary Typed, Printed or Stamped



Place Notary Seal Stamp Above

- Personally Known
- Produced Identification

Type of Identification Produced: FL Drivers License

OPTIONAL

Completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document

Title or Type of Document: Exhibit F

Document Date: April 15th 2019 Number of Pages: 7

Signer(s) Other Than Named Above: No other signers

QUESTIONS AND ANSWERS

EXECUTIVE PLAN

1 Q: WHY HAS GENSTAR INTRODUCED THE PLAN?

A: The company has developed the plan for key executives and managers to provide them an opportunity to defer compensation and with the possibility of receiving attractive yields, pre-retirement payments dependent upon age at the time of deferral, and distribution payments at normal retirement subject to continued employment. It is believed that the plan will help the company to attract and retain the high-quality executives and managers needed to meet present and future objectives.

2 Q: HOW IS THE INCOME DEFERRAL HANDLED?

A: Before the beginning of each plan year, you will be given the opportunity to defer some of your base monthly salary to be received as compensation from the company. The 1986 plan year is April 1, 1986 to March 31, 1987. The amount of the deferral may be as little as \$1,000 or as much as 50% of your total annual compensation rate for that plan year in even \$1,000 units. Total annual compensation rate is the salary rate in effect at the beginning of the plan year plus the annual incentive award, if any, received for 1985 in March 1986. You will have no current income tax liability on the amount of your deferral. The tax liability occurs when you or your beneficiary actually receive the money in the future.

3 Q: WHEN DO I NEED TO DECIDE ON THE AMOUNT DEFERRED?

A: Under U.S. tax laws, you need to decide to defer compensation before it is earned. Therefore, for the 1986 plan year, you will need to complete and submit a deferred compensation agreement before March 31, 1986. In subsequent years, you must do this before March 31. The completed deferred compensation agreement must be received in the Corporate Compensation Department-San Francisco by that date. An agreement received after that date cannot be processed and made effective.

4 Q: WHO HAS THE OBLIGATION TO PAY THESE BENEFITS?

A: Genstar is the sole payor of all benefits as defined in your contract. Participants and their beneficiaries do not have any interest in any asset of Genstar or any rights against Genstar other than as general creditors.

5 Q: WHAT HAPPENS IF I DIE BEFORE RETIREMENT?

A: The Deferred Income Program is not an insurance program. However, your beneficiary will receive your deferral to the date of death plus 20% compound interest less any pre-retirement payments.

6 Q: WHAT HAPPENS IF I DIE AFTER RETIREMENT?

A: Your beneficiary will receive any unpaid installments.

7 Q: WHAT HAPPENS IF I LEAVE GENSTAR BEFORE THE END OF MY FIRST DEFERRAL PERIOD?

A: If you should leave the company before the end of your first plan year, any deferred amounts will be returned to you without interest and you will not be entitled to any future benefits from the program.

8 Q: WHAT HAPPENS IF I LEAVE THE COMPANY AFTER THE END OF THE FIRST DEFERRAL YEAR?

A: In the event you should leave the company after the end of your first plan year, your deferred amounts will be returned to you with interest at 10% compounded annually, less any pre-retirement payments already made. If the pre-retirement payments already exceed 10%, no reimbursement is required by you.

9 Q: WHAT HAPPENS IF I SHOULD BECOME DISABLED?

A: In the event you have not completed your deferrals in that period at the time of your disability, you will be permitted to complete them from any incentive award earned after the disability. However, if you do not complete your deferral, the reduced amount deferred will be utilized to generate the regular benefit levels for that amount and the deferred compensation participation agreement will be so amended. All refunds and other payments, if any, to you will be governed by the program's normal rules described herein.

10 Q: CAN I JOIN THE PLAN DURING THE PLAN YEAR?

A: No, you cannot. It would add to the administrative costs and, in order to provide the substantial yield in the plan, it is necessary to keep administrative costs to the minimum.

11 Q: CAN THE AMOUNT OF MY DEFERRALS BE CHANGED DURING THE PLAN YEAR SHOULD I FIND IT NECESSARY?

A: No, there are no hardship provisions in the plan.

12 Q: CAN I WITHDRAW MY MONEY PRIOR TO THE END OF THE SEVENTH YEAR IF I HAVE A NEED FOR IT?

A: No, because there are no hardship provisions in the plan.

13 Q: WILL MY DEFERRAL AFFECT MY RETIREMENT BENEFIT CREDITS?

A: Under the current U.S. IRS code with which Genstar's retirement plans comply, deferred compensation is not permitted to be taken into account when calculating retirement benefit credits under the plan. As the pension benefits are calculated on a final five-year average salary, there may not be any effect. However, it is the company's intention that no pension benefit be affected, i.e., supplemental payment will be made by the company to offset any loss.

14 Q: WHAT AFFECT DOES A DEFERRAL HAVE ON MY PARTICIPATION IN THE GENSTAR THRIFT PLAN FOR U.S. EMPLOYEES?

A: Under the Thrift Plan, you can contribute up to 10% of your salary in pre-tax dollars and receive a Genstar contribution of 25% of your contribution up to 6% of salary (or the equivalent of up to 1.5% of salary). U.S. tax laws define salary for purposes of the Thrift Plan as base salary and excludes any deferred compensation. Therefore, a deferral of \$10,000 under this plan would reduce your opportunity in the Thrift Plan by \$1,000. If you could still save 6% of your full salary before deferral, you would not lose any money in company contribution. If your deferral was large enough that you could not contribute 6% to the Thrift Plan, you would lose some amount in company contribution.

15 Q: WHAT AFFECT DOES A DEFERRAL HAVE ON GROUP INSURANCE AND DISABILITY BENEFITS, SHORT OR LONG-TERM?

A: There is no affect. These benefits can continue without reduction for the amount deferred.

16 Q: HOW WILL THE DEFERRALS BE MADE?

A: The entire deferral must be made out of base salary by payroll deduction on a monthly basis.

17 Q: DO I PAY FEDERAL INCOME TAXES ON THE MONEY THAT IS DEFERRED DURING THE PLAN YEAR?

A: No. The compensation you defer is exempt from federal income taxes at the time of deferral. The deferred amounts and any additional benefits are subject to income tax in the year in which you or your beneficiary receives them.

18 Q: WHAT IS THE ROLE OF THE CLARK/BARDES ORGANIZATION?

A: The Clark/Bardes Organization has aided us in the design of their proprietary concept and will act as administrators for the company. They do not pay any of your benefits which are the sole responsibility of Genstar.

- 19 Q: AM I GOING TO RECEIVE AN AGREEMENT FROM THE COMPANY FOR THIS BENEFIT?
- A: Yes. The Clark/Bardes representative will ask you to sign two copies of the agreement and you will take one home to retain. Your participation in the program will not go into effect until you sign both copies and return your copy for signature by the company. Your copy will then be returned to you once executed by the company for your safekeeping.
- 20 Q: MAY I REVIEW THIS PROGRAM WITH MY LAWYER, ACCOUNTANT, OTHER FINANCIAL ADVISORS, INSURANCE AGENTS OR BROKERS?
- A: Please review the program with any trusted advisors except your insurance agent or any agent who has previously solicited you for any type of benefit program while you have been an employee of the company. This is a confidential program developed by the Clark/Bardes Organization.
- 21 Q: MUST I BE INSURABLE TO PARTICIPATE IN THE PLAN?
- A: No, your insurability does not affect your participation or your benefit from the plan.
- 22 Q: COULD THIS PLAN BE TERMINATED?
- A: The Board of Directors reserves the right to amend, abridge or terminate the program in the event of any tax changes that would affect Genstar's cost. In the event of plan termination, the company will open a conventional deferred income program with interest rates tied to outside market rates in order that participants can retain their tax shelter.

23 Q: WILL I BECOME VESTED IN THE PLAN?

A: You will only become entitled to post-retirement payments if you have (i) attained age sixty-five (65), provided that you have been continuously employed by Genstar from the beginning of your plan year or (ii) attained a full pension entitlement under the Genstar qualified retirement plan after thirty-five (35) years of service or (iii) qualify for a full pension entitlement under the Genstar Supplemental Executive Retirement Plan or (iv) if Genstar is acquired by a successor company and you are not an officer.

24 Q: WHAT HAPPENS IF I QUIT OR DIE DURING THE LIFE OF THE PLAN?

A:

	BEFORE RETIREMENT	AFTER RETIREMENT
QUIT	Deferral amount plus 10%	Not applicable
DIE	Beneficiary will receive deferral to the date of death plus 20% compound interest less any pre-retirement payments already made	Beneficiary will receive any unpaid installments

FLORIDA JURAT
FS 117.05

State of Florida
County of Lee }

Sworn to (or affirmed) and subscribed before me this

15th day of April, 2019.
Day Month Year

by Robert M. Brown
Name of Person Swearing or Affirming

[Signature]
Signature of Notary Public - State of Florida

Courtney Brown
Name of Notary Typed, Printed or Stamped



Place Notary Seal Stamp Above

- Personally Known
- Produced Identification

Type of Identification Produced: FL Drivers License

OPTIONAL

Completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document

Title or Type of Document: Exhibit G

Document Date: April 15, 2019 Number of Pages: 3

Signer(s) Other Than Named Above: No other signers

1985 PERSONAL BENEFIT STATEMENT

This statement shows your normal payments at age 65. Payments begin the month following the later of age 65 or retirement. Two options are available-- one for those participants at the time of deferral between age 54 and 57, and another for those between age 61 and 64.

Plus

Interim payments to be received in years 8, 9, 10, and 11 if you were 57 or less at the commencement of your deferral, and are actively employed.

Name	<u>Robert M. Brown</u>
Age Nearest to 8/1/85	<u>38</u>
Year Normal Payments Begin (month following 65th birthday)	<u>October 2012</u>
Options: A. Age 54-57; no Interim payments	<u>No</u>
B. Age 61-64; defer payments for 5 years	<u>No</u>

Deferral in Plan Year \$ 20,000

<u>YEAR</u>	<u>INTERIM & NORMAL PAYMENTS</u>
8	\$ <u>20,000</u>
9	\$ <u>20,000</u>
10	\$ <u>20,000</u>
11	\$ <u>20,000</u>
AGE 65	\$ <u>26,760 *</u>
TOTAL PAYOUT	\$ <u>481,400</u>

*15 Year Certain, payments start the month following age 65.
NOTE: 1985 Plan Year Covers The Period From Commencement of Your Deferral Through to March 31, 1986.

1986 PERSONAL BENEFIT STATEMENT

This statement shows your normal payments at age 65. Payments begin the month following the later of age 65 or retirement. Two options are available—one for those participants at the time of deferral between age 54 and 57, and another for those between age 61 and 64.

Plus

Interim payments to be received in years 8, 9, 10 and 11 if you were 57 or less at the commencement of your deferral, and are actively employed.

Name	<u>Robert M. Brown</u>
Age Nearest to 4/1/86	<u>39</u>
Date Normal Post Retirement Payments Begin (month following 65th birthday)	<u>October 1, 2012</u>
Options: A. Age 54-57; no pre-retirement payments	<u>N/A</u>
B. Age 61-64; defer retirement payments for 5 years	<u>N/A</u>

YOUR DEFERRAL AMOUNT \$ 47,000.00

<u>YEAR</u>	<u>1986 PLAN PRE-RETIREMENT & NORMAL POST RETIREMENT PAYMENTS</u>
1993	<u>\$ 47,000.00</u>
1994	<u>\$ 47,000.00</u>
1995	<u>\$ 47,000.00</u>
1996	<u>\$ 47,000.00</u>
AGE 65	<u>\$ 79,467.00 *</u>
TOTAL PAYOUT	<u>\$ 1,380,005.00</u>

*15 Year Certain, post retirement payments start the month following age 65.

NOTE: 1986 Plan Year Covers The Period From Commencement of Your Deferral Through to March 31, 1987.

FLORIDA JURAT
FS 117.05

State of Florida }
County of Lee }

Sworn to (or affirmed) and subscribed before me this

15th day of April, 2019,
Day Month Year

by Robert M. Brown
Name of Person Swearing or Affirming

[Signature]
Signature of Notary Public – State of Florida

Courtney Brown
Name of Notary Typed, Printed or Stamped



Place Notary Seal Stamp Above

- Personally Known
- Produced Identification

Type of Identification Produced: FL Drivers License

OPTIONAL

Completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document

Title or Type of Document: Exhibit H

Document Date: April 15, 2019 Number of Pages: 3

Signer(s) Other Than Named Above: No other Signers

December 19, 1986

Mr. Robert M. Brown
28 Everett Street
Stoneham, MA 02180

Dear Bob:

The purpose of this letter is to provide you with a statement of your vesting in the Genstar Corporation Deferred Income Plan ("DIP") as of the end of your employment with Genstar and therefore in the Plan on October 14, 1986. As you know, by reason of the change of control of Genstar, you have been awarded full vesting under the DIP. However, the vested DIP benefits due to you as a result of the change of control are limited so as not to result in an "excess parachute payment" within the meaning of Section 280G of the Internal Revenue Code. Please see the Plan for the precise terms of this limitation. Subject to the above, your vested benefits under the DIP are:

	<u>1985</u>	<u>1986*</u>	<u>Total</u>	
YOUR DEFERRAL AMOUNT	\$20,000.00	\$25,202.92	\$45,202.92	
	<u>Year</u>			
	1992	\$20,000.00	-	\$20,000.00
<u>INTERIM &</u>	1993	\$20,000.00	+ \$25,202.92	\$45,202.92
<u>NORMAL</u>	1994	\$20,000.00	+ \$25,202.92	\$45,202.92
<u>PAYMENTS</u>	1995	\$20,000.00	+ \$25,202.92	\$45,202.92
	1996	-	\$25,202.92	\$25,202.92
AGE 65 (Annual)**	\$26,760.00	\$42,612.78	\$69,372.78	

* Your 1986 deferral amount is 53.6% of the original amount proposed (\$47,000) because your employment ended before the full amount was deferred. The vested payments are pro-rated on this basis.

** 15 Year Certain, payments start the month following age 65.

Imasco will administer the payment of these amounts by Genstar Company through their New York office. You will be notified next spring of that address for your future reference. The ultimate reference in the future is Imasco Limited in Montreal.

Please don't hesitate to call Paul Hoge or myself if there are questions.

Very truly yours,



Paul J. Kehoe
Senior Vice President
Human Resources

PJK:cgw

GENSTAR COMPANY DEFERRED INCOME PLAN

PERSONAL BENEFIT STATEMENT

Name: ROBERT M BROWN

Date of Birth: 09/05/1947

SSN: 049-38-9989

The rates to be credited, payment amounts and all rights under the Plan are subject to the Plan provisions, the terms of which are controlling and which are subject to amendment or termination. The projections contained in this statement are based on the assumption that Plan requirements for such payments are satisfied.

Plan Date	Amount Deferred	Yield	Interim Payments	Installment Payments	Projected Total Payout
09/01/1985	\$20,000.00	19.00	\$20,000.00	\$26,760.00	\$481,400.00
04/01/1986	\$25,202.92	19.40	\$25,202.92	\$42,612.78	\$740,003.38

Projected Payment Date	Projected Payment Amounts	Annual Total
09/01/1992	\$20,000.00	\$20,000.00
04/01/1993	\$25,202.92	
09/01/1993	\$20,000.00	\$45,202.92
04/01/1994	\$25,202.92	
09/01/1994	\$20,000.00	\$45,202.92
04/01/1995	\$25,202.92	
09/01/1995	\$20,000.00	\$45,202.92
04/01/1996	\$25,202.92	\$25,202.92
10/01/2012	\$26,760.00	
10/01/2012	\$42,612.78	\$69,372.78
10/01/2013	\$26,760.00	
10/01/2013	\$42,612.78	\$69,372.78
10/01/2014	\$26,760.00	
10/01/2014	\$42,612.78	\$69,372.78
10/01/2015	\$26,760.00	
10/01/2015	\$42,612.78	\$69,372.78
10/01/2016	\$26,760.00	
10/01/2016	\$42,612.78	\$69,372.78
10/01/2017	\$26,760.00	
10/01/2017	\$42,612.78	\$69,372.78
10/01/2018	\$26,760.00	
10/01/2018	\$42,612.78	\$69,372.78
10/01/2019	\$26,760.00	
10/01/2019	\$42,612.78	\$69,372.78
10/01/2020	\$26,760.00	
10/01/2020	\$42,612.78	\$69,372.78
10/01/2021	\$26,760.00	
10/01/2021	\$42,612.78	\$69,372.78
10/01/2022	\$26,760.00	
10/01/2022	\$42,612.78	\$69,372.78
10/01/2023	\$26,760.00	
10/01/2023	\$42,612.78	\$69,372.78
10/01/2024	\$26,760.00	
10/01/2024	\$42,612.78	\$69,372.78
10/01/2025	\$26,760.00	
10/01/2025	\$42,612.78	\$69,372.78
10/01/2026	\$26,760.00	
10/01/2026	\$42,612.78	\$69,372.78
Totals	\$1,221,403.38	\$1,221,403.38

FLORIDA JURAT
FS 117.05

State of Florida }
County of Lee }

Sworn to (or affirmed) and subscribed before me this

15th day of April, 2019
Day Month Year

by Robert M. Brown
Name of Person Swearing or Affirming

[Signature]
Signature of Notary Public – State of Florida

Courtney Brown
Name of Notary Typed, Printed or Stamped



Place Notary Seal Stamp Above

- Personally Known
- Produced Identification

Type of Identification Produced: FL Drivers License

OPTIONAL

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Description of Attached Document

Title or Type of Document: Exhibit I

Document Date: April 15th, 2019 Number of Pages: 8

Signer(s) Other Than Named Above: No other signers

To: Genstar DIP Vested Participants Date: July 21, 1987

From: Paul Hoge Subject: Transfer of DIP files

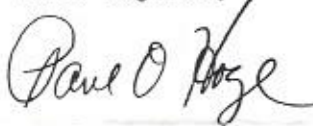
With the closing of the Genstar Corporate Compensation Department, we are at this time transferring your Genstar Deferred Income Plan (DIP) files to:

Mr. Harold Brennan
Manager, Genstar Administration
Genstar Company
4001 Airport Freeway, Suite 310
Bedford, Texas 76021

Phone: (817) 685-9394

The file includes a copy of your Executive Agreement(s) and beneficiary designation. Mr. Brennan will administer the payment of your vested DIP benefits and will send change of address forms to you on an annual basis. Please notify Mr. Brennan of future changes of address and/or beneficiary.

Best regards,



Paul O. Hoge
Director, Compensation & Organization
Planning

POH:hh
1734S

September 10, 1987

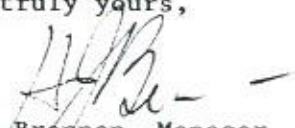
MR. ROBERT M. BROWN
28 EVERETT STREET
STONEHAM, MASSACHUSETTS
02160

The purpose of this letter is to advise you of our current mailing address. If you have any questions concerning your participation in the D.I.P. Program, please write to us at:

GENSTAR COMPANY
4001 AIRPORT FREEWAY
SUITE 310
BEDFORD, TEXAS 76021

It is important that you keep us advised of your current address.

Very truly yours,


H. J. Brennan, Manager
Genstar Administration

HJB:la

June 5, 1989

ROBERT M. BROWN
28 EVERETT STREET
STONEHAM, MA 02180

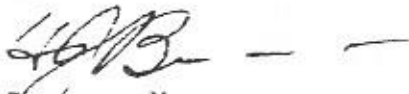
Enclosed is a statement showing your actual deferrals and future benefits under the Genstar Deferred Income Program (D.I.P.) for each plan year that you were a participant.

Please be advised that, as of June 30, 1989, this office will be closed and the administration of the plan will be transferred to:

MS. MARY BARRISE
GENSTAR COMPANY
TWO BLUE HILL PLAZA
BOX 1588
SUITE 320
PEARL RIVER, NY 10965-8588
TELEPHONE: 914-735-0639

We recommend that you keep your records up-to-date by advising Ms. Barrise of your current address in the event you move, and you should also keep your beneficiary election current.

Very truly yours,


H. J. Brennan, Manager
Genstar Administration

HJB:la

(914) 735-0639
Telecopier: (914) 735-2251

May 26, 1992

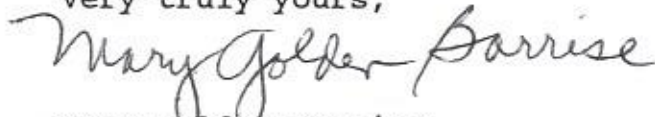
Mr. Robert M. Brown
28 Everett Street
Stoneham, MA 02180

Dear Mr. Brown:

Our records indicate that you are scheduled to receive a Pre-Retirement Payment in the amount of \$20,000 from the Genstar Company Deferred Income Plan payable in a lump sum on September 1, 1992.

Please complete the enclosed IRS Form W-4 to indicate your tax withholding election on the above payment and return to William Heyboer, Genstar Payroll Manager, at the above address on or before August 7, 1992. PLEASE NOTE: IF WE DO NOT RECEIVE YOUR COMPLETED ELECTION ON OR BEFORE THE REQUESTED DATE, WE WILL AUTOMATICALLY WITHHOLD AN APPROPRIATE AMOUNT AS REQUIRED BY LAW.

Very truly yours,

Mary Golden Barrise
Director of Benefits AdministrationMGB/ljm
enclosure

(914) 735-0639
Telecopier: (914) 735-2251

November 5, 1992

Mr. Robert M. Brown
28 Everett Street
Stoneham, MA 02180

Dear Mr. Brown:

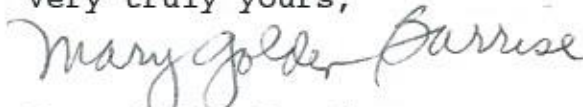
For the calendar year 1993, you are scheduled to receive the following payments:

Genstar Company Deferred Income PlanPre-Retirement Payment 4/93 \$25,202.92
Pre-Retirement Payment 9/93 \$20,000.00

Enclosed is a Form W-4 (Employees Withholding Allowance Certificate). Please complete and return to this office on or before December 15, 1992.

If we do not receive your completed election(s) by the requested date, we will withhold an appropriate amount as required by law.

Very truly yours,

Mary Golden Barrise
Director of Benefits AdministrationMGB/ljm
enclosure(s)

(914) 735-0639
Telecopier: (914) 735-2251

December 23, 1993

Robert M. Brown
28 Everett Street
Stoneham, MA 02180

Dear Mr. Brown:

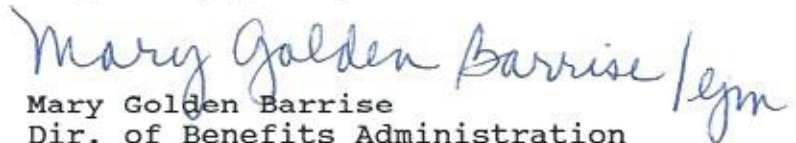
For the calendar year 1994, you are scheduled to receive the following payments:

Genstar Company Deferred Income Plan

Pre-retirement Payment 4/94	\$25,202.92
Pre-retirement Payment 9/94	\$20,000.00

If you wish to make a change in your withholding election for 1994, kindly complete and return the enclosed Form W-4 (Federal withholding certificate) for receipt in this office no later than March 1, 1994.

Very truly yours,


Mary Golden Barrise
Dir. of Benefits AdministrationMGB:lm
Enclosure

(914) 735-0639
Telecopier: (914) 735-2251

November 22, 1994

Robert M. Brown
29 Everett Street
Stoneham, MA 02180

Dear Mr. Brown:

For the calendar year 1995, you are scheduled to receive the following payment(s):

Pre-Retirement DIP:

4/1/95: \$25,202.92

9/1/95: \$20,000.00

If you wish to make a change in your withholding election for 1995, kindly complete and return the enclosed Form W-4 (Employee's Withholding Allowance Certificate) for receipt in this office no later than December 15, 1994.

Very truly yours,



Mary Golden Barrise
Director of Benefits

MGB/ljm
enclosure(s)

FLORIDA JURAT
FS 117.05

State of Florida
County of Lee }

Sworn to (or affirmed) and subscribed before me this

15th day of April, 2019
Day Month Year

by Robert M. Brown
Name of Person Swearing or Affirming

[Signature]
Signature of Notary Public – State of Florida

Courtney Brown
Name of Notary Typed, Printed or Stamped



Place Notary Seal Stamp Above

- Personally Known
- Produced Identification

Type of Identification Produced: FL Drivers License

OPTIONAL

Completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document

Title or Type of Document: Exhibit J

Document Date: April 15th 2019 Number of Pages: 6

Signer(s) Other Than Named Above: No other signers

(239) 292-9868

140



Imasco Holdings Group, Inc. and Subsidiaries

c/o Louisville Corporate Services, Inc.
401 South 4th Street, Suite 1200
Louisville, KY 40202

(502) 371-1717
Fax: (502) 371-1795

Rm Brown 777@comcast.net

August 1, 2012

VIA CERTIFIED, RETURN RECEIPT REQUESTED MAIL

Mr. Robert M Brown
28 Everett Street
Stoneham, MA 02180

20082 Seadale Ct
Estero, FL 33928-7728

Dear Mr. Brown:

You are scheduled to commence post-retirement benefits under the Genstar Deferred Income Plan ("DIP") effective October 1, 2012. Per the terms of the Plan, your benefit will be paid over 15 years in monthly installments of \$5,781.07. Direct deposit, beneficiary designation and income tax withholding forms are enclosed (applicable to monthly payments only). In order to ensure your payment is started timely, please return your completed forms no later than September 6, 2012.

The Company will consider participant requests for a lump sum DIP distribution. Requests must be made in writing and are considered on a discretionary, case-by-case basis. Should you wish to make such a request, please do so in writing prior to August 30, 2012, addressed to:

Imasco Holdings Group, Inc. and Subsidiaries
c/o Louisville Corporate Services, Inc.
401 South 4th Street, Suite 1200
Louisville, Kentucky 40202

Approved lump sum distributions are made in full and final settlement of a participant's entitlement under the Plan, are fully taxable under federal and state tax laws and may not be rolled over into an individual retirement account or other similar arrangement to defer taxation.

Kindly direct any questions to the undersigned at the above address.

Very truly yours,

Lynn Luker
Benefits Administrator

Enclosures

GENSTAR DEFERRED INCOME PLAN
BENEFICIARY DESIGNATION FORM

I, ROBERT M. BROWN, hereby revoke all prior beneficiary designations which I have made under the Genstar Deferred Income Plan. In addition, I hereby name the following person as my beneficiary, should he/she survive me, to receive benefits which may be payable upon my death under such plan.

Beneficiary Name: CAROL A. SONSTROM-BROWN
Address: 20082 SEADALE CT, ESTERO, FL 33928
Date of Birth: 5-13-1955
SS#: 040-54-0289
Relationship: SPOUSE

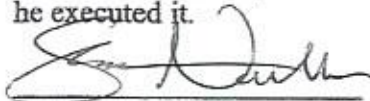
Should my primary beneficiary predecease me, I hereby name the following person as my contingent beneficiary, should he/she survive me, to receive benefits which may be payable upon my death under such plan (NOT APPLICABLE TO JOINT AND SURVIVOR FORMS).

Beneficiary Name: _____
Address: _____
Date of Birth: _____
SS#: _____
Relationship: _____

Participant Signature Robert M Brown Date: 8/15/2012

State of Florida
County of Lee

On this 15th day of August in the year 2012, before me personally appeared, Robert M. Brown personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to this instrument, and acknowledged that he executed it.



Notary Public

My Commission Expires: 01/17/16

Steven A. Noviello

Notary Public, State of Florida

Commission# EE 160333

My comm. expires Jan. 17, 2016



DIRECT DEPOSIT AUTHORIZATION AGREEMENT

This is my authorization for Imaseco Holdings Group, Inc. to automatically credit my net paycheck in my

checking savings account 0230239587 (063092110)
Account Number Bank Transit/ABA Number

at the _____ branch of EVERBANK in _____
Financial Institution

JACKSONVILLE FL
City State

Does this account replace an existing account? yes no

A void check or deposit slip must be attached to this form.

ROBERT M. BROWN
(EMPLOYEE NAME)

049-38-9989
(SOCIAL SECURITY NUMBER)

8/14/2012
(DATE)

Robert M Brown
(SIGNATURE)

ROBERT M. BROWN 63-9211/630 **1005**
 CAROL A. SONSTROM-BROWN
 20082 SEADALE CT
 ESTERO, FL 33928-7728

Pay to the order of _____ \$ _____
 DATE _____

VOID

VOID

EverBank
 888.882.3637 www.EverBank.com

MP

⑆063092110⑆ 0230239587⑆ 1005

Form W-4 (2011)

Purpose. Complete Form W-4 so that your employer can withhold the correct federal income tax from your pay. Consider completing a new Form W-4 each year and when your personal or financial situation changes.

Exemption from withholding. If you are exempt, complete only lines 1, 2, 3, 4, and 7 and sign the form to validate it. Your exemption for 2011 expires February 16, 2012. See Pub. 505, Tax Withholding and Estimated Tax.

Note. If another person can claim you as a dependent on his or her tax return, you cannot claim exemption from withholding if your income exceeds \$950 and includes more than \$300 of unearned income (for example, interest and dividends).

Basic instructions. If you are not exempt, complete the **Personal Allowances Worksheet** below. The worksheets on page 2 further adjust your withholding allowances based on itemized deductions, certain credits, adjustments to income, or two-earners/multiple jobs situations.

Complete all worksheets that apply. However, you may claim fewer (or zero) allowances. For regular wages, withholding must be based on allowances you claimed and may not be a flat amount or percentage of wages.

Head of household. Generally, you may claim head of household filing status on your tax return only if you are unmarried and pay more than 50% of the costs of keeping up a home for yourself and your dependent(s) or other qualifying individuals. See Pub. 501, Exemptions, Standard Deduction, and Filing Information, for information.

Tax credits. You can take projected tax credits into account in figuring your allowable number of withholding allowances. Credits for child or dependent care expenses and the child tax credit may be claimed using the **Personal Allowances Worksheet** below. See Pub. 919, How Do I Adjust My Tax Withholding, for information on converting your other credits into withholding allowances.

Nonwage income. If you have a large amount of nonwage income, such as interest or dividends, consider making estimated tax payments using

Form 1040-ES, Estimated Tax for Individuals. Otherwise, you may owe additional tax. If you have pension or annuity income, see Pub. 919 to find out if you should adjust your withholding on Form W-4 or W-4P.

Two earners or multiple jobs. If you have a working spouse or more than one job, figure the total number of allowances you are entitled to claim on all jobs using worksheets from only one Form W-4. Your withholding usually will be most accurate when all allowances are claimed on the Form W-4 for the highest paying job and zero allowances are claimed on the others. See Pub. 919 for details.

Nonresident alien. If you are a nonresident alien, see Notice 1392, Supplemental Form W-4 Instructions for Nonresident Aliens, before completing this form.

Check your withholding. After your Form W-4 takes effect, use Pub. 919 to see how the amount you are having withheld compares to your projected total tax for 2011. See Pub. 919, especially if your earnings exceed \$130,000 (Single) or \$180,000 (Married).

Personal Allowances Worksheet (Keep for your records.)

A	Enter "1" for yourself if no one else can claim you as a dependent	A	<u>1</u>
B	Enter "1" if: • You are single and have only one job; or • You are married, have only one job, and your spouse does not work; or • Your wages from a second job or your spouse's wages (or the total of both) are \$1,500 or less.	B	<u>1</u>
C	Enter "1" for your spouse. But, you may choose to enter "-0-" if you are married and have either a working spouse or more than one job. (Entering "-0-" may help you avoid having too little tax withheld.)	C	<u>1</u>
D	Enter number of dependents (other than your spouse or yourself) you will claim on your tax return	D	<u> </u>
E	Enter "1" if you will file as head of household on your tax return (see conditions under Head of household above)	E	<u> </u>
F	Enter "1" if you have at least \$1,900 of child or dependent care expenses for which you plan to claim a credit (Note. Do not include child support payments. See Pub. 503, Child and Dependent Care Expenses, for details.)	F	<u> </u>
G	Child Tax Credit (including additional child tax credit). See Pub. 972, Child Tax Credit, for more information. • If your total income will be less than \$61,000 (\$90,000 if married), enter "2" for each eligible child; then less "1" if you have three or more eligible children. • If your total income will be between \$61,000 and \$84,000 (\$90,000 and \$119,000 if married), enter "1" for each eligible child plus "1" additional if you have six or more eligible children	G	<u> </u>
H	Add lines A through G and enter total here. (Note. This may be different from the number of exemptions you claim on your tax return.) For accuracy, complete all worksheets that apply. • If you plan to itemize or claim adjustments to income and want to reduce your withholding, see the Deductions and Adjustments Worksheet on page 2. • If you have more than one job or are married and you and your spouse both work and the combined earnings from all jobs exceed \$40,000 (\$10,000 if married), see the Two-Earners/Multiple Jobs Worksheet on page 2 to avoid having too little tax withheld. • If neither of the above situations applies, stop here and enter the number from line H on line 5 of Form W-4 below.	H	<u>3</u>

Cut here and give Form W-4 to your employer. Keep the top part for your records.

Form W-4 Department of the Treasury Internal Revenue Service		Employee's Withholding Allowance Certificate		OMB No. 1545-0074 2011	
Whether you are entitled to claim a certain number of allowances or exemption from withholding is subject to review by the IRS. Your employer may be required to send a copy of this form to the IRS.					
1 Type or print your first name and middle initial. ROBERT M.		Last name BROWN		2 Your social security number	
Home address (number and street or rural route) 20082 SEADALE CT.			3 <input type="checkbox"/> Single <input checked="" type="checkbox"/> Married <input type="checkbox"/> Married, but withhold at higher Single rate. Note. If married, but legally separated, or spouse is a nonresident alien, check the "Single" box.		
City or town, state, and ZIP code ESTERO, FL 33928			4 If your last name differs from that shown on your social security card, check here. You must call 1-800-772-1213 for a replacement card. <input type="checkbox"/>		
5 Total number of allowances you are claiming (from line H above or from the applicable worksheet on page 2)				5 <u>3</u>	
6 Additional amount, if any, you want withheld from each paycheck				6 \$ <u> </u>	
7 I claim exemption from withholding for 2011, and I certify that I meet both of the following conditions for exemption. • Last year I had a right to a refund of all federal income tax withheld because I had no tax liability and • This year I expect a refund of all federal income tax withheld because I expect to have no tax liability. If you meet both conditions, write "Exempt" here <input type="checkbox"/> 7					
Under penalties of perjury, I declare that I have examined this certificate and to the best of my knowledge and belief, it is true, correct, and complete.					
Employee's signature (This form is not valid unless you sign it.) Robert M Brown				Date 8/14/2012	
8 Employer's name and address (Employer: Complete lines 8 and 10 only if sending to the IRS.)			9 Office code (optional)		10 Employer identification number (EIN)

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, *et al.*

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

PROCEEDING COMMENCED AT
TORONTO

AFFIDAVIT OF ROBERT M. BROWN
(Sworn April 15, 2019)

KAPLAN LAW
393 University Av., Suite 2000
Toronto ON M5G 1E6

Ari Kaplan (LSO #42042S)

Tel: 416 565.4656

Fax: 416 352.1544

Email: ari@kaplanlaw.ca

Counsel to the Former Genstar U.S.
Retiree Group Committee and Proposed
Representatives

TAB 4

AFFIDAVIT OF GEORGE A. FOSTER

(APRIL 15, 2019)

CALIFORNIA JURAT WITH AFFIANT STATEMENT

GOVERNMENT CODE § 8202

- See Attached Document (Notary to cross out lines 1-6 below)
- See Statement Below (Lines 1-6 to be completed only by document signer[s], *not* Notary)

1 _____

2 _____

3 _____

4 _____

5 _____

6 _____

Signature of Document Signer No. 1 _____

Signature of Document Signer No. 2 (if any) _____

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California
 County of Contra Costa

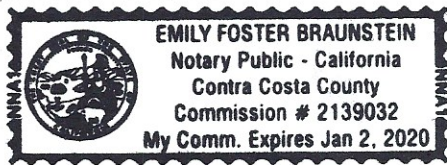
Subscribed and sworn to (or affirmed) before me
 on this 15 day of April, 2019,
 by _____
Date Month Year

(1) George A. Foster

(and (2) _____),
Name(s) of Signer(s)

proved to me on the basis of satisfactory evidence
 to be the person(s) who appeared before me.

Signature [Handwritten Signature]
Signature of Notary Public



Seal
 Place Notary Seal Above

OPTIONAL

Though this section is optional, completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document

Title or Type of Document: Affidavit of George A. Foster Document Date: April 15, 2019
 Number of Pages: 44 Signer(s) Other Than Named Above: _____

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

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

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

AFFIDAVIT OF GEORGE A. FOSTER
(Sworn April 15, 2019)

I, GEORGE A. FOSTER, of Contra Costa County, California, HEREBY SWEAR:

1. I am a former executive employee of Genstar Corporation entitled to vested benefits and payments under the Genstar "deferred income plan" ("**GCDIP**") and am directly affected by these CCAA Proceedings. As such, I have personal knowledge of the matters deposed to herein. Where I have relied on the other sources for information, I have stated the sources of my information and believe them to be true.
2. I swear this affidavit in support of the motion by the Former Genstar U.S. Retiree Group Committee for an order reinstating our pension payments and appointing myself as a "representative" of beneficiaries entitled to pensions or benefits under the Genstar "deferred income plan", "supplemental executive retirement plan" and "supplementary pension plan" (the "**Genstar U.S. Plans**"), or any person claiming an interest under or on behalf of such persons and their surviving spouses (excluding individuals who opt-out of such representation, if any) (the "**Affected Members**").

3. I am currently 76 years old and live at 7 Gary Way, Alamo, California, 94507 with my wife Lucia L. Foster to whom I have been married 51 years.

4. I have a bachelor of science degree in business administration from University of California at Berkeley (1965), an MBA from San Jose State University (1967) and am a graduate of the Stanford Executive Program (1988).

5. From 1970 to 1981, I worked for Kaiser Cement in various divisions and regional marketing roles. From 1981 to 1984, I worked for South Dakota Cement as VP Sales/Marketing.

6. Starting in 1984, I commenced employment with the Genstar Cement Company, initially as a VP Sales & Marketing of its CBR Cement division in California. I later became the General Manager. In 1986, Genstar's cement assets were sold to the CBR Group, North America. Effective September 30, 1986, my employment with Genstar ended and I continued in my position with CBR. Starting in 1989, I was appointed President of Calaveras Cement Company, a wholly-owned subsidiary of CBR Cement Corporation and CBR Cement Canada Ltd. I left employment with Calaveras in 1992.

7. In September 1985, I was designated by my employer as eligible to join the GCDIP, which at the time was a newly-introduced benefit for executives and senior managers of Genstar entities. I elected to join this plan because I felt it would provide me with a degree of retirement security. Attached as **Exhibit "A"** is a copy of a letter dated September 20, 1985 from Kimberly Corrick of Clark/Bardes Organization, Inc. confirming my participation in the GCDIP.

8. As indicated in the September 20, 1985 letter, as part of my enrolment process, Genstar purchased a "key man" insurance policy on my life. My understanding was that the company used my deferred income contribution to the GCDIP to pay for the insurance policy and this was done to secure and fund my benefits, based on a single paid-up premium. As part of the application for the insurance policy, I authorized the release of my personal health information.

9. Also as part of my enrolment in the GCDIP, I was provided with various documents describing the GCDIP. Attached as **Exhibit "B"** is a one-page summary that I received at the time I enrolled. Attached as **Exhibit "C"** is a copy of what I understood to be the plan text. I know that

I signed an “executive agreement” with the company pertaining to the GCDIP though I have searched my records and cannot locate a copy.

10. In late 1986, after I left employment with Genstar, I was advised that my benefits in the GCDIP were fully vested “by reason of the change of control of Genstar”. Attached as **Exhibit “D”** is a copy of the letter dated December 19, 1986 from Genstar Senior V.P. Human Resources informing me as such.

11. In subsequent years, I received various communications from time to time concerning the GCDIP, though I have not kept copies of these documents. Other than for these administrative matters, I had little or no communications with the company.

12. In February, 2008, at age 65, I commenced receiving my benefits under the GCDIP. I know that I designated my wife, Lucia, as beneficiary of any survivor benefits payable under the plan.

13. From February 2008 through March 2019, on the first day of each calendar month (except if the first of the month was on a weekend), I received monthly payments from the GCDIP totaling approximately \$15,215 per year (\$168,633 total during the prior 11 years and one month).

14. On March 14, 2019, I was surprised to receive a large packet of U.S. court documents from Bracewell LLP. There was no cover letter addressed to me nor any explanation as to why I was receiving these documents. Buried inside these voluminous documents were statements that Imperial Tobacco was proposing to “stay” further payments of my GCDIP benefits and intended to make an exception to funding them. I found these documents confusing and unclear.

15. I immediately called Bracewell LLP, whose contact information was contained in the court U.S. court documents. I was advised by a woman on the phone who identified herself to me as Shannon Wolf, that Bracewell cannot provide any advice or further information at that time.

16. On or about March 21, I telephoned the Imasco Holdings pension services department and spoke to a man whose name I did not obtain. I asked him if I should expect to receive my GCDIP payment on April 1. He indicated to me that Imasco has “received no notice or instructions to make any changes in payments”.

17. On or about March 25, 2019, I again telephoned the Imasco Holdings pension services department. The individual to whom I spoke repeated that they had not received any instructions to make changes to the payments” and he added that given the time required to process changes to direct deposits with the various banks, it would be “too late” to do so by that time. Based on this information, I expected to receive my GCDIP payment on April 1.

18. On March 28, 2019 I submitted an objection with the U.S. court in the Chapter 15 proceedings involving ITCAN, in which I objected to ITCAN’s proposal to stay further payments of my GCDIP benefits and intention to make an exception to funding them. Attached hereto as **Exhibit “E”** is a copy of my U.S objection sent on March 28 and filed on April 1 (Docket 29). I also sent a copy of my objection to Bracewell’s by email, on March 29, a copy of which is attached as **Exhibit “F”**. I understand that the March 29 objection sent to Bracewell’s was forwarded to the U.S. court with a cover note from that firm and filed with the court on April 2 (Docket 31), which I have included with that exhibit.

19. On Monday, April 1, 2019, I noticed that my month GCDIP benefit had not been deposited into my bank account. This was unexpected and very upsetting.

20. On Friday, April 5, I received in the mail a “Notice to Participants in Non-Qualified Deferred Compensation Plans” from Bracewell LLP informing me that Imperial Tobacco “has ceased funding” my GCDIP benefit. A copy of this Notice is attached hereto as **Exhibit “G”**. I marked by hand on this document “Received 4/5/19” being the date I received it.

21. The loss of my GCDIP income will have a detrimental and adverse effect on my financial and emotional security. The GCDIP promised me vested income payments through January 2023 when I reach age 80. Were the GCDIP to be terminated presently, I stand to lose up to \$58,324 of retirement income.

22. My wife and I have carefully planned for our retirement security in reliance on my GCDIP. After my social security, the GCDIP represents the largest single source of my outside retirement income. This will require additional withdrawals from my retirement savings on a monthly basis for the foreseeable future.

23. In addition, we have planned for resources to support our expected age-related declining health. Fortunately, we do not yet suffer from serious or chronic illness.

24. We know that our future health will decline. The loss of my GCDIP will significantly increase our stress levels and aggravate our security and peace of mind requiring me to access my savings in order to deal with these unknowns.

25. Over the past month, through the Chapter 15 filings, I have been able to connect with three other Affected Members who filed objections with the U.S. Court, including Vivian Brennan-Dolezar, Glen Jones and Alfred Mueller. I have spoken to these individuals multiple times in the past month regarding our common efforts and interests to preserve our Genstar pensions.

26. I have also been in regular contact with Mr. Richard Paterson, who is one of the founders of the Former Genstar U.S. Retiree Group Committee (the “**Committee**”). I am aware that the Committee retained Canadian legal counsel, Ari Kaplan of Kaplan Law, and I have spoken with Mr. Kaplan about this motion in the CCAA Proceedings to reinstate our benefits and appoint representatives. I understand that there is no formal representation yet to advance our common interests. I have agreed to be of assistance to the group.

27. I have been asked to put my name forward as a court-appointed “representative” for the Affected Members, and I agree to take this on. I have also connected with Mr. Robert Brown, who has also agreed to be put forward as a proposed representative. We are asking this Honourable Court to appoint the two of us, accordingly, as representatives. I believe we are both qualified to be such representatives.

28. Even though I am strictly an Affected Member of the GCDIP, affecting 53 individuals who are either former senior management employees of Genstar or their surviving spouses, I am aware that there are two other Genstar U.S. Plans being discontinued by ITCAN namely the “supplemental executive retirement plan” for approximately 14 individuals who were either former Genstar employees or their surviving spouses (“**SERP**”) and a “supplementary pension plan” for 3 individuals who were either former Genstar employees or their surviving spouses (“**SPEN**”). I undertake to represent all Affected Members evenhandedly and believe there is no conflict of

interest preventing me from doing so, especially if I take advice on such matters from proposed representative counsel.

29. I believe that there is a substantial need for representation and representative counsel. In particular,

- (a) ITCAN's actions taken pursuant to the Initial Order have directly and detrimentally impacted my and other Affected Members' vested benefits and entitlements. The proposed cessation of funding, if upheld by this court, will directly and immediately cause losses to Affected Members, and will worsen our financial security. I believe that these actions will cause immediate and substantial hardship for Affected Members and I support the Committee's efforts to oppose these actions;
- (b) Affected Members are a significant creditor group. The present value of the pension obligations to the Affected Members under the Genstar U.S. Plans, in the aggregate and as of December 31, 2017, is estimated to be approximately USD \$32 million;
- (c) Affected Members are a vulnerable stakeholder group in these proceedings and therefore require representation. Affected Members are elderly (in their 70s and 80s), and many are in ill-health and on fixed incomes. We have organized our financial affairs in expectation of funding our old age. We rely on our pensions for ensuring our physical, mental, psychological and emotional security and stability;
- (d) Affected Members have not received proper notice of the cessation of our benefits, disclosure of any documentation necessary to assess our claims and rights, nor any consistent explanation concerning the reason for singling out the Genstar U.S. Plans for cessation. Having representation will serve to mitigate the confusion generated by ITCAN and the Monitor in this respect;
- (e) it is very difficult for Affected Members to organize and coordinate with each other. Of all the pension beneficiaries affected by these proceedings, only the Affected Members are subject to the Seal Order of the U.S. Court, compounding our difficulty to locate and find one another for the purpose of obtaining information and advancing our common interests;

- (f) no other pension plan for which ITCAN is responsible is being proposed to be suspended or discontinued; and
- (g) there is no other agency or entity available in these proceedings that can adequately represent the common interests of Affected Members. Since the Genstar U.S. Plans are “non-qualified” (not registered under U.S. pension standards legislation), they fall outside the jurisdiction of the Pension Benefits Guaranty Corporation. As former employees and pensioners, there is no trade union to represent us. Our group also falls outside the purview of the “Court-Appointed Mediator”.

30. I believe that with the appointment and presence of representative counsel for Affected Members in place from the outset of these proceedings, our rights and legitimate interests will be represented and all claims arising from such rights and interests will be properly presented in a streamlined, coherent manner, without an issue of conflict of interest. As a proposed representative, I undertake to work closely with Mr. Kaplan, if he is appointed. I believe that having representative counsel will have numerous advantages to both the Affected Members and to the CCAA proceeding as a whole. The role of representative counsel will include:

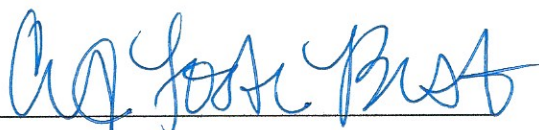
- (a) securing information from the company or Monitor with respect to the Genstar U.S. Plans, the current cash flow and resources of the company and its intentions while under CCAA, in particular whether it intends to restructure and continue in some form or liquidate its assets and distribute the assets in a claims process;
- (b) informing Affected Members, both as a whole and with regard to each person’s particular situation, of their rights and of the progression of the CCAA Proceeding;
- (c) advising Affected Members with respect to matters related to any plan of compromise or arrangement that may be put forward by the parties;
- (d) representing the interests of Affected Members for the purpose of all decisions which might affect their rights in the course of these CCAA Proceedings and, if necessary, bring to the Court’s attention any matters to be dealt with affecting their interests;

- (e) contributing to overall costs savings and a streamlining of the CCAA process by being the single point of contact for Affected Members, and as such provide consistent representation for a variety of retiree entitlements and claims in the CCAA proceeding.

31. Moreover, a representative counsel will be able to assist the Affected Members in evaluating claims as required. Affected Member claims will likely be valued based on actuarial assumptions and methodologies and it is likely they will require the assistance of actuarial and/or benefit experts to confirm these calculations. Most individual Affected Members likely do not have the means to obtain such expert advice in a cost-efficient and timely manner.

32. The requested Representation Order contemplates a notice and opt-out process to allow any Affected Member to not be represented by the Representatives or Representative Counsel in the event they do not wish to be so represented. I support that process.

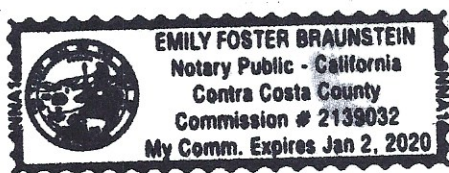
SWORN BEFORE ME at Contra Costa
County, in the State of California,
this 15th day of April, 2019



A Commissioner for Taking Oaths, etc.



GEORGE A. FOSTER



**THIS IS EXHIBIT "A" REFERRED TO IN THE
AFFIDAVIT OF GEORGE A. FOSTER
SWORN BEFORE ME ON APRIL 15, 2019**

A handwritten signature in blue ink, appearing to read "George A. Foster", written over a horizontal line.

A COMMISSIONER FOR TAKING OATHS, ETC.

CLARK/BARDES ORGANIZATION, INC.

8235 DOUGLAS, SUITE 1101, DALLAS, TEXAS 75225, 214/369-7657

156

September 20, 1985

Mr. George Foster
Vice President - Sales
and Marketing
Genstar Cement Company
7677 Oakport Street
Suite 400
Oakland, CA 94621

PERSONAL & CONFIDENTIAL

BY AIRBORNE

Dear Mr. Foster:

We are pleased you have elected to participate in the Genstar Deferred Income Plan.

Genstar Corporation would like to purchase a key man insurance policy on your life. Please find enclosed Connecticut Mutual Life Insurance Company's Part II of Application which is requiring you signature where indicated by a red arrow.

You have previously signed the application where you give authorization to release information from any doctor you may have seen; however, you have not signed where you represent that the information listed on your Part II of Application is true and complete to the best of your knowledge.

Please sign the application and return the form in the self-addressed, stamped envelope which is enclosed for your convenience.

If you should have any questions or comments regarding this matter, please do feel free to contact me.

Very truly yours,



Kimberly Corrick
Service Representative

kc

Encl

THIS IS **EXHIBIT "B"** REFERRED TO IN THE
AFFIDAVIT OF GEORGE A. FOSTER
SWORN BEFORE ME ON APRIL 15, 2019

A handwritten signature in blue ink, appearing to read "C. A. Foster", written over a horizontal line.

A COMMISSIONER FOR TAKING OATHS, ETC.

**GENSTAR CORPORATION
AND ITS AFFILIATES
DEFERRED INCOME PLAN**

<u>ELIGIBILITY</u>	Senior Officers, Division Presidents and Key Corporate and Division Managers														
<u>PARTICIPANT ANNUAL DEFERRAL OPPORTUNITY</u>	Up to 50% of total annual compensation														
<u>COMPANY MATCHING CONTRIBUTIONS</u>	None														
<u>BENEFIT SCHEDULE</u>	<p><u>Pre-Retirement Payments:</u> Return of deferral amount in each of years 8, 9, 10 and 11 after deferral, plus</p> <p><u>Post-Retirement Payments:</u> Monthly benefit beginning at normal retirement over a 15-year period certain</p> <p>Option 1: Allow executives age 54-57 to opt at time of deferral to receive post-retirement benefits only</p> <p>Option 2: Allow executives age 61 or older to opt at time of deferral to postpone receipt of post-retirement payments for 5 years, and such payments would continue to cease at age 80</p>														
<u>VESTING</u>	No vested rights granted to benefit schedule; have to be employed by Genstar for rights to benefits														
<u>TERMINATION BENEFIT</u>	Lump sum return of deferral plus interest at 10%, less the value of any pre-retirement payments received (except for termination for Cause)														
<u>PRE-RETIREMENT DEATH BENEFIT</u>	Lump sum return of deferrals plus interest at 20%, less the value of any pre-retirement payments received														
<u>PLAN INTEREST RATE</u>	19% to 24% approximate return based on nearest age as of August 1, 1985, as follows:														
	<table border="0"> <thead> <tr> <th colspan="2"><u>AGE</u></th> </tr> </thead> <tbody> <tr> <td>39 & under</td> <td>19%</td> </tr> <tr> <td>40 - 44</td> <td>20%</td> </tr> <tr> <td>45 - 49</td> <td>21%</td> </tr> <tr> <td>50 - 54</td> <td>22%</td> </tr> <tr> <td>55 - 59</td> <td>23%</td> </tr> <tr> <td>60 & over</td> <td>24%</td> </tr> </tbody> </table>	<u>AGE</u>		39 & under	19%	40 - 44	20%	45 - 49	21%	50 - 54	22%	55 - 59	23%	60 & over	24%
<u>AGE</u>															
39 & under	19%														
40 - 44	20%														
45 - 49	21%														
50 - 54	22%														
55 - 59	23%														
60 & over	24%														
<u>PLAN AMENDMENT</u>	Upon changes in U.S. tax laws affecting Genstar's costs, the Board of Directors may terminate the Plan or amend the Plan interest rates.														

**THIS IS EXHIBIT "C" REFERRED TO IN THE
AFFIDAVIT OF GEORGE A. FOSTER
SWORN BEFORE ME ON APRIL 15, 2019**


A COMMISSIONER FOR TAKING OATHS, ETC.

**GENSTAR CORPORATION DEFERRED INCOME PLAN
(U.S. PLAN)**

1. PURPOSE

The purpose of this Deferred Income Plan (the "Plan") is to provide a means whereby Genstar Corporation and its affiliates (the "Company"), may afford financial incentive to a select group of key employees of the Company not resident in Canada (individually the "Employee") and to Directors of Genstar Corporation not resident in Canada, (individually the "Director"), all of whom have rendered and continue to render valuable services to the Company constituting an important contribution towards its continued growth and success. The Plan provides for the opportunity for additional future compensation so that present and future participants may be attracted, retained and their productive efforts encouraged.

2. ADMINISTRATION

This Plan is to be administered by the Company's Executive Remuneration Committee (the "Committee") in accordance with the General Administrative Resolutions of the Company.

3. MANAGEMENT

The Corporate Compensation Department (the "Department") is responsible for the routine management of the Plan in accordance with a delegation of power from the Committee.

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4. PARTICIPATION AND CONTRIBUTIONS

All Eligible Employees: Up to fifty percent (50%) of annual base salary and incentive award, but not to include pre-retirement payments payable during a Period (as defined in paragraph five (5) herein), in increments of thousands of dollars. All deferrals will be made from base monthly periodic payments, and no deferrals will be made from incentive awards or pre-retirement payments.

All Eligible Directors: Up to one hundred percent (100%) of the estimated amount of the annual retainer, meeting fees and committee fees ("Fees") to be earned by the director for services rendered to the Company during a Period (as defined in paragraph five (5) herein), in increments of thousands.

Minimum Deferral: One thousand dollars (\$1,000) per annum.

5. DEFERRAL OF COMPENSATION

The Employee or Director may defer an amount (consistent with the Plan contribution schedule) of the base salary or Fees earned for services rendered to the Company during a participation period beginning:

(i) in the case of an Employee, August/September 1, 1985 through either December 31, 1985 or March 31, 1986 as the Employee shall elect, and every April 1 through March 31 thereafter, and

(ii) in the case of a Director, September 1, 1985 through December 31, 1985 and every January 1 through December 31 thereafter

(hereinafter each such interval is referred to as a "Period" and the initial day of each Period is the "Commencement Date" of such Period), for the life of the Plan, which shall be ten (10) years or such longer or shorter time as may be approved by the Board of Directors. Such amount will be deferred by reducing each periodic salary payment received by Employee during a Period by

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an amount equal to the quotient of the amount deferred divided by the total number of payments during such Period or for each Director, reducing each Fee payment by the percentage deferred. For the Period commencing August/September 1, 1985, the Employee may elect to make all deferral payments prior to December 31, 1985 and the method of deferral shall be the same as in the previous sentence. Prior to the Commencement Date of each Period the Employee or Director shall enter into an agreement with the Company indicating the amount to be deferred in accordance with the terms of the Plan (the "Agreement"). If the Employee is not employed by the Company during the entire term of a Period, or the Director ceases to be a Director during the Period, only a pro rata portion of the original amount proposed to be deferred will be deferred, as determined by the portion of the Period that the Employee was employed by the Company or the Director was a director of the Company. No Employee shall be entitled to make deferrals hereunder in months after the month of the Employee's sixty-fifth (65th) birthday, but may make such deferrals in each month prior to and including the month of the Employee's Birthday and no Director shall be entitled to make deferrals hereunder in months after the month of the Director's mandatory retirement, but may make such deferrals in each month prior to and including the month of the Director's mandatory retirement.

6. PRE-RETIREMENT PAYMENTS

Subject to the provisions of paragraphs fourteen (14) and fifteen (15) herein and this paragraph, the Company agrees that if the Employee or Director has not attained the age of fifty-four (54) and in the Employee's case he remains in the continuous employment of the Company through the payment date for the particular payment, the Company will pay to the Employee or Director, in a lump sum, on each of the seventh (7th), eighth (8th), ninth (9th) and tenth (10th) anniversaries of the Commencement Date for such Period, an amount equal to the original amount deferred during such Period (the "Pre-Retirement Payments"). "Age" shall be defined, for purposes of the calculations to be made pursuant to paragraphs six (6) and seven (7), as the Employee's or Director's age as of his birthday nearest the Commencement Date for such Period.

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If the Employee or the Director has attained the age of fifty-four (54) but has not yet attained the age of fifty-eight (58), the Employee or the Director may elect, prior to such Commencement Date, to defer all benefits in respect of such Period in lieu of taking Pre-Retirement Payments until:

(i) in the case of an Employee, after the Employee's sixty-fifth (65th) birthday, or

(ii) in the case of a Director, after the Director's mandatory retirement.

In the event that no election is timely made to defer benefits in accordance with this paragraph, annual Pre-Retirement Payments in an amount equal to the amount deferred in such Period shall be made as follows, commencing on the seventh (7th) anniversary of the Commencement Date for such Period and depending upon the Employee's or Director's age on such Commencement Date:

- 1) if the Employee or Director is age fifty-four (54), four (4) payments;
- 2) if the Employee or Director is age fifty-five (55), three (3) payments;
- 3) if the Employee or Director is age fifty-six (56), two (2) payments; and
- 4) if the Employee or Director is age fifty-seven (57), one (1) payment.

If the Employee's employment with the Company terminates prior to vesting in accordance with paragraph fifteen (15) herein for any reason, other than Employee's death, disability or for Cause, the Company will pay the Employee in respect of each Period, on the fifth (5th) business day following Employee's termination, in a lump sum, the amount actually deferred pursuant to the provisions of paragraph five (5) during such Period, with interest thereon at the rate of ten percent (10%) per annum, compounded annually, from the Commencement Date of such Period to the date of payment less any Pre-Retirement Payments made to Employee in respect of such Period; provided, however, that should Employee's employment terminate during the initial Period for which such Employee has elected to defer compensation, for any reason other than Employee's death or disability, the Company will pay Employee, on the fifth (5th) business day following Employee's resignation, in a lump sum, only the amount actually deferred.

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7. POST-RETIREMENT PAYMENTS

7.1 Subject to the following provisions of this subparagraph and the provisions of paragraphs fourteen (14) and fifteen (15) herein, the Company further agrees that if the participating Employee remains in the continuous employ of the Company until the Employee's sixty-fifth (65th) birthday, the Company will pay to the Employee the post-retirement benefits in respect of a Period, which amounts have been individually and actuarially determined and separately communicated to the Employee, as follows:

<u>AGE</u>	<u>PAYMENTS</u>
60 or Younger	Company pays post-retirement benefit in fifteen (15) equal annual installments, each annual installment being paid monthly commencing with the first (1st) calendar month next following the Employee's sixty-fifth (65th) birthday.
61 through 64	<p>Employee may elect prior to the Commencement Date for the Period between:</p> <p>The payment by the Company of post-retirement benefit in fifteen (15) equal annual installments, each annual installment being paid monthly commencing with the first (1st) calendar month next following the Employee's sixty-fifth (65th) birthday;</p> <p>or</p> <p>Deferral of payments for a longer period with equal annual installments, to begin the month following the birthday nearest five (5) years after Commencement Date for the Period, each annual installment to be paid monthly thereafter until age eighty (80).</p>

7.2 Subject to the following provisions of this subparagraph and the provisions of paragraphs fourteen (14) and fifteen (15) herein, the Company further agrees that the Company will pay to the Director the post-retirement benefits in respect of a Period, which amounts have been individually and actuarially determined and separately communicated to the Director, as follows:

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<u>AGE</u>	<u>PAYMENTS</u>
At least five (5) years prior to mandatory retirement birthday	Company pays post-retirement benefit in fifteen (15) equal annual installments, each annual installment being paid monthly commencing with the first (1st) calendar month next following the Director's mandatory retirement until May 31 following the members eightieth (80th) birthday.
Within five (5) years of mandatory retirement birthday	<p>Director may elect prior to the Commencement Date for the Period between:</p> <p>The payment by the Company of post-retirement benefit in equal annual installments, each annual installment being paid monthly commencing with the first (1st) calendar month next following the Director's mandatory retirement;</p> <p>or</p> <p>Deferral of payments for a longer period with equal annual installments, to begin June following five (5) years after Commencement Date for the Period, each annual installment to be paid monthly thereafter, until May 31 following Director's eightieth (80th) birthday.</p>

8. BENEFICIARY LUMP SUM PAYMENT

In the event that the Employee dies while employed by the Company prior to Employee's sixty-fifth (65th) birthday or in the event that the Director dies whether or not a member of the Board of Directors prior to the Director's mandatory retirement birthday, the Company shall pay the Employee's or Director's designated beneficiary determined in accordance with paragraph ten (10) herein (the "Beneficiary"), in respect of each Period, in a lump sum, the amount actually deferred by the Employee or Director pursuant to the provisions of paragraph five (5) herein with respect to such Period, with interest thereon at the rate of twenty percent (20%) per annum, compounded annually, from the Commencement Date to the date of payment, less any Pre-Retirement Payments made to the Employee or Director in respect of such Period.

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9. BENEFICIARY INSTALLMENT PAYMENTS

In the event the Employee dies after Employee's sixty-fifth (65th) birthday or the Director dies after the Director's mandatory retirement, but prior to receiving all post-retirement benefits due Employee or Director in accordance with paragraph seven (7) hereof, the Company shall continue to pay to the Beneficiary any unpaid annual payments then being paid to the Employee or Director in the same manner in which the Employee or Director had been receiving payments.

10. BENEFICIARY DESIGNATION

The Employee or Director may, from time to time, designate any person or persons (who may be designated contingently or successively) to whom payments are to be made if the Employee or Director dies before receiving payment of all amounts due hereunder, by signing a form approved by the Company. A beneficiary designation form will be effective only after the signed form is filed with the Department while the Employee or Director is alive and will cancel all beneficiary designation forms signed and filed earlier with the Department. If the Employee or Director fails to designate a Beneficiary as provided above, or if all designated Beneficiaries of the Employee or Director die before the Employee or Director or before complete payment of all amounts due hereunder, the Company will pay the unpaid amounts to the legal representative or representatives of the estate of the last to die of the Employee or Director as the case may be and the Beneficiary (or Beneficiaries) in accordance with paragraphs eight (8) and nine (9) herein.

11. DISABILITY

11.1 If the Employee's employment with the Company is terminated prior to the Employee's sixty-fifth (65th) birthday by reason of the Employee becoming permanently and totally disabled, as determined in accordance with the Company's Long-term Disability Plan in force from time to time, the Employee's employment with the Company, for purposes of this Plan, shall be deemed to continue during the period of the Employee's permanent and total disability and

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the provisions of this Plan shall be applicable to the Employee to the same extent as if the Employee were, in fact, employed by the Company during that period, except that the Employee shall only be entitled to defer any incentive compensation to be received during the period of the Employee's permanent and total disability.

11.2 If the Director's service with the Company ceases due to the Director becoming permanently and totally disabled as determined by an independent physician selected by the Company, deferral shall continue to be made from any Fees payable until the Annual Meeting of Shareholders of Genstar Corporations next following the determination of the Director's disability.

12. INCAPACITY

If the Company shall find that any person to whom any payment is payable under this Plan is unable to care for their affairs because of illness or accident or is a minor, any payment due (unless a prior claim therefor shall have been made by a duly appointed guardian, committee, or other legal representative) may be paid by the Company to the spouse, a child, a parent, or a brother or a sister or to any person deemed by the Company to have incurred expense for such person otherwise entitled to payment, in accordance with the applicable provisions herein. Any such payment shall be a complete discharge of the liabilities of the Company under this Plan.

13. TERMINATION FOR CAUSE

For purposes of this Plan the term Cause shall mean termination upon (i) the willful or continued failure by Employee or Director to substantially perform that person's duties with the Company (other than any such failure resulting from that person's incapacity due to physical or mental illness) after a written demand for substantial performance is delivered to Employee or Director by:

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(a) in the case of an Employee, the Chief Executive Officer of the Company, or

(b) in the case of a Director, the Executive Remuneration Committee of Genstar Corporation (the "Committee"),

which demand specifically identifies the manner in which the Chief Executive Officer believes that Employee or the Committee believes that Director has not substantially performed that person's duties, (ii) the willful engaging by Employee or Director in conduct which is demonstrably and materially injurious to the Company or (iii) the willful rendering of any services of an advisory nature or otherwise to or becoming employed by or participating or engaging in any business competitive with any of the businesses of the Company, or becoming the beneficial or record owner of more than one percent (1%) of the stock of any corporation engaging in any business competitive with any of the businesses of the Company without the prior written consent of the Company. In the event the Company has determined that the Employee or Director is in breach of this paragraph, the Company may terminate that Employee's or Director's Agreement or Agreements after written notice has been given to the Employee or Director and the Employee or Director has been given ten (10) business days to cure the breach of this paragraph, and the sole amount payable to Employee or Director pursuant to the terms of this Plan shall be the amount that Employee or Director has actually deferred, with interest thereon at the effective rate of five percent (5%) per annum, compounded annually, from the Commencement Date of the appropriate Period to the date of payment, less any Pre-Retirement Payments made to Employee or Director as of such date. Payment shall be made no later than five (5) business days following termination for Cause.

14. OBLIGATION TO MAKE PAYMENTS

The Company's obligation to make payments to any person under this Plan is purely contractual and the Company will not hold the amounts deferred by the Employee or Director in trust or as a segregated fund for the Employee or Director, the Beneficiary, or other person entitled to payments hereunder. The Employee or Director, the Beneficiary, or other person entitled to payments hereunder stands in the same position as any general creditor of the

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Company. The benefits provided under this Plan shall be payable solely from the general assets of the Company, and neither the Employee or Director, the Beneficiary, or other person entitled to payments hereunder shall have any interest in any assets of the Company by virtue of this Plan. The Plan merely grants the Employee or Director, the Beneficiary, or other person entitled to payments hereunder the contractual right to receive future benefits. The Company's obligation under the Plan shall be merely that of an unfunded and unsecured promise of the Company to pay money in the future.

15. VESTING

15.1 Employee shall be entitled to all Post-Retirement Payments (and any remaining Pre-Retirement Payments when due) in respect of a Period if Employee has (i) attained Employee's sixty-fifth (65th) birthday, provided that Employee has been continuously employed by the Company from the Commencement Date for such Period or (ii) thirty-five (35) years of benefit service accrued as defined under the Company's qualified retirement plan, or (iii) qualified for a full pension entitlement under the Company's Supplemental Executive Retirement Plan. Nothing in this paragraph shall affect the Employee's entitlement to or the payment to Employee of Pre-Retirement Payments pursuant to paragraph six (6) herein.

15.2 A Director, subject to the provisions of Sections Thirteen (13) and Twenty (20) herein, is fully vested immediately upon being elected a Director and completing the deferral of Fees.

16. BINDING EFFECT

The Agreement shall be binding upon and inure to the benefit of the Employee or Director and Employee's or Director's heirs and legal representatives as the case may be and the Company and its successors and assigns. The Company will not consolidate with or merge into another entity or sell all or substantially all of its assets to another entity, unless such other entity shall have the financial ability to discharge obligations assumed under this Plan and in fact assumes this Plan and upon such assumption

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Employee or Director and the successor shall become obligated to perform all of the terms and conditions herein contained.

17. COUNTERPARTS

The Agreement may be executed in two or more counterparts, any one of which shall be deemed an original without reference to the others.

18. GOVERNING LAW

The Agreement and the rights of the parties therein shall be interpreted and construed in accordance with the laws of the State of California.

19. ASSIGNMENT OR ALIENATION

The right of the Employee or Director or any other person to the payment of deferred income or any other benefits under this Plan shall not be assigned, transferred, pledged, or encumbered except as provided herein or by will or by the laws of descent and distribution.

20. AMENDMENT OR TERMINATION OF AGREEMENT

With the approval of the Committee, the Company and the Employee or Director, this Plan may be amended by a writing signed by each of the parties to the Agreement and given to the other party. However, should the Board of Directors of the Company, in its sole discretion, determine that due to a change in federal or state law (i) the combined United States Federal and California maximum marginal tax rate has been reduced below thirty-three percent (33%) or (ii) if the Company's cost of providing the benefits otherwise payable pursuant to paragraphs six (6) through nine (9) above has materially increased due to tax law changes, then, upon the recommendation of the Board of Directors, the Company may reduce the interest rates otherwise utilized in the determination of benefit payments due hereunder for intervals subsequent to the date thereof to reflect such increase; provided, however, that such interest rate in respect of subsequent intervals shall not be

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decreased to less than ten percent (10%). In the event clause (i) or (ii) of the preceding sentence occurs, the Company, in its sole discretion, may, upon notice to the Employee or Director, terminate the Plan and commence a deferred income program with subsequent interest rates tied to outside market rates. However, once vested, no payments shall be reduced to an Employee or Director nor shall any payments to an individual (even if not vested) be reduced where said payments have not been materially affected by said tax law changes, and all changes shall be prospective, not retrospective.

21. CHANGE IN CONTROL

Notwithstanding any other provisions of this Plan, if the Employee's employment with the Company terminates due to a change in control prior to Employee vesting under paragraph fifteen (15) herein, Employee will immediately become fully vested in all rights hereunder, including paragraphs six (6) and seven (7), as if Employee had satisfied the requirements of paragraph fifteen (15) herein and shall be entitled to all payments when and as otherwise due hereunder as though Employee had remained employed with the Company until the earlier of (i) such Employee's death or (ii) such Employee's sixty-fifth (65th) birthday. A change in control shall mean an occurrence whereby:

- (i) any person, partnership, corporation, trust or similar entity or group shall acquire or control, after the date hereof, more than twenty-five percent (25%) of the voting securities of the Company in a transaction or series of transactions; or
- (ii) at any time during any two (2) year period a majority of the Board of Directors of the Company is not comprised of individuals who were members of such Board of Directors at the commencement of such two (2) year period.

For the purposes of this definition the term "group" shall mean any persons who act in concert within the meaning of Section 14(d)(2) of the Securities Exchange Act of 1934, as amended.

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In the event that any portion of the payments received or to be received by the Employee pursuant to this paragraph twenty-one (21) would cause an "excess parachute payment" to exist within the meaning of Sections 280G or 4999 of the Internal Revenue Code, as amended, or any successor provisions thereto, the Company shall have the right to reduce the payments until no portion of the payments would result in the imposition of an excise tax on the Employee.

Note: The provisions of this paragraph twenty-one (21) shall not be applicable to Senior Officers of the Company or to Directors.

22. EMPLOYMENT NOT GUARANTEED

Nothing contained in this Plan nor any action taken hereunder shall be construed as a contract of employment or for services or as giving an Employee any right to be retained in the employ of the Company, or any Director any right to be retained as a member of the Board of Directors of the Company.

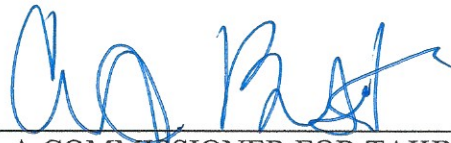
23. TAXES

The Company reserves the right to withhold all applicable Federal, state and local taxes on any monies paid to Employee or Director under the Plan.

24. BENEFIT OFFSETS

The Company shall not offset any amount or benefit due to the Employee or Director or the Employee's or Director's Beneficiary under this Plan by any liability or obligation owed to the Company by the Employee or Director arising during or after the Employee's or Director's service with the Company.

**THIS IS EXHIBIT "D" REFERRED TO IN THE
AFFIDAVIT OF GEORGE A. FOSTER
SWORN BEFORE ME ON APRIL 15, 2019**

A handwritten signature in blue ink, appearing to read 'A. Foster', written over a horizontal line.

A COMMISSIONER FOR TAKING OATHS, ETC.

December 19, 1986

Mr. George A. Foster
7 Gary Way
Alamo, CA 94507

Dear George:

The purpose of this letter is to provide you with a statement of your vesting in the Genstar Corporation Deferred Income Plan ("DIP") as of the end of your employment with Genstar and therefore in the Plan on September 30, 1986. As you know, by reason of the change of control of Genstar, you have been awarded full vesting under the DIP. However, the vested DIP benefits due to you as a result of the change of control are limited so as not to result in an "excess parachute payment" within the meaning of Section 280G of the Internal Revenue Code. Please see the Plan for the precise terms of this limitation. Subject to the above, your vested benefits under the DIP are:

	<u>1985</u>	<u>1986*</u>	<u>Total</u>
YOUR DEFERRAL AMOUNT	\$4,000.00	\$6,000.00	\$10,000.00
	<u>Year</u>		
	1992	\$4,000.00	-
	1993	\$4,000.00	+
	1994	\$4,000.00	+
	1995	\$4,000.00	+
	1996	-	\$6,000.00
		\$6,000.00	\$ 4,000.00
		\$6,000.00	\$10,000.00
		\$6,000.00	\$10,000.00
		\$6,000.00	\$10,000.00
		\$6,000.00	\$ 6,000.00
AGE 65 (Annual)**	\$6,283.00	\$8,932.20	\$15,215.20

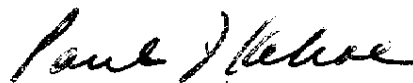
* Your 1986 deferral amount is 50% of the original amount proposed (\$12,000) because your employment ended before the full amount was deferred. The vested payments are pro-rated on this basis.

** 15 Year Certain, payments start the month following age 65.

Imasco will administer the payment of these amounts by Genstar Company through their New York office. You will be notified next spring of that address for your future reference. The ultimate reference in the future is Imasco Limited in Montreal.

Please don't hesitate to call Paul Hoge or myself if there are questions.

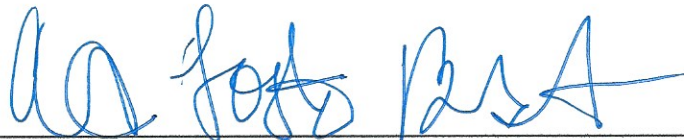
Very truly yours,



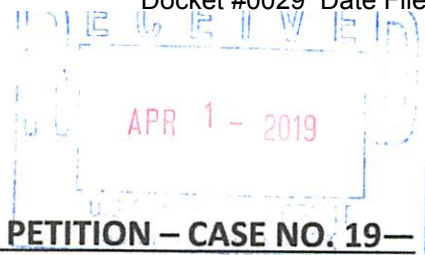
Paul J. Kehoe
Senior Vice President
Human Resources

PJK:cgw

THIS IS **EXHIBIT "E"** REFERRED TO IN THE
AFFIDAVIT OF GEORGE A. FOSTER
SWORN BEFORE ME ON APRIL 15, 2019

A handwritten signature in blue ink, appearing to read "George A. Foster". The signature is written in a cursive style with a long horizontal stroke at the end.

A COMMISSIONER FOR TAKING OATHS, ETC.



March 28, 2019

IMPERIAL TOBACCO CANADA LIMITED CHAPTER 15 PETITION – CASE NO. 19–10771 (SSC)

From: George A. Foster

To: Hon. Shelley C. Chapman

Jennifer Feldsher, Esq.

Mark E. Dendinger, Esq.

Dear Judge Chapman, Ms. Feldsher and Mr. Dendinger,

Please find attached my objection to the matter of a Plan of Compromise or arrangement of Imperial Tobacco Canada, Ltd. Chapter 15 Petition. (Case No. 19-10771 SCC)

I am a Genstar Corporation Deferred Income Plan (U.S. Plan) recipient as a former senior manager, and as such, object to the specific language pertaining to the deferred income piece of the Chapter 15 Petition. I am also sending a hard copy by registered mail today.

Respectfully submitted,

George A. Foster

7 Gary Way

Alamo, CA 94507

(925) 837-0605

George.foster@paccoast.com



Hon. Shelley C. Chapman	Bracewell LLP
United States Bankruptcy Judge	Jennifer Feldsher, Esq
Southern District of New York	Mark E. Dendinger, Esq
One Bowling Green	1251 Avenue of the Americas
New York, NY 10004	New York, NY 10020-1100

**OBJECTIONS IN THE MATTER OF A PLAN OF COMPROMISE OR
ARRANGEMENT OF IMPERIAL TOBACCO CANADA LIMITED CHAPTER 15
PETITION –Case No. 19-10771 (SCC)**

My name is: George A. Foster

7 Gary Way

Alamo, CA 94507 U.S.A.

- 1) I am currently receiving monthly benefits earned on funds deducted from my salary as a senior manager and contributed to the Genstar Corporation Deferred Income Plan (U.S. Plan) referred to as the “DIP.” I am one of 53 former retired employees who participate in the DIP.**
- 2) I understand that the purpose of placing Imperial Tobacco Canada, Ltd. (ITCAN) into Chapter 15 Bankruptcy Court in New York State is to stop creditors from seizing the tobacco held in the company’s warehouses, among other things, which would preclude the company from continuing its normal business while it negotiates a payment plan.**
- 3) My objection is not with parts of the proceeding which allow the company to continue with its daily operations while a plan is worked through.**

- 4) My objection is with the provision in Document #2, filed on 3/13/2019, page 6 of 12, which states: .” Pursuant to an agreement dated April 2, 1986, ITCAN guaranteed payment of certain pension and retirement obligations of its U.S. Subsidiaries. [ITCAN Aff. P.55] During the pendency of this case, ITCAN intends to continue to fund contributions to Imasco so that its U.S. Subsidiaries can make ordinary course payments in respect of their pension and retirement plan obligations, with the exception of (i) a non-U.S. tax qualified “deferred income plan” for approximately 53 individuals who are either former senior management employees of Genstar or their surviving spouses, (ii) a non-U.S. tax qualified “supplemental executive retirement plan” for approximately 14 individuals who were either former Genstar employees or their surviving spouses, and (iii) a non-U.S. tax qualified “supplementary pension plan” for 3 individuals who were either former Genstar employees or their surviving spouses.[ITCAN] Aff. P. 55]
- 5) When we signed up for the “DIP” program, one part of the agreement in paragraph 16, “Binding Effect” stated that “The agreement shall be binding upon and inure to the benefit of the Employee or Director and Employee’s or Director’s heirs and representatives as the case may be and the Company and its successors and assigns. The Company will not consolidate with or merge into another entity or sell all or substantially all of its assets to another entity, unless such entity shall have the financial ability to discharge obligations assumed under this plan, and in fact assumes this plan and upon such assumption, Employees or Directors and Successors shall become obligated to perform all of the terms and conditions herein contained.”
- 6) It is my understanding that the Genstar Corporation took out a life insurance policy on all of the participants’ lives to help fund this program.

- 7) The "DIP" plan distributes post-retirement monthly payments earned on the amounts deducted from salary and payable to participants from age 65 to age 80. I do not have access to all the 53 DIP participants, but because of the time this program was put into effect, most of the current beneficiaries of the program are now in their 70's--- many in their late 70's most all of whom are retired and unable to return to work. Receiving these benefits earned on the funds voluntarily deducted from their paychecks and contributed to the DIP was and is a significant part of retirement planning for participants. The financial damage and hardship resulting from the cessation of these benefits will be substantial to participants based on the amounts they voluntarily contributed to the DIP. I do not believe that the purpose of this proceeding should financially harm any retired employees participating in the DIP.
- 8) Since Imperial Tobacco has been funding Imasco's U.S. Subsidiaries in the past, and will continue to fund certain ordinary payments of retirement, etc., the funding of the DIP would not damage ITCAN, or preclude it from a Chapter 15 workout. According to the Wall Street Journal, Imperial Tobacco recorded a profit before taxes of C\$792 million last year. I believe *continued* payments to cover the DIP would not injure ITCAN and would prevent injury to DIP recipients.
- 9) I therefore request that during the pendency of this case and beyond ITCAN will be permitted to continue to fund contributions to Imasco for: a) the Deferred Income Plan (DIP), 53 individuals b) the Supplemental Executive Retirement Plan, 14 individuals, and c) the Supplemental Pension Plan, 3 individuals, who were either former Genstar employees or their surviving spouses. I don't see any factual or legal basis for ceasing these payments provided in any of the papers on file with the Court. To the extent that ITCAN intends to stop making payments to me under my DIP plan, I object to the Verified Petition and ask that the Court make plain

that it is not ruling on the merits of my entitlement and ITCAN's obligations under the DIP plan by merely recognizing the existence of a Canadian proceeding or granting other relief to ITCAN. I believe that any determination of my rights and ITCAN's obligations should be made upon proper notice and an opportunity to respond.

Respectfully Submitted

George A. Foster

7 Gary Way

Alamo, California, 94507, USA

THIS IS **EXHIBIT "F"** REFERRED TO IN THE
AFFIDAVIT OF GEORGE A. FOSTER
SWORN BEFORE ME ON APRIL 15, 2019



A COMMISSIONER FOR TAKING OATHS, ETC.

Kearney, Mary

182

From: George Foster <George.Foster@pcci.com>
Sent: Friday, March 29, 2019 9:45 AM
To: Feldsher, Jennifer; Dendinger, Mark
Subject: IMPERIAL TOBACCO LIMITED CHAPTER 15 PETITION - CASE NO. 19-10771 (SSC)
Attachments: Foster IT Bankruptcy Objections Glen (RL) (George Foster) (1.1).docx

Follow Up Flag: Follow up
Flag Status: Flagged

Dear Ms. Feldsher and Mr. Dendinger,

Please find attached my objection to the matter of a Plan of Compromise or arrangement of Imperial Tobacco Canada, Ltd. Chapter 15 Petition, Case No. 19-10771 (SSC)

I am a Genstar Corporation Deferred Income Plan (U.S. Plan) recipient as a former senior manager, and as such, object to the specific language pertaining to the deferred income piece of the Chapter 15 Petition. I am also sending a hard copy by registered mail today.

Respectfully submitted,
George A. Foster
7 Gary Way
Alamo, CA 94507
(925) 837-0605

This communication and any files or attachments transmitted with it may contain information that is copyrighted or confidential and exempt from disclosure under applicable law. It is intended solely for the use of the individual or the entity to which it is addressed. If you are not the intended recipient, you are hereby notified that any use, dissemination, or copying of this communication is strictly prohibited. If you have received this communication in error, please notify us at once so that we may take the appropriate action and avoid troubling you further. Thank you for your cooperation. Contact information: Pacific Coast Companies, Inc. 1-916-631-6600 and ask for the e-mail administrator.



Hon. Shelley C. Chapman
United States Bankruptcy Judge
Southern District of New York
One Bowling Green
New York, NY 10004

Bracewell LLP
Jennifer Feldsher, Esq
Mark E. Dendinger, Esq
1251 Avenue of the Americas
New York, NY 10020-1100

**OBJECTIONS IN THE MATTER OF A PLAN OF COMPROMISE OR
ARRANGEMENT OF IMPERIAL TOBACCO CANADA LIMITED CHAPTER 15
PETITION –Case No. 19-10771 (SCC)**

My name is: George A. Foster

7 Gary Way

Alamo, CA 94507 U.S.A.

- 1) I am currently receiving monthly benefits earned on funds deducted from my salary as a senior manager and contributed to the Genstar Corporation Deferred Income Plan (U.S. Plan) referred to as the “DIP.” I am one of 53 former retired employees who participate in the DIP.
- 2) I understand that the purpose of placing Imperial Tobacco Canada, Ltd. (ITCAN) into Chapter 15 Bankruptcy Court in New York State is to stop creditors from seizing the tobacco held in the company’s warehouses, among other things, which would preclude the company from continuing its normal business while it negotiates a payment plan.
- 3) My objection is not with parts of the proceeding which allow the company to continue with its daily operations while a plan is worked through.
- 4) My objection is with the provision in Document #2, filed on 3/13/2019, page 6 of 12, which states: .” Pursuant to an agreement dated April 2, 1986, ITCAN guaranteed payment of certain pension and retirement obligations of its U.S. Subsidiaries.

[ITCAN Aff. P.55] During the pendency of this case, ITCAN intends to continue to fund contributions to Imasco so that its U.S. Subsidiaries can make ordinary course payments in respect of their pension and retirement plan obligations, with the exception of (i) a non-U.S. tax qualified “deferred income plan” for approximately 53 individuals who are either former senior management employees of Genstar or their surviving spouses, (ii) a non-U.S. tax qualified “supplemental executive retirement plan” for approximately 14 individuals who were either former Genstar employees or their surviving spouses, and (iii) a non-U.S. tax qualified “supplementary pension plan” for 3 individuals who were either former Genstar employees or their surviving spouses.[ITCAN] Aff. P. 55]

- 5) When we signed up for the “DIP” program, one part of the agreement in paragraph 16, “Binding Effect” stated that “The agreement shall be binding upon and inure to the benefit of the Employee or Director and Employee’s or Director’s heirs and representatives as the case may be and the Company and its successors and assigns. The Company will not consolidate with or merge into another entity or sell all or substantially all of its assets to another entity, unless such entity shall have the financial ability to discharge obligations assumed under this plan, and in fact assumes this plan and upon such assumption, Employees or Directors and Successors shall become obligated to perform all of the terms and conditions herein contained.”
- 6) It is my understanding that the Genstar Corporation took out a life insurance policy on all of the participants’ lives to help fund this program.
- 7) The “DIP” plan distributes post-retirement monthly payments earned on the amounts deducted from salary and payable to participants from age 65 to age 80. I do not have access to all the 53 DIP participants, but because of the time this program was put into effect, most of the current beneficiaries of the program are

now in their 70's--- many in their late 70's most all of whom are retired and unable to return to work. Receiving these benefits earned on the funds voluntarily deducted from their paychecks and contributed to the DIP was and is a significant part of retirement planning for participants. The financial damage and hardship resulting from the cessation of these benefits will be substantial to participants based on the amounts they voluntarily contributed to the DIP. I do not believe that the purpose of this proceeding should financially harm any retired employees participating in the DIP.

- 8) Since Imperial Tobacco has been funding Imasco's U.S. Subsidiaries in the past, and will continue to fund certain ordinary payments of retirement, etc., the funding of the DIP would not damage ITCAN, or preclude it from a Chapter 15 workout. According to the Wall Street Journal, Imperial Tobacco recorded a profit before taxes of C\$792 million last year. I believe continued payments to cover the DIP would not injure ITCAN and would prevent injury to DIP recipients.
- 9) I therefore request that during the pendency of this case and beyond ITCAN will be permitted to continue to fund contributions to Imasco for: a) the Deferred Income Plan (DIP), 53 individuals b) the Supplemental Executive Retirement Plan, 14 individuals, and c) the Supplemental Pension Plan, 3 individuals, who were either former Genstar employees or their surviving spouses. I don't see any factual or legal basis for ceasing these payments provided in any of the papers on file with the Court. To the extent that ITCAN intends to stop making payments to me under my DIP plan, I object to the Verified Petition and ask that the Court make plain that it is not ruling on the merits of my entitlement and ITCAN's obligations under the DIP plan by merely recognizing the existence of a Canadian proceeding or granting other relief to ITCAN. I believe that any determination of my rights and ITCAN's

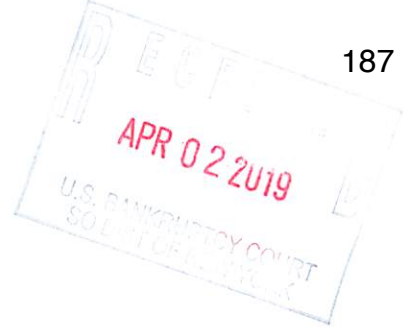
obligations should be made upon proper notice and an opportunity to respond.

Respectfully Submitted

George A. Foster

7 Gary Way

Alamo, California, 94507, USA



April 1, 2019

United States Bankruptcy Court
Southern District of New York
One Bowling Green
New York, NY 10004-1408

Attn: INTAKE

Re: Chapter 15 Case No. 19-10771 (SCC)
Imperial Tobacco Canada Limited, Debtor in a Foreign Proceeding

Dear Sir/Madam,

Enclosed please find the following:

1. Objection received from George A. Foster;
2. Objection received from Alfred A. Mueller .

The two informal objections were delivered to our office via email. We are forwarding the objections to the Clerk's Office for E-filing on the docket in the above-referenced case.

If you have any questions or require any additional information, please contact the undersigned at (212) 508-6162 or mary.kearney@bracewell.com.

Very truly yours,

Mary Kearney
Paralegal

**THIS IS EXHIBIT "G" REFERRED TO IN THE
AFFIDAVIT OF GEORGE A. FOSTER
SWORN BEFORE ME ON APRIL 15, 2019**



A COMMISSIONER FOR TAKING OATHS, ETC.

**NOTICE TO PARTICIPANTS IN
NON-QUALIFIED DEFERRED COMPENSATION PLANS**

Dear Plan Participants,

Bracewell LLP represents FTI Consulting Canada Inc. (the "**Monitor**"), the Court appointed Monitor and Foreign Representative of Imperial Tobacco Canada Limited ("**ITCAN**"). As you may know from prior court notices you have received, on March 12, 2019 (the "**Filing Date**"), ITCAN commenced a proceeding under Canada's *Companies' Creditors Arrangement Act* before the Ontario Superior Court of Justice (Commercial List) at Toronto (the "**Canadian Restructuring Proceeding**"). On March 13, 2019, the Monitor commenced a case under chapter 15 of title 11 of the United States Code in the United States Bankruptcy Court for Southern District of New York on behalf of ITCAN and in aid of the Canadian Restructuring Proceeding (the "**Chapter 15 Case**").

As described more fully in the filings in the Canadian Restructuring Proceeding, ITCAN is facing an estimated \$600 billion in alleged liabilities in pending litigation in Canada. These liabilities caused ITCAN to initiate the Canadian Restructuring Proceeding and the Monitor to commence the related Chapter 15 Case.

As part of its restructuring efforts, ITCAN has ceased funding the following legacy U.S. non-qualified deferred compensation plans (the "**Affected Plans**") as of the Filing Date:

- (i) the "deferred income plan" for individuals who are either former senior management employees of Genstar or their beneficiaries ("**GCDIP**"),
- (ii) the "supplemental executive retirement Plan" for individuals who were either former Genstar employees or their beneficiaries ("**SERP**"), and
- (iii) the "supplementary pension plan" for individuals who were either former Genstar employees or their beneficiaries ("**SPEN**").

ITCAN has represented that its decision to cease funding of the Affected Plans was based largely on the fact that the liabilities under these plans constitute unsecured claims. As payment of these claims is not necessary to ITCAN's ongoing business, although ITCAN has honored its commitment to fund these plans for more than 30 years, it is not in a position to continue to do so given the hundreds of billions of dollars in other unsecured claims asserted against it.

Should you have questions regarding this Notice, the Canadian Restructuring Proceeding or the Chapter 15 Case, please direct them to the Monitor at

Phone: 416-649-8044
Toll Free: 1-844-707-7558
Fax: 416-649-8101
Email: imperialtobacco@fticonsulting.com

Received
4/5/19

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, *et al.*

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

PROCEEDING COMMENCED AT
TORONTO

AFFIDAVIT OF GEORGE A. FOSTER
(Sworn April 15, 2019)

KAPLAN LAW
393 University Av., Suite 2000
Toronto ON M5G 1E6

Ari Kaplan (LSO #42042S)

Tel: 416 565.4656

Fax: 416 352.1544

Email: ari@kaplanlaw.ca

Counsel to the Former Genstar U.S.
Retiree Group Committee and Proposed
Representatives

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, *et al.*

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

PROCEEDING COMMENCED AT
TORONTO

**MOTION RECORD VOL. 1
(Motion returnable April 25, 2019)**

KAPLAN LAW
393 University Av., Suite 2000
Toronto ON M5G 1E6

Ari Kaplan (LSO #42042S)

Tel: 416 565.4656

Fax: 416 352.1544

Email: ari@kaplanlaw.ca

Counsel to the Former Genstar U.S.
Retiree Group Committee and the
Proposed Representatives

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

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

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

MOTION RECORD OF THE FORMER GENSTAR
U.S. RETIREE GROUP COMMITTEE

(Motion on April 25, 2019 for a Representation Order and
Reinstatement of Benefits under the Genstar U.S. Plans)

VOLUME 2 OF 2

April 17, 2019

KAPLAN LAW
393 University Av., Suite 2000
Toronto ON M5G 1E6

Ari Kaplan (LSO #42042S)
Tel: 416 565.4656
Fax: 416 352.1544
Email: ari@kaplanlaw.ca

Counsel to the Former Genstar
U.S. Retiree Group Committee
and Proposed Representatives

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

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

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TAB 5

AFFIDAVIT OF VIVIAN
BRENNAN-DOLEZAR

(APRIL 15, 2019)

Acknowledgment by Individual

State of Arizona County of Maricopa

On this 15 day of April, 20 19 before me, Kristen Williams
Name of Notary Public

the undersigned Notary Public, personally appeared Vivian Brennan-Dolezar,

Name of Signer(s)

Proved to me on the oath of _____

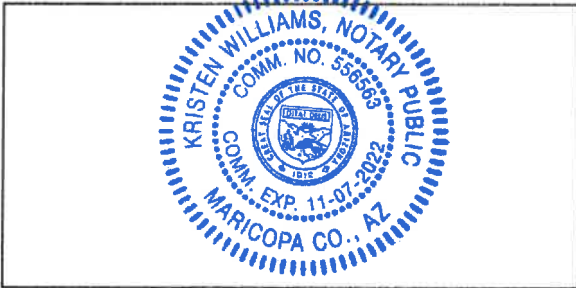
Personally known to me

Proved to me on the basis of satisfactory evidence Arizona Drivers License

(Description of ID)

to be the person(s) whose name(s) is/are subscribed to the within instrument, and acknowledged that he/she/they executed it.

WITNESS my hand and official seal.



Notary Seal

KWeller
(Signature of Notary Public)

My commission expires 11-07-2022

Optional: A thumbprint is only needed if state statutes require a thumbprint.

Right Thumbprint of Signer

Top of thumb here

For Bank Purposes Only

Description of Attached Document

Type or Title of Document

Affidavit of Vivian Brennan-Dolezar

Document Date

4/15/2019

Number of Pages

7

Signer(s) Other Than Named Above

None



FO01-00000DSG5350-01

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

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

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

AFFIDAVIT OF VIVIAN BRENNAN-DOLEZAR

(Sworn April 15, 2019)

I, VIVIAN BRENNAN-DOLEZAR, of City of Mesa, Maricopa County, Arizona,
HEREBY SWEAR:

1. My 89-year-old mother, Vivian M. Brennan, who lives with me, is a surviving spouse entitled to vested lifetime benefits under the Genstar “deferred income plan” (the “**GCDIP**”) and “supplementary pension plan” (“**SPEN**”) and we are directly affected by these CCAA Proceedings. As such, I have personal knowledge of the matters deposed to herein. Where I have relied on the other sources for information, I have stated the sources of my information and believe them to be true.

2. I swear this affidavit in support of the motion by the Former Genstar U.S. Retiree Group Committee for an order reinstating our pension payments and appointing Robert M. Brown and George A. Foster as “representatives” of beneficiaries entitled to pensions or benefits under the Genstar plans, or any person claiming an interest under or on behalf of such persons and their surviving spouses (excluding individuals who opt-out of such representation, if any) (the “**Affected Members**”).

3. I am currently 61 years old and live at 10953 E Tripoli Avenue, Mesa, Arizona, 85212 with my husband Mike Dolezar, and my Mother.

4. In May 1957, a few months before I was born, my father Harold J. Brennan began employment in the payroll department of the Flintkote Company in Rutherford, New Jersey. Flintkote was a manufacturer of dry-mixed concrete products based in Stamford, Connecticut. In the late 1970s, Flintkote was the largest manufacturer of dry-mixed concrete products in the Northeastern U.S. with sales of \$15.5 million.

5. In approximately 1982, Flintkote was purchased by Genstar, Ltd., a Canadian corporation. At that time, My Dad was transferred to Irving TX. He initially held the position Manager, Payroll and Fixed assets. As an employee of Genstar, he participated in the Genstar Retirement Plan for regular employees of the company (the “**Company Pension Plan**”).

6. After Genstar was acquired by Imasco in 1986, my Dad continued employment with the company and his office was eventually moved to Bedford TX. His post-acquisition role included helping to close various Genstar offices and he held the position Manager, Genstar Administration, and later, Director of Administration. Attached as **Exhibit “A”** is a copy of my Dad’s executed employment contract with Imasco dated March 23, 1987 denoting his salary and benefits at that time, including his enrolment in the GCDIP.

7. Attached as **Exhibit “B”** is a copy of my Dad’s executed Deferred Income Plan (U.S.) Executive Agreement dated March 26, 1987, in which he agreed to defer \$33,000 per year of his base salary toward the GCDIP. Attached as **Exhibit “C”** is a copy of my Dad’s executed agreement for Actuarial Equivalent Options for the GCDIP, dated March 27, 1987, from which my Dad elected a 60% joint and survivor annuity option payable to my Mother after his death. Attached as **Exhibit “D”** is a copy of my Dad’s executed letter dated March 27, 1987 confirming that he has been “awarded full vesting” under the GCDIP “by reason of the change of control of Genstar”.

8. In consideration for my Dad’s enrollment in the GCDIP, I understood that the company took out a “key man” insurance policy on his life to secure his benefits, based on a single paid-up premium. As part of the application for the insurance policy, he visited a doctor and released

personal health information. I have looked at my Dad's records and did not find any information or documentation concerning this policy. My understanding was that the company used his deferred income contribution to the GCDIP to pay for the insurance policy.

9. In 1988, my Dad became eligible to participate in the SPEN (the supplementary pension plan), as a supplement to his regular pension under the Company Pension Plan. Attached as **Exhibit "E"** is a copy of a letter dated July 13, 1988 in which the company "guarantee[d] an additional \$600.00 per month joint and survivor benefit to take effect immediately on retirement". With my Dad's pending retirement in 1989, he confirmed commencement of the SPEN benefits. Attached as **Exhibit "F"** is a copy of my Dad's memorandum to the company dated June 6, 1989 enclosing a copy of the July 13, 1988 letter and directing payment of this amount commencing July 1, 1989. Attached as **Exhibit "G"** is a copy of a memorandum dated June 26, 1989 from the plan actuaries, Mercer, clarifying the calculation of my Dad's monthly annuity under the GCDIP taking into account the actuarial adjustment on account of his lifetime and 60% joint and survivor annuity for my Mother.

10. As indicated in the attachment to the June 26, 1989 Mercer memorandum, entitled "Genstar Company Deferred Income Plan Personal Benefit Statement", my Dad's contribution from his own salary to the GCDIP was \$33,000 in 1987; \$40,000 in 1988; and \$19,625.01 in 1989.

11. On June 30, 1989, my Dad retired from Genstar / Imasco with no gaps in his employment, at age 60. For a subsequent three years post-retirement, he continued to work for Imasco as an independent contractor and his title was Consultant: Payroll, HR, Benefits, Records Retention and General Administration.

12. Commencing July 1, 1989, my Dad received a pension from the Company Pension Plan equal to \$587.00 per month, plus \$600.00 per month from the SPEN and \$1,823.07 from the GCDIP. (The reduced amount of the GCDIP was on account of his election of the 60% actuarially adjusted joint and survivor option).

13. In subsequent years, my Dad received various communications from time to time concerning his benefits. In December, 2003, my Dad was asked to confirm his GCDIP and SPEN amounts and election of form of payment. Attached as **Exhibit "H"** are copies of my Dad's

executed internal audit control forms dated December 19, 2003 in respect of the GCDIP and December 21, 2003 in respect of the SPEN. In both forms, my Mother was designated as the beneficiary. In addition, attached as **Exhibit “I”** is a copy of a Notice dated December 15, 2003 informing my Dad that effective December 31, 2003, Imperial Tobacco was merging the Company Pension Plan (from which my Dad was receiving his regular pension) with the Imasco Holdings Group pension plan (the **“IHGI Pension Plan”**). Other than for these administrative matters, my Dad had little if any communications with the company.

14. In 2012, my Dad passed away. Since then, my Mother has been the recipient of survivor benefits under the IHGI Pension Plan, the GCDIP and SPEN, which she has expected to receive for her lifetime. Between the time of my Dad’s passing and March, 2019, my Mother received monthly payments of \$293.50 from the Company Pension Plan (based on a 50% survivor benefit), \$600 from the SPEN and \$1,823.07 from the GCDIP.

15. On March 14, 2019, I was surprised to receive a large packet of U.S. court documents from Bracewell LLP. There was no cover letter addressed to me nor any explanation as to why we were receiving these documents. Buried inside these voluminous documents were statements that Imperial Tobacco was proposing to “stay” further payments of my Mother’s GCDIP and SPEN benefits and intended to make an exception to funding them. I found these documents confusing and unclear. For example, nowhere in the court documents does it state whether pension payments will actually cease, nor when or for how long, nor whether ITCAN intends to rely solely on existing court orders or ask the court to give specific relief exempting ITCAN from funding these benefits.

16. On March 15, 2019, I called Bracewell LLP, whose contact information was contained in the court documents. I spoke to a person who did not identify herself and was advised that someone would call me back. No one did.

17. On March 18, 2019, I telephoned Bracewell LLP again. I spoke to a lawyer who identified herself as Rachel Blumenfeld. Ms. Blumenfeld informed me that she was not aware of a particular date that pensions would cease being paid and did not know if the pensions would be paid on April 1. She informed me that ITCAN was requesting that the court grant relief from paying the pensions and advised me to seek counsel from an attorney concerning my Mother’s rights.

18. Also on March 18, 2019, I called the Monitor, FTI Consulting. I spoke to a man who identified himself as DeLoya. I asked about my Mother's pension payments and he said he would call me back. On March 20, I called DeLoya, having not heard further from him. I spoke to him and he said that he still did not have any information about whether or when the pensions will be stopped. On March 22, DeLoya called me back and advised me that it was his belief that my Mother's pension will not be paid.

19. Between March 21 and 27, I made multiple phone calls and left multiple messages with Brent Cotton of the Imasco Holdings retirement services department in Kentucky. I never received a return phone call from him. On March 25, I eventually connected with an Imasco employee in Woodland, Texas, whose name I did not obtain, and she said that she he had no information that my Mother's pension would not be paid.

20. On March 25, I telephoned my Mother's bank, BNY Mellon. I spoke to a man named Matt who said the bank had no information the pension would not be paid.

21. On March 27, 2019 I submitted an objection with the U.S. court in the Chapter 15 proceedings involving ITCAN, in which I objected to ITCAN's proposal to stay further payments of my Mother's GCDIP and SPEN benefits and its intention to make an exception to funding them. Attached hereto as **Exhibit "J"** is a copy of my objection sent on March 27 and filed with the court on March 29 (Docket 26).

22. On Monday, April 1, 2019, we noticed that my Mother's GCDIP and SPEN benefits had not been deposited into her BNY Mellon account. This was unexpected and very upsetting. I called Matt from BNY Mellon and he advised me that he was aware that the pensions were not paid but that he did not know why. He said he would call me back. Later that day, Matt called me back and gave me FTI Consulting's phone number and said he did not have any further information.

23. I also telephoned the Pension Benefits Guaranty Corporation and was advised that the GCDIP and SPEN were not covered by their agency because, unlike the IHGI Pension Plan, those plans were "non-qualifying" (i.e., not covered by pension legislation). My mother continues to receive a modest pension from the IHGI Pension Plan (formerly the Company Pension Plan), which has not been discontinued.

24. With this new information, I sent an addendum to my original objection to the U.S. court, on April 1, a copy of which is attached as **Exhibit “K”**. This document was filed with the court on April 3 (Docket 32).

25. On April 2, I received in the mail a “Notice to Participants in Non-Qualified Deferred Compensation Plans” from Bracewell LLP, dated March 27, informing me that Imperial Tobacco “has ceased funding” my Mother’s GCDIP and SPEN benefits. This Notice does not explain what it means to my Mother that ITCAN has “ceased funding” the plans as of the filing date, nor does it state that she will not receive payment of her benefits from IHGI.

26. Given the lack of information and notice about the pensions, my Mother was quite confused about why this was happening. As stated in my objections, this experience has been devastating to us. My Mother has become very anxious and distraught, especially because the pensions were not paid on April 1, only having learned about the Chapter 15 proceedings two weeks earlier and no formal written notification prior to April 2. There has been no time to make new financial arrangements for my Mother. Although she received her modest IHGI Pension on April 1, the GCDIP and SPEN account for the lion’s share of her retirement security. My Dad took very careful steps to leave my Mother with financial security were she to survive him. That is why he opted for the 60% joint and survivorship option for the GCDIP and 100% joint and survivorship option for the SPEN, with benefits for her lifetime. Now that these benefits are not being paid, her monthly income has been reduced significantly and she is forced to use her saving to meet her monthly financial obligations. Eventually, her savings will be fully depleted.

27. The loss of the GCDIP and SPEN is already having a detrimental and adverse effect on my Mother’s sense of financial and emotional security. My Mother is 89 years old and her health is declining. She has become quite frail and does not tolerate stress well. Stress usually results in her becoming visibly nervous, and suffering from insomnia and a loss of appetite. She cannot afford to lose weight. The loss of her GCDIP and SPEN benefits will significantly increase our stress levels and aggravate our sense of security and peace of mind in order to deal with these unknowns.

28. Over the past month, through the Chapter 15 filings, I have been able to connect with other other Affected Members who filed objections with the U.S. Court, including George Foster, Glen

Jones and Alfred Mueller. I have spoken to Mr. Foster multiple times in the past month regarding our common efforts and interests to preserve the Genstar pensions.

29. However, because the Monitor sought and obtained a “Seal Order” in the U.S. court, I am not able to identify or connect with other similarly-situated Affected Members. I understand from court filings that there are 59 Affected Members in total.

30. Through my efforts and inquiries, I have learned that the Former Genstar U.S. Retiree Group Committee (the “Committee”) established itself to advance our common interests and has retained Canadian legal counsel, Ari Kaplan of Kaplan Law. I have spoken to Mr. Kaplan about this motion in the CCAA Proceedings to reinstate our benefits and appoint representatives. I fully support the Committee’s efforts in this respect.

31. I also understand that Mr. Foster and Mr. Robert Brown have put themselves forward as proposed court-appointed “representatives” for the Affected Members. I fully support their appointments and am grateful that the Committee has taken this on this effort on our collective behalves.

SWORN BEFORE ME at City of Mesa,
Maricopa County, in the State of Arizona,
this 15th day of April, 2019

A Commissioner for Taking Oaths, etc.


VIVIAN BRENNAN-DOLEZAR

Acknowledgment by Individual

State of Arizona County of Maricopa

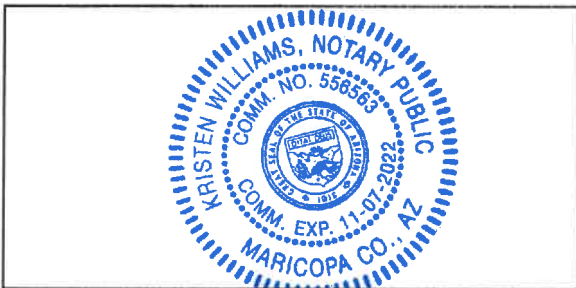
On this 15 day of April, 2019, before me, Kristen Williams
Name of Notary Public

the undersigned Notary Public, personally appeared Vivian Brennan-Dolezar
Name of Signer(s)

- Proved to me on the oath of _____
- Personally known to me
- Proved to me on the basis of satisfactory evidence Arizona Drivers License
(Description of ID)

to be the person(s) whose name(s) is/are subscribed to the within instrument, and acknowledged that he/she/they executed it.

WITNESS my hand and official seal.



Notary Seal

Kristen Williams
(Signature of Notary Public)

My commission expires 11-07-2022

Optional: A thumbprint is only needed if state statutes require a thumbprint.

Right Thumbprint of Signer
Top of thumb here

For Bank Purposes Only

Description of Attached Document

Type or Title of Document

Exhibit A

Document Date

4/15/2019

Number of Pages

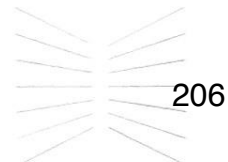
4

Signer(s) Other Than Named Above

None



FO01-00000DSG5350-01



March 23, 1987

Strictly Personal

Mr. H.J. Brennan
Manager, Corporate Payroll
and Fixed Assets Accounting
Genstar Corporation
3241 West Story Road
Irving, Texas 75038

Imasco Limited

4 Westmount Square
Montréal, Canada
H3Z 2S8

P.O. Box 6800
Montréal, Canada
H3C 3L4

(514) 937 9111
Cable: «Telimasc»
Telex: 05 24176

Dear Harold:

This will confirm our discussions and arrangements relative to your continuing employment with Imasco Limited.

Please refer to the 'Business Plan' dated March 12, 1987, which documents the specific assignment you will undertake on our behalf. You will manage the Genstar Administrative Office in Dallas as outlined in the Business Plan, and the supplement to the Business Plan dated March 23, 1987. It is understood that you will work exclusively for Imasco Limited during the tenure of this assignment.

Effective July 1, 1987, you will assume the title Manager, Genstar Administration and will report directly to the undersigned.

Compensation

- Salary at \$55,000 per annum, effective April 1, 1987.
- Salary at \$60,000 per annum, effective July 1, 1987.
- Salary subject to review, April 1, 1988.
- The Retention Bonus at 10% of salary, which took effect July 1, 1986, will be continued for the duration of this assignment.

Benefits and Pension

All benefits currently in place will be continued for the duration of this assignment, and extended beyond that date in keeping with the benefits/pension entitlements under the Imasco/Genstar Purchase Agreement and/or existing Genstar retirement provisions.

.../2

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- 2 -

Business Expenses

All normal business and travelling expenses incurred by you will be reimbursed by the Company. Copies of your 'expense reports' should be referred to the undersigned every two months.

Deferred Income Plan

You will be enrolled in the Genstar Deferred Income Plan effective immediately; details will be communicated to you by the Human Resources Department of Genstar San Francisco.

Supplementary Incentive

It is estimated that this assignment, the orderly phase-out or transfer of specific business functions to third parties, will require no less than one year and as much as two years; July, 1987 through June, 1988, or until June, 1989. For the period July 1, 1988 through June 30, 1989, you will receive full salary for each month you are actively employed on this assignment. Commencing July 1, 1988, your salary entitlement for each month (July, 1988 through June, 1989), will be paid in full at the discretion of Imasco should the assignment be successfully completed before June 30, 1989.

(Example: If the phase-down was completed to the satisfaction of Imasco by September 30, 1988, you will receive a Supplementary Incentive for the 9-month period October, 1988 through June, 1989 equal to the salary you would have earned during this period had you continued working. Any Supplementary Incentive would be payable at the time of your departure.)

All salary payments, as well as any Supplementary Incentive payable, would be extended the 10% Retention Bonus.

Separation Policy

The provisions of this policy conveyed to you in April, 1986, will be extended to you in keeping with your specific entitlements at the time of your departure from the Company.

The two main objectives of Imasco Limited are that the phase-out or transfer of these business activities will be undertaken professionally and correctly; the second objective is that the assignment be completed as quickly as possible.

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In your expanded capacity, you will be a direct representative of Imasco Limited and responsible for the implementation of the Business Plan. In this respect, we will extend to you whatever assistance we can to bring this undertaking to a successful conclusion. Good luck, Harold.

If you are in agreement with the above arrangements, would you kindly sign both copies of this letter, retain one copy for your records, and return the other to the undersigned.

Sincerely,



W.J. Harris
Senior Vice-President - Administration

WJH:cb

CONFIRMED BY:



W.J. Harris
Senior Vice-President
Administration
Imasco Limited



H.J. Brennan
Manager, Corporate Payroll &
Fixed Assets Accounting
Genstar Corporation

#18

Acknowledgment by Individual

State of Arizona County of Maricopa

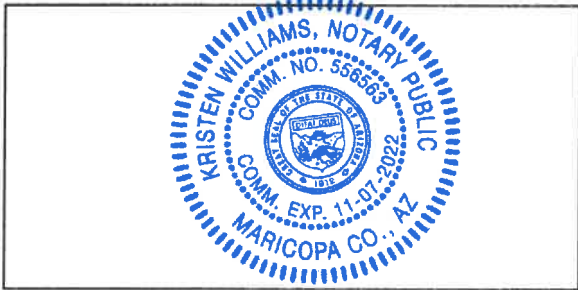
On this 15 day of April, 20 19, before me, Kristen Williams
Name of Notary Public

the undersigned Notary Public, personally appeared Vivian Brennan-Dolezar [Signature]
Name of Signer(s)

- Proved to me on the oath of _____
- Personally known to me
- Proved to me on the basis of satisfactory evidence Arizona Driver's License
(Description of ID)

to be the person(s) whose name(s) is/are subscribed to the within instrument, and acknowledged that he/she/they executed it.

WITNESS my hand and official seal.



Notary Seal

[Signature]
(Signature of Notary Public)
My commission expires 11-07-2022

Optional: A thumbprint is only needed if state statutes require a thumbprint.

Right Thumbprint of Signer
Top of thumb here

For Bank Purposes Only

Description of Attached Document

Type or Title of Document

Exhibit B

Document Date

4/15/2019

Number of Pages

7

Signer(s) Other Than Named Above

None



FO01-00000DSG5350-01

DEFERRED INCOME PLAN (U.S.)
EXECUTIVE AGREEMENT

This Deferred Income Plan Agreement (the "Agreement") is made and entered into this 26th day of March, 1987, by and between Genstar Company and its affiliates (the "Employer") and Harold J. Brennan (the "Employee").

WHEREAS, the Employee is currently employed by the Employer in an executive capacity, has been duly designated as an Employee eligible to become a participant in the Genstar Corporation Deferred Income Plan (the "Plan") and desires to become a participant;

NOW, THEREFORE, IT IS AGREED by the parties hereto, as follows:

1. Deferral of Compensation. The Employee hereby agrees to defer \$ 33,000.00 of the amount of the base salary to be earned by Employee for services rendered to the Employer during the participation period beginning on April 1, 1987 (the "Commencement Date") and either ending on March 31, 1988 (the "March 31, 1988 Period") or such other date prior to March 31, 1988 (the "Alternative Period") as elected by the Employee. The March 31, 1988 Period and the Alternative Period are herein sometimes referred to as the "Period." The Employee shall elect such Period by giving notice to the Employer. Such amount will be deferred by reducing each periodic salary payment received by Employee during such Period by an amount equal to the quotient of the amount deferred divided by the total number of periodic salary payments during such Period. If the Employee is not employed by the Employer during the entire term of such Period, only a pro rata portion of the original amount proposed to be deferred will be deferred as determined by the portion of the Period that the Employee was employed by the Company and each Pre-Retirement Payment and Post-Retirement Payment will be reduced proportionately by multiplying the amounts of such payments as shown herein by a fraction the numerator of which is the amount actually deferred and the denominator of which is the amount that would have been deferred if the Employee had been employed during the entire term of the Period.

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2. Employee Pre-Retirement Payments. Subject to the provisions of paragraphs ten (10) and eleven (11) herein, the Employer will commence pre-retirement payments (the "Pre-Retirement Payments") to the Employee in the amount of \$ N/A, in N/A equal annual installments of \$ N/A, beginning on April 1, 1994.

3. Employee Post-Retirement Payments. Subject to the provisions of paragraphs ten (10) and eleven (11) herein, the Employer will pay to the Employee as post-retirement payments (the "Post-Retirement Payments") the amount of \$ 346,215.00, in 15 equal annual installments of \$ 23,081.00 payable monthly, commencing on September 1, 1993.

4. Beneficiary Pre-Retirement Payment. In the event that the Employee dies prior to receiving all Pre-Retirement Payments in accordance with paragraph two (2) hereof, the Employer shall continue to pay to the Employee's designated beneficiary in respect of this Period, determined in accordance with paragraph six (6) herein (the "Beneficiary"), any unpaid annual payments in the same manner in which the Employee had been receiving or would have received payments.

5. Beneficiary Installment Payments. In the event the Employee dies prior to receiving all Post-Retirement Payments due Employee in accordance with paragraph three (3) hereof, the Employer shall continue to pay to the Beneficiary any unpaid annual payments in the same manner in which the Employee had been receiving or would have received payments.

6. Beneficiary Designation. The Employee may, from time to time, designate any person or persons (who may be designated contingently or successively) to whom payments are to be made if the Employee dies before receiving payment of all amounts due hereunder, by signing a form approved by the Employer. A beneficiary designation form will be effective only after the signed form is filed with the Employer's Payroll Department while the Employee is alive and will cancel all beneficiary designation forms signed and filed earlier with that Department. If the Employee fails to designate a Beneficiary as provided above, or if all designated beneficiaries of the Employee die before the Employee or before complete

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-3-

payment of all amounts due hereunder, the Employer will pay the unpaid amounts to the legal representative or representatives of the estate of the last to die of the Employee and the Beneficiary (or Beneficiaries) in accordance with paragraphs four (4), five (5) and six (6) herein.

7. Disability. If the Employee's employment with Employer is terminated by reason of the Employee becoming permanently and totally disabled, as determined in accordance with the Employer's Long-term Disability Plan in force on the date hereof, the Employee's employment with Employer, for purposes of this Agreement, shall be deemed to continue during the period of the Employee's permanent and total disability and the provisions of this Agreement shall be applicable to the Employee to the same extent as if the Employee were, in fact, employed by Employer during that period, except that the Employee shall only be entitled to defer any incentive compensation to be received during the period of the Employee's permanent and total disability.

8. Incapacity. If the Employer shall find that any person to whom any payment is payable under this Agreement is unable to care for their affairs because of illness or accident or is a minor, any payment due (unless a prior claim therefor shall have been made by a duly appointed guardian, committee, or other legal representative) may be paid by the Employer to the spouse, a child, a parent, or a brother or a sister, or to any person deemed by the Employer to have incurred expense for such person otherwise entitled to payment, in accordance with the applicable provisions herein. Any such payment shall be a complete discharge of the liabilities of the Employer under this Agreement.

9. Termination for Cause. For purposes of this Agreement the term Cause shall mean termination upon (i) the willful or continued failure by Employee to substantially perform Employee's duties with the Employer (other than any such failure resulting from Employee's incapacity due to physical or mental illness) after a written demand for substantial performance is delivered to Employee by the Chief Executive Officer of the Employer, which demand specifically identifies the manner in which the Chief Executive Officer believes that Employee has not substantially performed Employee's duties, (ii) the willful engaging by Employee in conduct which is

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-4-

demonstrably and materially injurious to the Employer or (iii) the willful rendering of any services of an advisory nature or otherwise to or becoming employed by or participating or engaging in any business competitive with any of the businesses of the Employer, or becoming the beneficial or record owner of more than one percent (1%) of the stock of any corporation engaging in any business competitive with any of the businesses of the Employer without the prior written consent of the Employer. In the event the Employer has determined that the Employee is in breach of this paragraph, the Employer may terminate this Agreement after written notice has been given to the Employee and the Employee has been given ten (10) business days to cure the breach of this paragraph and the sole amount payable to Employee pursuant to the terms of this Agreement shall be the amount that Employee has actually deferred, with interest thereon at the effective rate of five percent (5%) per annum, compounded annually, from the Commencement Date of this Period to the date of payment, less any Pre-Retirement Payments made to Employee as of such date. Payment shall be made no later than five (5) business days following termination for Cause.

10. Obligation to Make Payments. It is specifically agreed by the Employee and the Employer that the Employer's obligation to make payments to any person under this Agreement is purely contractual and that the parties do not intend that the amounts payable hereunder be held by the Employer in trust or as a segregated fund for the Employee, the Beneficiary, or other person entitled to payments hereunder. The benefits provided under this Agreement shall be payable solely from the general assets of the Employer, and neither the Employee, the Beneficiary or other person entitled to payments hereunder shall have any interest in any assets of the Employer by virtue of this Agreement. The Agreement merely grants the Employee, the Beneficiary or other person entitled to payments hereunder the contractual right to receive future benefits. Employer's obligation under the Plan shall be merely that of an unfunded and unsecured promise of Employer to pay money in the future.

11. Vesting. Employee shall be entitled to all Pre and Post-Retirement Payments in respect of this Period unless Employee has been terminated for cause as provided in paragraph nine (9).

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12. Binding Effect. This Agreement shall be binding upon and inure to the benefit of the Employee and Employee's heirs and legal representatives and the Employer and its successors and assigns. The Employer will not consolidate with or merge into another entity, or sell or transfer all or substantially all of its assets to another entity, unless such other entity shall have the financial ability to discharge obligations assumed under this Agreement and in fact assumes this Agreement and upon such assumption Employee and the successor shall become obligated to perform all of the terms and conditions herein contained.

13. Counterparts. This Agreement may be executed in two or more counterparts, any one of which shall be deemed an original without reference to the others.

14. Governing Law. The provisions of this Agreement and the rights of the parties hereunder shall be interpreted and construed in accordance with the laws of the State of California.

15. Assignment or Alienation. The right of the Employee or any other person to the payment of deferred income or any other benefits under this Agreement shall not be assigned, transferred, pledged, or encumbered except as provided herein or by will or by the laws of descent and distribution.

16. Amendment or Termination of Agreement. With the approval of the Employer's Executive Remuneration Committee, the Employer and the Employee, this Agreement may be amended by a writing signed by each of the parties hereto and given to the other party.

17. Employment Not Guaranteed. Nothing contained in this Agreement nor any action taken hereunder shall be construed as a contract of employment or as giving Employee any right to be retained in the employ of the Employer.

18. Taxes. The Employer reserves the right to withhold all applicable Federal, state and local taxes on any monies paid to Employee under the Plan.

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19. Notice. For the purpose of this Agreement, notices and all other communications provided for in this Agreement shall be in writing and shall be deemed to have been duly given when delivered or mailed by United States registered mail, return receipt requested, postage prepaid, addressed to the respective addresses set forth on the last page of this Agreement.

20. Benefit Offsets. The Employer shall not offset any amount or benefit due to the Employee or the Employee's Beneficiary under the Plan by any liability or obligation owed to the Employer by the Employee arising during or after the Employee's employment with the Employer.

IN WITNESS WHEREOF, the Employer has caused this Agreement to be executed by a duly authorized agent or representative and the Employee has hereunto affixed Employee's signature, all as of the day and year first written above.

By Paul J. Khoe
Employer

Four Embarcadero Center, Suite 3800
San Francisco, California 94111

By [Signature]
Employee

3701 WOODMONT CT
BEDFORD TX 76021
Address

#27

Acknowledgment by Individual

State of Arizona County of Maricopa

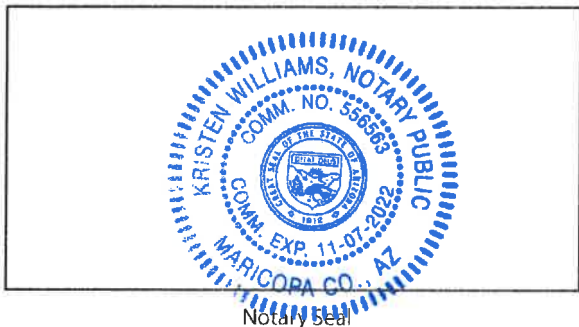
On this 15 day of April, 20 19 before me, Kristen Williams
Name of Notary Public

the undersigned Notary Public, personally appeared Vivian Brennan-Dolzar
Name of Signer(s)

- Proved to me on the oath of _____
- Personally known to me
- Proved to me on the basis of satisfactory evidence Arizona Drivers License
(Description of ID)

to be the person(s) whose name(s) is/are subscribed to the within instrument, and acknowledged that he/she/they executed it.

WITNESS my hand and official seal.



Kristen Williams
(Signature of Notary Public)

My commission expires 11-07-2022

Optional: A thumbprint is only needed if state statutes require a thumbprint.

Right Thumbprint of Signer
Top of thumb here

For Bank Purposes Only

Description of Attached Document

Type or Title of Document
Exhibit C

Document Date 4/15/2019 Number of Pages 4

Signer(s) Other Than Named Above
None



FO01-00000DSG5350-01

To: Harold J. Brennan

Date: March 27, 1987

From: Paul J. Kehoe

Subject: Actuarial Equivalent Options
for the DIP Post Retirement
Benefits

In the July, 1986 letter to you, Imasco offered actuarial equivalent options for the DIP post-retirement payments. The purpose of this memorandum is to show you the approved schedules for the actuarial equivalent amounts (See Attached). This table of factors converts the post retirement benefits into the following forms:

- 15 years of payments, similar to existing provisions but commencing as early as age 55; (For example, the normal age 65 payment of \$10,000 can be taken at age 55 for 15 years certain in the amount of \$5584.)
- Lifetime payments, commencing at age 65 or as early as age 55. Election of lifetime payments would be made at the age benefits are elected to start, not before. The participant could elect payments without survivor benefits, or with 5 or 10 years of payments guaranteed;
- Lifetime payments, with 100% or 60% continuation to the participant's survivor.
- You will note the lump sum column which contains the formula for converting the normal post-retirement benefit to a lump sum at ages ranging from 21 to 65. This option has not been formally approved by Imasco, but should you have any interest in this, please let us know and we will explore this matter with Imasco for you.

These factors, for your information, are based on the following assumptions:

- Group Annuity 1971 Mortality table, where appropriate;
- Joint & Survivor forms based on participant and spouse of the same age;
- Interest rates of 6%.

Please keep in mind that these Special Options were only extended to those DIP participants who were identified by Imasco last July. If you have any questions, please contact Paul Hoge or myself.

POH:cgw

Paul

#19

Listing of DIP Participants eligible for actuarial equivalent
options for the post-retirement benefits

James S. Hay
Eric A. Bower
Hubert B. Willman ✓
Paul O. Hoge
Ian Matheson
Laurence O. Karsh
Lynn N. MacFadyen ✓
Robert H. Stevens
Harold J. Brennan ✓
JOE BOONE

Table of
DIP Benefit Factors
(prepared by Mercer-Meidinger)

Interest rate: 6.00%

AGE	Normal Form (Lump Sum)	Early Payment	Whole Life at AGE	Whole Life 5yrs certain	Whole Life 10yrs certain	100% J&S at AGE*	60% J&S at AGE *
21	0.7720	N/A	N/A	N/A	N/A	N/A	N/A
22	0.8183	N/A	N/A	N/A	N/A	N/A	N/A
23	0.8674	N/A	N/A	N/A	N/A	N/A	N/A
24	0.9195	N/A	N/A	N/A	N/A	N/A	N/A
25	0.9747	N/A	N/A	N/A	N/A	N/A	N/A
26	1.0331	N/A	N/A	N/A	N/A	N/A	N/A
27	1.0951	N/A	N/A	N/A	N/A	N/A	N/A
28	1.1608	N/A	N/A	N/A	N/A	N/A	N/A
29	1.2305	N/A	N/A	N/A	N/A	N/A	N/A
30	1.3043	N/A	N/A	N/A	N/A	N/A	N/A
31	1.3826	N/A	N/A	N/A	N/A	N/A	N/A
32	1.4655	N/A	N/A	N/A	N/A	N/A	N/A
33	1.5535	N/A	N/A	N/A	N/A	N/A	N/A
34	1.6467	N/A	N/A	N/A	N/A	N/A	N/A
35	1.7455	N/A	N/A	N/A	N/A	N/A	N/A
36	1.8502	N/A	N/A	N/A	N/A	N/A	N/A
37	1.9612	N/A	N/A	N/A	N/A	N/A	N/A
38	2.0789	N/A	N/A	N/A	N/A	N/A	N/A
39	2.2036	N/A	N/A	N/A	N/A	N/A	N/A
40	2.3358	N/A	N/A	N/A	N/A	N/A	N/A
41	2.4760	N/A	N/A	N/A	N/A	N/A	N/A
42	2.6245	N/A	N/A	N/A	N/A	N/A	N/A
43	2.7820	N/A	N/A	N/A	N/A	N/A	N/A
44	2.9489	N/A	N/A	N/A	N/A	N/A	N/A
45	3.1259	N/A	N/A	N/A	N/A	N/A	N/A
46	3.3134	N/A	N/A	N/A	N/A	N/A	N/A
47	3.5122	N/A	N/A	N/A	N/A	N/A	N/A
48	3.7230	N/A	N/A	N/A	N/A	N/A	N/A
	3.9463	N/A	N/A	N/A	N/A	N/A	N/A
50	4.1831	N/A	N/A	N/A	N/A	N/A	N/A
51	4.4341	N/A	N/A	N/A	N/A	N/A	N/A
52	4.7002	N/A	N/A	N/A	N/A	N/A	N/A
53	4.9822	N/A	N/A	N/A	N/A	N/A	N/A
54	5.2811	N/A	N/A	N/A	N/A	N/A	N/A
55	5.5980	0.5584	0.4753	0.4716	0.4613	0.4001	0.4271
56	5.9338	0.5919	0.5136	0.5091	0.4968	0.4298	0.4598
57	6.2899	0.6274	0.5555	0.5501	0.5354	0.4621	0.4954
58	6.6673	0.6651	0.6014	0.5949	0.5772	0.4973	0.5343
59	7.0673	0.7050	0.6518	0.6440	0.6226	0.5357	0.5768
60	7.4913	0.7473	0.7073	0.6977	0.6718	0.5777	0.6234
61	7.9408	0.7921	0.7682	0.7566	0.7251	0.6238	0.6745
	8.4173	0.8396	0.8353	0.8211	0.7828	0.6743	0.7307
	8.9223	0.8900	0.9094	0.8918	0.8453	0.7299	0.7925
64	9.4576	0.9434	0.9912	0.9695	0.9129	0.7911	0.8606
65	10.0251	1.0000	1.0817	1.0547	0.9859	0.8588	0.9359

*Assumes contingent annuitant is the same age as participant.

Acknowledgment by Individual

State of Arizona County of Maricopa

On this 15 day of April, 20 19, before me, Kristen Williams
Name of Notary Public

the undersigned Notary Public, personally appeared Nivian Brennan-Dolezar [Signature]

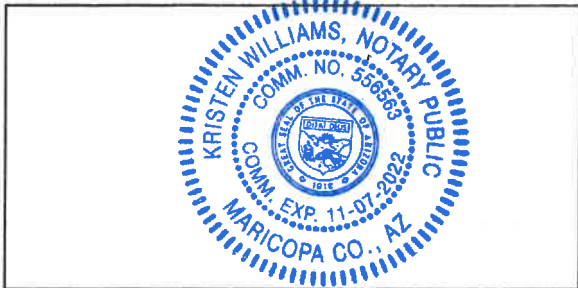
Name of Signer(s)
 Proved to me on the oath of _____

Personally known to me

Proved to me on the basis of satisfactory evidence Arizona Drivers License
(Description of ID)

to be the person(s) whose name(s) is/are subscribed to the within instrument, and acknowledged that he/she/they executed it.

WITNESS my hand and official seal.



Notary Seal

[Signature]

(Signature of Notary Public)

My commission expires 11-07-2022

Optional: A thumbprint is only needed if state statutes require a thumbprint.

Right Thumbprint of Signer

Top of thumb here

For Bank Purposes Only

Description of Attached Document

Type or Title of Document

Exhibit D

Document Date

4/15/2019

Number of Pages

5

Signer(s) Other Than Named Above

None



FO01-00000DSG5350-01

March 27, 1987

PRIVILEGED AND CONFIDENTIAL

H.J. Brennan
Manager, Corporate Payroll & Fixed Assets Accounting
Genstar Corporation
2241 West Story Road
Irving, TX 75038

Dear Harold:

Both Genstar Corporation ("Genstar") and Genstar's new parent, Imasco Limited ("Imasco"), are interested in insuring that you remain in the employ of Genstar for a period of time following the date hereof. Further, Imasco wishes to secure your agreement not to use confidential information or otherwise interfere with the businesses of Imasco and Genstar following your termination of employment.

As you know, by reason of the change of control of Genstar, you have been awarded full vesting under the Genstar Deferred Income Plan ("DIP"). Further, pursuant to a separation policy incorporated in an agreement entered into between Genstar and Imasco on April 2, 1986 in connection with such change of control (the "Separation Policy"), you are entitled to certain severance benefits upon termination. However, both the severance and vested DIP benefits due to you as a result of the change of control are limited so as not to result in an "excess parachute payment" within the meaning of Section 280G of the Internal Revenue Code ("Section 280G"). Please see the relevant plan for the precise terms of this limitation.

On July 16, 1986, Imasco sent you a letter requesting your continued services and promising to provide you, as partial compensation for such services, with full vesting under the DIP and an indemnification in the event that the Internal Revenue Service determined that you have

#28

- 2 -

received an excess parachute payment under Section 280G. In confirmation of the letter of July 16, and in consideration of your agreement to the terms set forth below and as an inducement for you to perform additional services for Imasco and Genstar, Imasco will provide you with additional benefits under the DIP and the Separation Policy as described below. If accepted by you, this letter of agreement (the "Agreement") will confirm and evidence the agreement between Imasco and you respecting the terms and conditions of your continued employment with Imasco and supersede the letter of July 16, 1986 relating to its subject matter.

1. Continued Employment. You agree to remain in the employ of Genstar until June 30, 1989 in the capacity of Manager, Genstar Administration, such employment being upon the same terms and conditions as are currently in effect with respect to you.

2. Non-Interference and Non-Disclosure of Information. (a) During the Term, you shall not, whether for your own account or for the account of any other individual, partnership, firm, corporation or other business organization (other than Imasco, Genstar or any of their respective subsidiaries or affiliates (together, the "Companies")), intentionally solicit, endeavor to entice away from any of the Companies, or otherwise interfere with the relationship of any of the Companies with, any person who is employed by or associated with any of the Companies.

(b) Except in the performance of your obligations to Imasco hereunder, you shall not, at any time during the Term or thereafter, directly or indirectly, use or permit the use of any confidential or other proprietary information of a special and unique nature and value of any of the Companies (the "Confidential Information"). You shall not reveal, divulge or make known any Confidential Information to any individual, partnership, firm, corporation or other business organization whatsoever, except with the express permission of the Board of Directors of Imasco or any duly authorized officer of Imasco.

A29

- 3 -

(c) You confirm that all Confidential Information is the exclusive property of Imasco. All business records, papers and documents kept or made by you relating to the business of any of the Companies shall be and remain the property of Imasco and shall remain in the possession of Imasco during the Term and at all times thereafter.

3. Compensation. (a) As compensation for the complete performance by you of your obligations hereunder, Imasco will provide you with benefits in addition to those currently due to you under the DIP and the Separation Policy (the "Compensation") equal to the amount by which your benefits under each of such programs has been reduced by reason of the operation of the Section 280G limitations contained in paragraph 21 of the DIP, entitled "Change in Control", and in the paragraph entitled "General" on p.4 of the Separation Policy, respectively, so that the total benefits to which you will then be entitled under the DIP, the Separation Policy and this Agreement will equal the amount of benefits that would have been payable to you under the terms of the DIP and the Separation Policy if neither program contained a Section 280G limitation.

(b) In the event that the Internal Revenue Service determines that, as a result of the Compensation or any other income received by you from the Companies, you are subject to an excise tax under Section 280G, Imasco will provide you with payments in addition to the Compensation in an aggregate amount that will result in your receipt of the same after-tax income hereunder as you would have received if no excise tax were assessed in connection with the Compensation or any other income received by you from the Companies.

4. Termination; Breach of Agreement. In the event that (i) you resign before June 30, 1989, (ii) your employment is terminated by Genstar or Imasco for cause or (iii) you materially breach the covenants contained in Section 2 hereof, you shall forfeit the

#30

- 4 -

Compensation. In the event that your employment is terminated by Genstar or Imasco without cause, you will remain entitled to the Compensation and you will be relieved of all your obligations under Sections 1 and 3 hereof. For purposes of this Agreement, termination for "cause" means termination of your employment or consultancy because of conviction of a felony or your continuous engagement in gross misconduct which materially adversely affects the financial condition of the Companies taken as a whole, after notice in writing by Genstar or Imasco requesting cessation of the same and your failure to comply with such request within a reasonable period of receipt of such notice. For purposes of this definition, no act, or failure to act, on your part shall be considered "gross misconduct" unless done, or omitted to be done, by you not in good faith and without reasonable belief that your action or omission was in the best interest of the Companies.

5. Death or Disability. In the event that your employment is terminated by reason of your death or disability, you will be treated as having been terminated without cause. For purposes of this Agreement, "disability" means your inability to perform the duties required under this Agreement due to physical or mental disability that continues for one-hundred eighty (180) consecutive days during any period of twelve (12) months, and you will be deemed terminated by reason of disability the day following the close of such 180 day period. Evidence of such disability shall be certified by a physician acceptable to both you and either Genstar or Imasco.

GENSTAR CORPORATION

BY Paul J. Kehoe
Paul J. Kehoe
Senior Vice President

ACCEPTED AND AGREED:

BY H. J. Brennan
H. J. Brennan

7/31

Acknowledgment by Individual

State of Arizona County of Maricopa

On this 15 day of April, 20 19 before me, Kristen Williams
Name of Notary Public

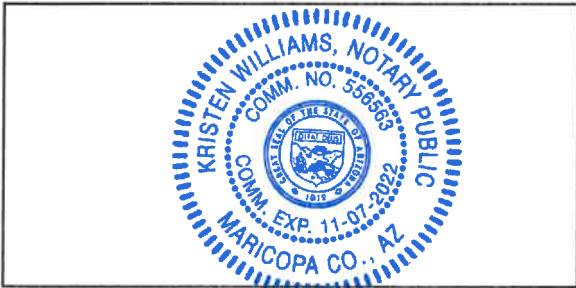
the undersigned Notary Public, personally appeared Vivian Brennan-Dolezar
WV BZ

Name of Signer(s)

- Proved to me on the oath of _____
- Personally known to me
- Proved to me on the basis of satisfactory evidence Arizona Drivers License
(Description of ID)

to be the person(s) whose name(s) is/are subscribed to the within instrument, and acknowledged that he/she/they executed it.

WITNESS my hand and official seal.



Notary Seal

Kristen Williams
(Signature of Notary Public)

My commission expires 11-07-2022

Optional: A thumbprint is only needed if state statutes require a thumbprint.

Right Thumbprint of Signer
Top of thumb here

For Bank Purposes Only

Description of Attached Document

Type or Title of Document

Exhibit E

Document Date

4/15/2019

Number of Pages

2

Signer(s) Other Than Named Above

None



FO01-00000DSG5350-01

July 13, 1988

Imasco Limited

4 Westmount Square
Montréal, Canada
H3Z 2S8

Telephone: (514) 937 9111
Telecopier: (514) 931-4651
Telex: 05 24176

Strictly Personal

Mr. Harold Brennan
Genstar Company
4001 Airport Freeway
Bedford, Texas

Dear Harold:

The Imasco Limited Compensation Committee reviewed your projected pension income July 8th, 1988, and have approved an adjustment as follows:


Based on your salary at the time Imasco acquired Genstar in 1986, and assuming annual salary increases of 6% until your normal retirement in 1993, your company pension would amount to \$2,117.41 per month. The impact of shorter service and reduced salary potential results in a company pension of \$1,541.47 per month.

As you know, these projections were prepared by Mercer Meidinger Hansen (reference their letter dated April 28, 1988 with statements; your memorandum dated May 13, 1988).

In recognition of your continuing contribution to Imasco/Genstar business activities, I am pleased to advise you that the Compensation Committee have elected to guarantee an additional \$600.00 per month joint and survivor benefit, to take effect immediately upon your retirement. This supplementary retirement income will be funded from the Deferred Income Plan (DIP).

If you have any questions concerning the above, please let me know.

Sincerely,



W.J. Harris
Senior Vice-President - Administration

WJH:ss

Acknowledgment by Individual

State of Arizona County of Maricopa

On this 15 day of April, 20 19 before me, Kristen Williams
Name of Notary Public

the undersigned Notary Public, personally appeared Vivian Brennan-Dolezar
Name of Signer(s)

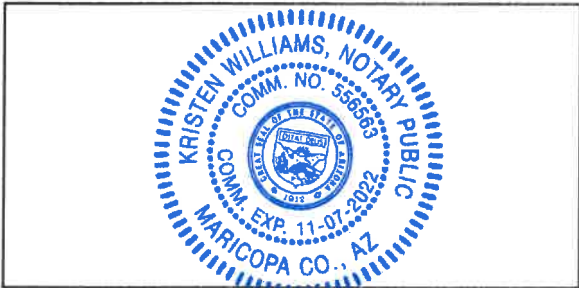
Proved to me on the oath of _____

Personally known to me

Proved to me on the basis of satisfactory evidence Arizona Drivers License
(Description of ID)

to be the person(s) whose name(s) is/are subscribed to the within instrument, and acknowledged that he/she/they executed it.

WITNESS my hand and official seal.



Notary Seal

[Signature]
(Signature of Notary Public)

My commission expires 11-07-2022

Optional: A thumbprint is only needed if state statutes require a thumbprint.

Right Thumbprint of Signer
Top of thumb here

For Bank Purposes Only

Description of Attached Document

Type or Title of Document

Exhibit F

Document Date

4/15/2019

Number of Pages

2

Signer(s) Other Than Named Above

None



FO01-00000DSG5350-01

MEMORANDUM

TO: BILL HEYBOER
FROM: H. J. BRENNAN

DATE: JUNE 6, 1989


#15

Enclosed is a letter dated July 13, 1988 written by Mr. W. J. Harris, advising me that the Imasco Compensation Committee has granted me a supplemental pension which is payable to me during my lifetime, and continues to be paid to my wife, Vivian M. Brennan, upon my death.

Please commence, as of July 1, 1989, to pay this supplemental pension of \$600.00 per month, and mail the check to my home address:

3701 WOODMONT COURT
BEDFORD, TX 76021

This payment is not subject to Social Security or State Unemployment Insurance. I elect no Federal Withholding Tax.


HJB:la
Enclosure

cc: W. J. Harris
R. Farrell
M. Barrise
HJB VT File
HJB Personnel File

Acknowledgment by Individual

State of Arizona County of Maricopa

On this 15 day of April, 2019 before me, Kristen Williams
Name of Notary Public

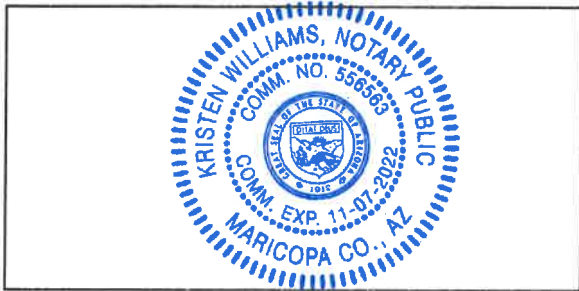
the undersigned Notary Public, personally appeared Vivian Brennan-Dolezar [Signature]

Name of Signer(s)

- Proved to me on the oath of _____
- Personally known to me
- Proved to me on the basis of satisfactory evidence Arizona Drivers License
(Description of ID)

to be the person(s) whose name(s) is/are subscribed to the within instrument, and acknowledged that he/she/they executed it.

WITNESS my hand and official seal.



Notary Seal

[Signature]
(Signature of Notary Public)

My commission expires 11-07-2022

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Right Thumbprint of Signer
Top of thumb here

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Description of Attached Document

Type or Title of Document

Exhibit G

Document Date

4/15/2019

Number of Pages

5

Signer(s) Other Than Named Above

None



FO01-00000DSG5350-01

Date: 26-Jun-89

To: Ron Farrell
Imasco Financial Corporation

From: John Atteridge *JAA*
Mercer Meidinger Hansen

Re: Harold Brennan: DIP Annuity

Harold Brennan asked me to write to you confirming his calculation of his monthly annuity under Genstar's Deferred Income Plan (DIP). I calculate his benefit as $\$4,609 \times .6660 \times .99 = \$3,038.90/\text{month}$. I understand he had calculated $\$3,038.45/\text{month}$. The remainder of this memo explains the factors I used.

First, Brennan provided his age-65, 15-year annuity amount of $\$55,308/\text{year}$, or $\$4,609/\text{month}$. He reports that he took this figure from the listings prepared by the Clark-Bardes Organization.

Second, Brennan reported that he intends to commence benefits on July 1, 1989 and he has elected the 60% Joint-and-Survivor annuity form. His birthday is August 11, 1928 (age 60 and ten months at retirement) and his wife's birthday is October 15, 1929 (one year and two months younger than he is).

Third, I referred to the attached table of adjustment factors for the DIP. Mercer Meidinger Hansen prepared this table some years ago at Paul Kehoe's request. My copy comes from Genstar's administration manuals; I don't know whose signature is at the bottom of the page. The adjustment factor for a 60% J&S Annuity payable at age 60 and 10 months is .6660, by interpolating between ages 60 and 61. (Brennan used .6659 here, which accounts for the difference in our results.)

Finally, Brennan's DIP benefit is reduced 1% because his wife is between 1 and 2 years younger than he is. I understand that the DIP procedures multiply the benefit by .99, whereas the pension plan would reduce the J&S factor by .01 (to .6560). This difference in procedure doesn't surprise me, because Genstar often administered the DIP and SERP plans differently from the pension plan. Indeed, the pension plan provides for no adjustment until the spouse is five years younger.

Please call me if I can provide any further information.

cc: Harold Brennan

JWA/bjd:brennan

A Marsh & McLennan Company

3 Embarcadero Center • Suite 1250 • P. O. Box 7440 • San Francisco, CA 94111 • 415 393-5200

AGE	Normal Form (Lump Sum)	Early Payment	Whole Life at AGE	Whole Life 5yrs certain	Whole Life 10yrs certain	100% J&S at AGE*	60% J&S at AGE *
21	0.7720	N/A	N/A	N/A	N/A	N/A	N/A
22	0.8183	N/A	N/A	N/A	N/A	N/A	N/A
23	0.8674	N/A	N/A	N/A	N/A	N/A	N/A
24	0.9195	N/A	N/A	N/A	N/A	N/A	N/A
25	0.9747	N/A	N/A	N/A	N/A	N/A	N/A
26	1.0331	N/A	N/A	N/A	N/A	N/A	N/A
27	1.0951	N/A	N/A	N/A	N/A	N/A	N/A
28	1.1608	N/A	N/A	N/A	N/A	N/A	N/A
29	1.2305	N/A	N/A	N/A	N/A	N/A	N/A
30	1.3043	N/A	N/A	N/A	N/A	N/A	N/A
31	1.3826	N/A	N/A	N/A	N/A	N/A	N/A
32	1.4655	N/A	N/A	N/A	N/A	N/A	N/A
33	1.5535	N/A	N/A	N/A	N/A	N/A	N/A
34	1.6467	N/A	N/A	N/A	N/A	N/A	N/A
35	1.7455	N/A	N/A	N/A	N/A	N/A	N/A
36	1.8502	N/A	N/A	N/A	N/A	N/A	N/A
37	1.9612	N/A	N/A	N/A	N/A	N/A	N/A
38	2.0789	N/A	N/A	N/A	N/A	N/A	N/A
39	2.2036	N/A	N/A	N/A	N/A	N/A	N/A
40	2.3358	N/A	N/A	N/A	N/A	N/A	N/A
41	2.4760	N/A	N/A	N/A	N/A	N/A	N/A
42	2.6245	N/A	N/A	N/A	N/A	N/A	N/A
43	2.7820	N/A	N/A	N/A	N/A	N/A	N/A
44	2.9489	N/A	N/A	N/A	N/A	N/A	N/A
45	3.1259	N/A	N/A	N/A	N/A	N/A	N/A
46	3.3134	N/A	N/A	N/A	N/A	N/A	N/A
47	3.5122	N/A	N/A	N/A	N/A	N/A	N/A
48	3.7230	N/A	N/A	N/A	N/A	N/A	N/A
49	3.9463	N/A	N/A	N/A	N/A	N/A	N/A
50	4.1831	N/A	N/A	N/A	N/A	N/A	N/A
51	4.4341	N/A	N/A	N/A	N/A	N/A	N/A
52	4.7002	N/A	N/A	N/A	N/A	N/A	N/A
53	4.9822	N/A	N/A	N/A	N/A	N/A	N/A
54	5.2811	N/A	N/A	N/A	N/A	N/A	N/A
55	5.5980	0.5584	0.4753	0.4716	0.4613	0.4001	0.4271
56	5.9338	0.5919	0.5136	0.5091	0.4968	0.4298	0.4598
57	6.2899	0.6274	0.5555	0.5501	0.5354	0.4621	0.4954
58	6.6673	0.6651	0.6014	0.5949	0.5772	0.4973	0.5343
59	7.0673	0.7050	0.6518	0.6440	0.6226	0.5357	0.5768
60	7.4913	0.7473	0.7073	0.6977	0.6718	0.5777	0.6234
61	7.9408	0.7921	0.7682	0.7566	0.7251	0.6238	0.6745
62	8.4173	0.8396	0.8353	0.8211	0.7828	0.6743	0.7307
63	8.9223	0.8900	0.9094	0.8918	0.8453	0.7299	0.7925
64	9.4576	0.9434	0.9912	0.9695	0.9129	0.7911	0.8606
65	10.0251	1.0000	1.0817	1.0547	0.9859	0.8588	0.9359

*Assumes contingent annuitant is the same age as participant.

GENSTAR COMPANY DEFERRED INCOME PLAN

PERSONAL BENEFIT STATEMENT

Name: HAROLD J BRENNAN

Date of Birth: 08/11/1928

SSN: 150-16-6824

*
ENTITLED TO
ACTUARIAL EQUIVALENT
OPTIONS, * *

The rates to be credited, payment amounts and all rights under the Plan are subject to the Plan provisions, the terms of which are controlling and which are subject to amendment or termination. The projections contained in this statement are based on the assumption that Plan requirements for such payments are satisfied.

Plan Date	Amount Deferred	Yield	Interim Payments	Installment Payments	Projected Total Payout
04/01/1987	\$33,000.00 /	23.40	\$.00	\$23,081.00	\$346,215.00
04/01/1988	\$40,000.08 /	23.60	\$.00	\$22,989.00	\$344,835.00
04/01/1989	\$19,625.04 /	23.80	\$.00	\$9,238.00	\$138,570.00

Projected Payment Date	Projected Payment Amounts	Annual Total
09/01/1993	\$23,081.00	
09/01/1993	\$22,989.00	
09/01/1993	\$9,238.00	\$55,308.00
09/01/1994	\$23,081.00	
09/01/1994	\$22,989.00	
09/01/1994	\$9,238.00	\$55,308.00
09/01/1995	\$23,081.00	
09/01/1995	\$22,989.00	
09/01/1995	\$9,238.00	\$55,308.00
09/01/1996	\$23,081.00	
09/01/1996	\$22,989.00	
09/01/1996	\$9,238.00	\$55,308.00
09/01/1997	\$23,081.00	
09/01/1997	\$22,989.00	
09/01/1997	\$9,238.00	\$55,308.00
09/01/1998	\$23,081.00	
09/01/1998	\$22,989.00	
09/01/1998	\$9,238.00	\$55,308.00
09/01/1999	\$23,081.00	
09/01/1999	\$22,989.00	
09/01/1999	\$9,238.00	\$55,308.00
09/01/2000	\$23,081.00	
09/01/2000	\$22,989.00	
09/01/2000	\$9,238.00	\$55,308.00
09/01/2001	\$23,081.00	
09/01/2001	\$22,989.00	
09/01/2001	\$9,238.00	\$55,308.00
09/01/2002	\$23,081.00	
09/01/2002	\$22,989.00	
09/01/2002	\$9,238.00	\$55,308.00
09/01/2003	\$23,081.00	
09/01/2003	\$22,989.00	
09/01/2003	\$9,238.00	\$55,308.00
09/01/2004	\$23,081.00	
09/01/2004	\$22,989.00	
09/01/2004	\$9,238.00	\$55,308.00
09/01/2005	\$23,081.00	
09/01/2005	\$22,989.00	
09/01/2005	\$9,238.00	\$55,308.00

GENSTAR COMPANY DEFERRED INCOME PLAN

PERSONAL BENEFIT STATEMENT

Name: HAROLD J BRENNAN

Date of Birth: 08/11/1928

SSN: 150-16-6824

The rates to be credited, payment amounts and all rights under the Plan are subject to the Plan provisions, the terms of which are controlling and which are subject to amendment or termination. The projections contained in this statement are based on the assumption that Plan requirements for such payments are satisfied.

Projected Payment Date	Projected Payment Amounts	Annual Total
09/01/2006	\$23,081.00	
09/01/2006	\$22,989.00	
09/01/2006	\$9,238.00	\$55,308.00
09/01/2007	\$23,081.00	
09/01/2007	\$22,989.00	
09/01/2007	\$9,238.00	\$55,308.00
Totals	\$829,620.00	\$829,620.00

9-1-2007
 7-1-1989

 2-18

662,382

Acknowledgment by Individual

State of Arizona County of Maricopa

On this 15 day of April, 20 19 before me, Kristen Williams
Name of Notary Public

the undersigned Notary Public, personally appeared Vivian Brennan-Dolezar
Vi B. Z

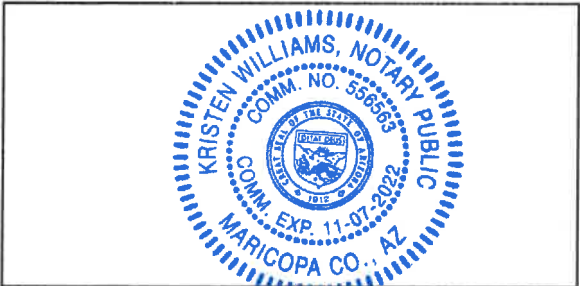
Name of Signer(s)
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Personally known to me

Proved to me on the basis of satisfactory evidence Arizona Drivers License
(Description of ID)

to be the person(s) whose name(s) is/are subscribed to the within instrument, and acknowledged that he/she/they executed it.

WITNESS my hand and official seal.



Notary Seal

Kristen Williams
(Signature of Notary Public)

My commission expires 11-07-2022

Optional: A thumbprint is only needed if state statutes require a thumbprint.

Right Thumbprint of Signer
Top of thumb here

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Description of Attached Document

Type or Title of Document
Exhibit H

Document Date 4/15/2019 Number of Pages 3

Signer(s) Other Than Named Above
None



FO01-00000DSG5350-01

(845) 735-0839
Telecopier: (845) 735-2251

TO: Genstar Deferred Income Plan Participant

As part of an internal audit control program, we would ask that you please confirm the following information relating to payment of your Genstar Deferred Income Plan ("DIP") benefit. If there is an error, please correct it, sign the form where indicated and return to this office in the envelope provided. If the information is accurate, please sign the form where indicated and return to this office in the envelope provided. A timely response to this request is very much appreciated. Thank you for your cooperation.

Name: Harold Brennan

SS #: 150-16-6824

Date of Birth: 8/11/28

DIP Election
(Form of Payment): 60% Joint and Survivor Annuity

Annual Amount: \$36,461.40

Beneficiary's Name: Vivian Brennan

Beneficiary's SS #: 152-20-8904

Beneficiary's Date of Birth: 10/15/29

Payment Start Date: 7/1/89

Payment End Date: At death - 60% to Beneficiary for Life

Unless otherwise noted by correction, the information above is accurate.


Signature

Date: 12-19-03

TO: Genstar Supplemental Retirement Plan Participant

As part of an internal audit control program, we would ask that you please confirm the following information relating to payment of your Genstar Supplemental Retirement Plan ("SRP") benefit. If there is an error, please correct it, sign the form where indicated and return to this office in the envelope provided. If the information is accurate, please sign the form where indicated and return to this office in the envelope provided. A timely response to this request is very much appreciated. Thank you for your cooperation.

Name: Harold Brennan

SS #: 150-16-6824

Date of Birth: 8/11/28

SRP Election
(Form of Payment): 100% Joint & Survivor Annuity

Annual Amount: \$7,200.00

Beneficiary's Name: Vivian Brennan

Information
to be
added
to file;
please
provide


Beneficiary's SS #: 152-20 8904

Beneficiary's Date of Birth: 10-15-1929

Payment Start Date:

Payment End Date:

Unless otherwise noted by correction, the information above is accurate.


Signature

Date: 12-21-03

Acknowledgment by Individual

State of Arizona County of Maricopa

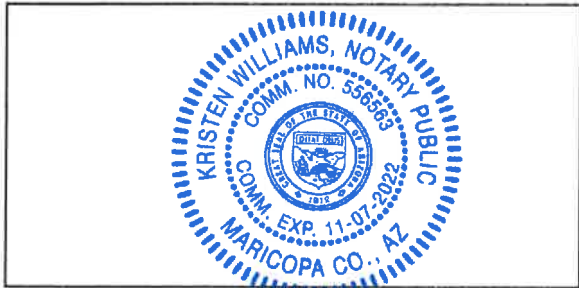
On this 15 day of April, 20 19 before me, Kristen Williams
Name of Notary Public

the undersigned Notary Public, personally appeared Vivian Brennan-Dolezar
Name of Signer(s)

- Proved to me on the oath of _____
- Personally known to me
- Proved to me on the basis of satisfactory evidence Arizona Drivers License
(Description of ID)

to be the person(s) whose name(s) is/are subscribed to the within instrument, and acknowledged that he/she/they executed it.

WITNESS my hand and official seal.



Notary Seal

Kristen Williams
(Signature of Notary Public)

My commission expires 11-07-2022

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Exhibit I

Document Date 4/15/2019 Number of Pages 2

Signer(s) Other Than Named Above
None



FO01-00000DSG5350-01

NOTICE

**TO: Consolidated Genstar Company and
Affiliated Companies Retirement Plan Participants**

This letter is to inform you that the Consolidated Genstar Company and Affiliated Companies Retirement Plan (the "Genstar Plan") sponsored by ITL (USA) Limited will be merged with and into the Imasco Holdings Group, Inc. and Participating Affiliates Retirement Plan, effective December 31, 2003.

The merger of the plans will allow ITL (USA) Limited and Imasco Holdings Group, Inc. to consolidate the administrative operations of the plans. However, the benefit formula applicable to you and the benefits that you have accrued under the Genstar Plan will not change as a result of the plan merger.

Following the plan merger, your retirement plan will be known as the Imasco Holdings Group, Inc. and Participating Affiliates Retirement Plan (the "Imasco Plan"), and ITL (USA) Limited will be a participating employer under the Imasco Plan. You will notice this change on your retirement check, benefit statements and other plan communications beginning in 2004.

Please contact this office at the above address or phone number if you have any questions.

Genstar Benefits Department
December 15, 2003

Acknowledgment by Individual

State of Arizona County of Maricopa

On this 15 day of April, 20 19 before me, Kristen Williams
Name of Notary Public

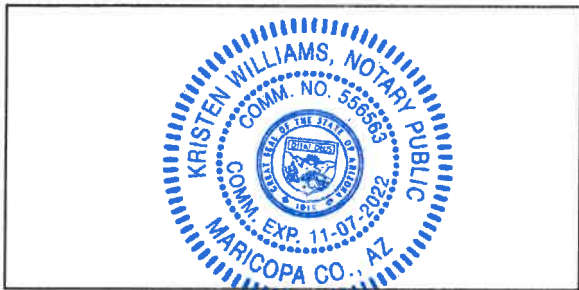
the undersigned Notary Public, personally appeared Vivian Brennan-Dolezar [Signature]

Name of Signer(s)

- Proved to me on the oath of _____
- Personally known to me
- Proved to me on the basis of satisfactory evidence Arizona Drivers License
(Description of ID)

to be the person(s) whose name(s) is/are subscribed to the within instrument, and acknowledged that he/she/they executed it.

WITNESS my hand and official seal.



Notary Seal

[Signature]

(Signature of Notary Public)

My commission expires 11-07-2022

Optional: A thumbprint is only needed if state statutes require a thumbprint.

Right Thumbprint of Signer
Top of thumb here

For Bank Purposes Only

Description of Attached Document

Type or Title of Document

Exhibit J

Document Date

4/15/2019

Number of Pages

4

Signer(s) Other Than Named Above

None



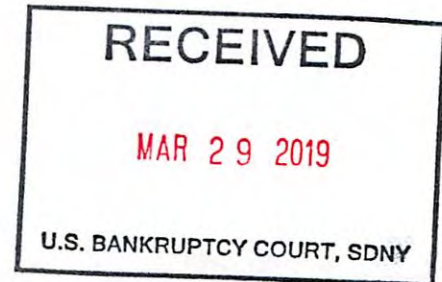
FO01-00000DSG5350-01

Vivian M Brennan (creditor)
Vivian Brennan-Dolezar (Representative)
10953 E Tripoli Avenue
Mesa AZ 85212

March 27, 2019

Honorable Shelley C. Chapman
United States Bankruptcy Judge
United States Bankruptcy Court
One Bowling Green
New York, New York 10004

Case No. 19-10771 (SCC)
Imperial Tobacco Canada Limited
Debtor in a Foreign Proceeding



Dear Honorable Shelley C. Chapman,

The purpose of this letter is to file an objection against Imperial Tobacco Canada Limited's request for relief from paying 3 different types of pensions to former Genstar employees. The pensions are (1) non-US tax qualified Deferred Income Plan, (2) non-US tax qualified Supplemental Executive Retirement Plan and (3) non-US tax qualified Supplementary Pension Plan. I am filing this objection on behalf of my mother, Vivian M Brennan (creditor) with her full permission and approval, (please see her approval and signature on the last page).

Please allow me the opportunity to give some background. On March 11 and 14, I received a total of 11 packets of court documents from Bacewell LLP. A cover letter was not included and had no indication why I was receiving the documents. In reading through the documents, it appeared that Imperial Tobacco Canada Limited was requesting relief to no longer fund my mother's pensions. After speaking with an associate at Bracwell LLP, my worst fears were confirmed, Imperial Tobacco Canada Limited were in fact requesting relief to not pay her pension. This was devastating to an 89 year old woman that is financially dependent on her pension. I was advised to seek advice of an attorney.

I contacted the hotline of FTI Consulting, Canada and spoke with DeLoya on March 21, 2019 and he said he would get back to me with information. On March 25, 2019 he contacted me and informed me that her pension would cease to be paid immediately. So, her April 1, 2019 pension would not be paid. This very short notice gave no time for preparation for loss of income.

During the period of March 11 – March 26, 2019, I have made/received 61 phone calls and numerous e-mails to include attorneys, NY Bar Association, FTI Consulting and Bracewell LLP. I tried numerous time to contact IMASCO retiree Center, Brent Cotton (502-371-1704) however, he never returned calls. During this time I spoke with numerous attorneys. Because of the nature of the International Bankruptcy, I was not able to retain an attorney for my mother. While I was referred along to other specialized attorneys and given some advice, in the end I was told that it would be cost prohibited to obtain counsel and no one would accept the case regardless. The names of the other retirees that are



Page 2

March 27, 2019

Case No. 19-10771(SCC)
Imperial Tobacco Canada Limited
Vivian M Brennan (Creditor)

affected by Imperial Tobacco Canada Limited's inability to honor their financial obligation, are not being released. This prohibits retiree's affected by this bankruptcy to obtain joint representation.

The court documents indicate that IMASCO is willing to fund some types of pensions but not others. It is unclear how or why this decision was made. Fifty Three (53) elderly retirees are negatively affected financially because of IMASCO's decision.

I have attached some documents that my father, Harold J Brennan (deceased 2012) signed in regards to the 2 pension that my mother has been receiving. (1) Deferred Income Plan (2) Supplementary Pension Plan. My father opted for the 60% joint and survivor benefit for the Deferred Income Plan. The Supplementary Pension Plan was a 100% joint and survivor benefit. The documentation provided indicates that the pension will be paid for life. His pensions were set up as such to secure my mother's financial security after his death and until her death. Now at the age of 89, her financial security is in a precarious situation.

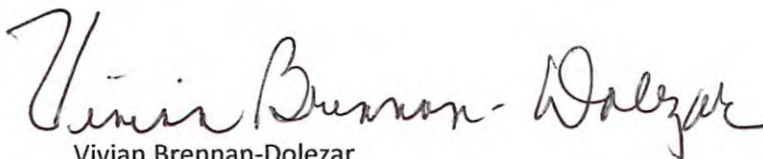
In summary

- My mother, Vivian M Brennan, will lose here source of income at the age of 89
- We received very short notice to financially plan for loss of pension/income
- There is no representation for the retirees affected by the loss of pension
- IMASCO has not responded to repeated request for discussion

I am asking you to please deny the request for the order of relief that Imperial Tobacco Canada Limited is seeking. Relief will give them the ability to renege on their financial responsibility to honor payment of these pensions. If I am interpreting the court document correctly, any assets of Imperial Tobacco Canada Limited will be used to pay corporate creditors. Imperial Tobacco Canada Limited's inability to pay large corporations will not bankrupt or cause extreme financial hardship to them as it will cause financial hardship for 53 elderly retirees that depend on their pensions.

I respectfully request your assistance in this matter.

Regards,



Vivian Brennan-Dolezar
(602) 295-0472
vdolezar@gmail.com

Page 3

March 27, 2019

Case No. 19-10771(SCC)
Imperial Tobacco Canada Limited
Vivian M Brennan (Creditor)

I, Vivian M Brennan, have given my daughter Vivian Brennan-Dolezar permission to speak, correspond or make any and all decisions on my behalf, regarding the Bankruptcy trial of Imperial Tobacco Canada Limited.

Vivian M. Brennan 03/27/2019
Vivian M Brennan

CC: Bracewell LLP
Jennifer Feldsher, Esq.
1251 Avenue of the Americas
New York, NY 10020-1100

Acknowledgment by Individual

State of Arizona County of Maricopa

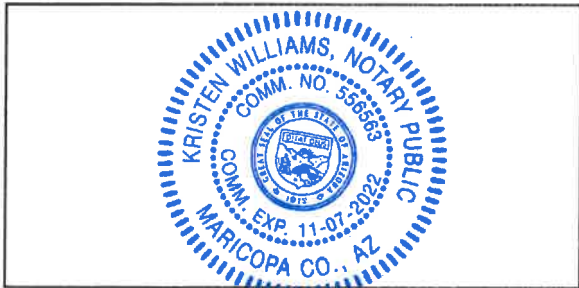
On this 15 day of April, 2019 before me, Kristen Williams
Name of Notary Public

the undersigned Notary Public, personally appeared Vivian Brennan Delezar
Name of Signer(s)

- Proved to me on the oath of _____
- Personally known to me
- Proved to me on the basis of satisfactory evidence Arizona Drivers License
(Description of ID)

to be the person(s) whose name(s) is/are subscribed to the within instrument, and acknowledged that he/she/they executed it.

WITNESS my hand and official seal.



Notary Seal

[Signature]
(Signature of Notary Public)

My commission expires 11-07-2022

Optional: A thumbprint is only needed if state statutes require a thumbprint.

Right Thumbprint of Signer
Top of thumb here

For Bank Purposes Only

Description of Attached Document

Type or Title of Document

Exhibit K

Document Date

4/15/2019

Number of Pages

4

Signer(s) Other Than Named Above

None



FO01-00000DSG5350-01

Vivian Brennan (Creditor)
Vivian Brennan-Dolezar, Representative,
10953 E Tripoli Avenue
Mesa, AZ 85212

April 1, 2012

Honorable Shelley C. Chapman,
United States Bankruptcy Judge
United States Bankruptcy Court
One Bowling Green
New York, New York 10004

Case No. 19-10771(SCC)
Docket #26
Imperial Tobacco Canada Limited
Debtor in Foreign Proceedings



Dear Honorable Shelley C. Chapman,

On March 27, 2019 I wrote to you to requesting to file an objection against Imperial Tobacco Canada Limited's request for relief from paying 3 different types of pension to former Genstar employees. I respectfully request that you accept this letter as an addendum to my original letter of objection, Case #19-10771, Docket #26.

As of April 1, 2019, I have not received any written correspondence from Imperial Tobacco Canada Limited or their Representative's informing retirees of their decision to discontinue pension payments. On March 23, 2019 I had a conversation with DeLoya of FTI Consulting (Canada) when he stated that the April 1, 2019 pensions would not be paid. Since the time of my conversation with DeLoya on March 23 2019, I was informed that the hearing for relief was scheduled for April 15, 2019. Although the hearing has not taken place, Imperial Tobacco Canada Limited did not pay the April 1, 2019 pension. Their unwillingness to inform written intent of non-payment of pensions exhibits the unethical conduct of Imperial Tobacco Canada Limited, indicating their disregard and disrespect for their retired employees. The Project Redux Pension/Benefit Summary Sheet Overview, 19-10771, DOC 5-1, Entered 3/13/2019, Exhibit A Volume 1, Page 508 of 925 indicates that funding for the 3 pension types as of 12/31/2017 is estimated to be USD\$32M. I respectfully request that you rule that the funds should not be used to pay corporate creditors but be used by Imperial Tobacco Canada Limited to continue to meet their financial obligations of making pension payments to the 53 retirees.

Thank you for your time and attention to this matter.

Sincere Regards,

Vivian Brennan-Dolezar
(602) 295-0472
vdolezar@gmail.com



Page 2

Case No. 19-10771(SCC)

Docket #26

Imperial Tobacco Canada Limited

Debtor in Foreign Proceedings

I, Vivian M Brennan, have given my daughter Vivian Brennan-Dolezar permission to speak, correspond or make any and all decisions on my behalf, regard the Bankruptcy trial of Imperial Tobacco Canada Limited.

Vivian M. Brennan 04/01/2019
Vivian M Brennan

CC: Bracewell LLP

Jennifer Feldsher, Esq

1251 Avenue of the Americas

New York, New York 10020-1100

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, *et al.*

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

PROCEEDING COMMENCED AT
TORONTO

**AFFIDAVIT OF VIVIAN BRENNAN-
DOLEZAR**

(Sworn April 15, 2019)

KAPLAN LAW
393 University Av., Suite 2000
Toronto ON M5G 1E6

Ari Kaplan (LSO #42042S)

Tel: 416 565.4656

Fax: 416 352.1544

Email: ari@kaplanlaw.ca

Counsel to the Former Genstar U.S.
Retiree Group Committee and Proposed
Representatives

TAB 6

AFFIDAVIT OF
RICHARD D. PATERSON

(APRIL __, 2019)

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

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

AFFIDAVIT OF RICHARD D. PATERSON

(Sworn April __, 2019)

I, RICHARD D. PATERSON, of Town of Hillsborough, San Mateo County, California,
HEREBY SWEAR:

1. I am the former Senior Vice President and Chief Financial Officer of Genstar Corporation. I am entitled to vested benefits and payments under the Genstar “deferred income plan” (“**GCDIP**”) and “supplemental executive retirement plan” (“**SERP**”) and am directly affected by these CCAA Proceedings. I am also the co-instructing client to Kaplan Law on this matter. As such, I have personal knowledge of the matters deposed to herein. Where I have relied on the other sources for information, I have stated the sources of my information and believe them to be true.

2. I swear this affidavit in support of the motion by the Former Genstar U.S. Retiree Group Committee, of which I am co-founder, for an order reinstating our pension payments and appointing Robert M. Brown and George A. Foster as “representatives” of beneficiaries entitled to pensions or benefits under the Genstar plans, or any person claiming an interest under or on behalf of such persons and their surviving spouses (excluding individuals who opt-out of such representation, if any) (the “**Affected Members**”).

A. Background

3. I am currently 76 years old and live at 530 West Santa Inez Ave., Hillsborough, California 94010. I am a citizen of Canada and a legal resident of the United States of America, where I have lived since 1979.

4. In 1964, I obtained a bachelor of commerce degree from Concordia University in Montreal and, subsequently, a Chartered Accountant's certificate. From 1964 to 1967, I worked as an accountant for McDonald Currie (now PwC), in their Montreal office.

5. In 1967, I joined Genstar Corporation in Montreal as Corporate Accountant. In 1970, I was transferred to a U.S. subsidiary in New York City. In 1974, I returned to Montreal as company Comptroller. In 1979, I moved from Montreal to San Francisco with a number of other corporate executives when Genstar moved its head office to that location. In 1983, I was appointed Senior Vice President and Chief Financial Officer.

6. Genstar's origins date back to 1950 when Société générale de Belgique established a presence in Canada to invest in natural resources, under the name Sogemines Ltd. The company added to its portfolio by establishing concerns in chemicals, fertilizer and glass container manufacturing and cement operations, resulting in business operations in Montreal, Winnipeg, Edmonton, Calgary and Vancouver. Between 1967 and 1973, Sogemines engaged in a number of transactions with BACM Industries, owned by the Simkin family in Winnipeg. In 1973, BACM was sold to Sogemines and the company continued as Genstar Corporation. In the 1970s, the company started operations in the U.S. and, in 1979, moved its main office to San Francisco. By the early 1980s, Genstar was a diversified company dealing in building materials, land and real estate development, and financial services.

7. In 1981, under the leadership of its co-CEOs, president Ross Turner and chairman Angus MacNaughton, Genstar acquired Canada Permanent Mortgage Co. In 1985, the company acquired Canada Trust Mortgage Co. and merged it with Canada Permanent under the name Canada Trustco, becoming the fourth-largest financial services company in Canada.

B. Introduction of Genstar U.S. Plans

8. As Genstar's Senior VP and CFO during the time that the GCDIP and SERP were developed and implemented, as well as during Genstar's acquisition by Imasco, I have direct knowledge and recollection of these matters.

9. In 1985, Genstar retained independent consulting firm Clark/Bardes Organization, Inc. to design executive compensation and retirement plans that were compliant with U.S. tax laws for its senior U.S. employees and management. This resulted in the GCDIP and SERP. These plans were designed to be at least cost/revenue neutral to Genstar. In the case of the GCDIP, an employee contributed their own funds and could defer as much as 50% of their annual compensation in consideration for benefits under the plan. In the case of the SERP, Genstar offered this as an incentive to senior executives to stay with the company and to attract new hires of senior executives to the company.

10. The GCDIP and SERP, as well as a "supplementary pension plan" ("**SPEN**") (together the "**Genstar U.S. Plans**") were available to designated senior employees, executives and other management employees of Genstar and related entities in the United States. Under these plans, employees earned benefits in the form of supplementary pensions and deferred compensation.

11. As a designated executive employee, I participated in the GCDIP and SERP. I also was a member of the Genstar Retirement Plan for regular employees of the company (the "**Company Pension Plan**"). I participated to extent I could in those plans including making contributions from my deferred income to the GCDIP.

12. In consideration for my enrollment in the GCDIP and SERP, I understood that the company took out a "key man" insurance policy on my life to secure my benefits. Under both the GCDIP and SERP, Genstar purchased single-premium life insurance policies on participants' lives, using the employee's own deferred income on account of the GCDIP, or corporate funds on account of the SERP, to pay for the premiums. Genstar was the owner and beneficiary of the life insurance policies and they were purchased as security for the benefits and to fund the payments under the GCDIP and SERP. As part of the application for the insurance policy, I visited a doctor and released personal health information. I have looked at my records and did not find any information

or documentation concerning this policy. My understanding was that the company used my deferred income contribution to the GCDIP to pay for the insurance policy.

C. Imasco Acquisition; Guarantee and Vesting under Genstar U.S. Plans

13. Pursuant to an agreement dated April 2, 1986, Genstar was acquired by Imasco Limited of Montreal for \$1.9 billion in an all-cash purchase of its shares. The transaction was the third-largest takeover in Canadian history. As part of the acquisition, Imasco resolved to dispose of Genstar's non-trust company assets. Attached as **Exhibit "A"** is a copy of an internal Genstar memorandum issued on or about April 11, 1986 advising Genstar departments of Imasco's news release announcing its intention to dispose of Genstar non-trust company assets.

14. On April 16, 1986, Genstar corporate staff were advised that Imasco's acquisition will only include its financial services units and Imasco agreed to provide a "safety net" for corporate employees under provisions of an "Employee Agreement and Severance Policy". Attached as **Exhibit "B"** is a copy of the April 16, 1986 memorandum with enclosed "Summary of Employee Relations Agreement". Section 8 of that document (under the heading "Guarantee"), provides that "Imasco guarantees in full all obligations of Genstar and its subsidiaries under the supplemental plans and the Deferred Income Plan". I understood this guarantee to cover, at the very least, the GCDIP and the SERP.

15. The Genstar U.S. Plans, and the GCDIP and SERP in particular, provided that employees vest with full benefits in the event there was a change in company control. While I do not have a copy of these plan text, I am aware that the GCDIP provides, at para. 17, that "in the event of a change in control prior to Employee vesting ... Employee will become fully vested in all rights hereunder". Starting in late 1986, many employees, including myself, received letters from the company confirming that we have been "awarded full vesting" under the Genstar U.S. Plans "by reason of the change of control of Genstar". As a result, and pursuant to the agreement with Imasco dated April 2, 1986, all benefits under the Genstar U.S. Plans were vested and guaranteed by Imasco (the "**Guarantee**").

16. On June 17, 1986, Genstar corporate staff were provided with details of the company's "Program for Corporate Personnel", attached hereto as **Exhibit "C"**. This program addressed

employees transitioned from Genstar employment in conjunction with the Imasco acquisition and divestment of Genstar assets. I continued to work for Genstar to assist in winding up its remaining operations. I left employment with Genstar on June 30, 1987, after a twenty-year career with the company.

17. After I left Genstar, I founded Genstar Investment Corporation (later renamed Genstar Capital LLC) with former Genstar CEOs Angus MacNaughton and Ross Turner, as well as former Genstar executive vice president John A. West.

18. In 2000, British American Tobacco (“**BAT**”) owned 41.5% of Imasco's shares. Imasco was restructured and sold Canada Trustco to Toronto-Dominion Bank. BAT also purchased the remaining 58.5% shares in Imasco and amalgamated the company with Imperial Tobacco Canada Limited (“**ITCAN**”). As a result of these restructurings, ITCAN became the guarantor of benefits payable under the Genstar U.S. Plans, in accordance with the Guarantee.

19. I understand from court filings that Genstar Corporation is currently a wholly-owned Canadian subsidiary of ITCAN and a dormant Canadian company, and ITCAN considers the Genstar U.S. Plans to be “legacy obligations”. Until last month, ITCAN guaranteed the benefits to Affected Members by making monthly payments to its U.S. subsidiary, Imasco Holdings Group, Inc. (“**IHGI**”). IHGI is a largely dormant Delaware corporation that holds certain of ITCAN’s “legacy obligations”.

20. In subsequent years, I received various communications from time to time concerning my benefits. I have not kept this correspondence. I am aware that in approximately December, 2003 Imperial Tobacco merged the Company Pension Plan with the Imasco Holdings Group pension plan (the “**IHGI Pension Plan**”). Other than for these administrative matters, I had little if any communications with the company.

21. Commencing in October 2007, I began to receive monthly pensions from the IHGI Pension Plan, and the GCDIP and SERP.

D. ITCAN's Insolvency and Inadequate Notice of Cessation of Payments

22. I understand from court filings that on:

- (a) March 12, 2019, the Applicants initiated these CCAA Proceedings and obtained the Initial Order. Schedule "B" to the Initial Order lists all "ITCAN Subsidiaries", which includes Genstar and IHGI; and on
- (b) March 13, 2019, the Monitor on behalf of ITCAN as debtor filed a petition for relief under Chapter 15 of the U.S. Bankruptcy Code (the "**Chapter 15 Proceeding**") in the United States Bankruptcy Court in the Southern District of New York (the "**U.S. Court**").

23. On March 14, 2019, I was surprised to receive a large packet of U.S. court documents from Bracewell LLP (the ("**Initial U.S. Petition Documents**"). There was no cover letter addressed to me nor any explanation as to why I was receiving these documents. Attached as **Exhibit "D"** is a copy of the complete package of Initial U.S. Petition Documents that I received (being Dockets 1, 2, 3, 10, 13, 14 and 15 filed in the U.S. Court).

24. Buried in the voluminous Initial U.S. Petition Documents are two references to the Genstar U.S. Plans (in the "**First Thauvette Affidavit**"¹), specifically, that ITCAN:

- (a) "intends to continue to fund contributions [to IHGI so it] can make ordinary course payments in respect of their pension and retirement plan obligations, with the exception of" the Genstar U.S. Plans²; and
- (b) "proposes that any further payments with respect to these obligations be stayed pursuant to the Initial Order"³.

25. I found these Initial U.S. Petition Documents confusing and unclear. For example, nowhere in the court documents does it state whether pension payments will actually cease, nor when or for

¹ Affidavit of Eric Thauvette Sworn March 12, 2019.

² First Thauvette Affidavit, para. 55.

³ First Thauvette Affidavit, para. 56

how long, nor whether ITCAN intends to rely solely on existing court orders or ask the court to give specific relief exempting ITCAN from funding these benefits.

E. The Former Genstar U.S. Retiree Group Committee

26. In late March, I co-established the Former Genstar U.S. Retiree Group Committee (the “Committee”) to protect the common interests of Affected Members in the CCAA and Chapter 15 Proceedings. The Committee is a steering committee currently comprised of myself and the following additional former Genstar executives and officers:

- (a) Angus A. MacNaughton, former Genstar co-CEO and chairman;
- (b) Ross J. Turner, former Genstar co-CEO and president; and
- (c) J. Ernest Hartz, former Senior Vice President and General Counsel; and

27. The Committee’s mandate and activities include communicating with Affected Members, retaining and instructing counsel, appearing in court, making submissions and bringing motions for the benefit and protection of the Affected Members, including the within motion, and as may further come to its attention.

28. On March 29, I contacted and retained Canadian counsel, namely Ari Kaplan of Kaplan Law, to represent the Committee and Affected Members in the CCAA Proceedings. Mr. Kaplan immediately sent a letter to ITCAN’s counsel and the Monitor’s counsel objecting to the “proposal” to “stay” payments under the Genstar U.S. Plans. A copy of Mr. Kaplan’s March 29 letter is contained in the Committee’s first Notice of Objection, filed on April 1⁴.

29. I am advised by Mr. Kaplan that neither ITCAN’s counsel nor the Monitor’s counsel advised him on March 29 nor over the weekend that, in fact, ITCAN had already stopped the Affected Members’ benefits⁵.

30. On April 1 at 9:01 a.m., the Committee served a Notice of Appearance and a Notice of Objection to the service list and applied to the Monitor to join the service list. Mr. Kaplan also requested copies of all court materials served prior to then that were not yet available on the

⁴ Book of Objections, Tab 2(A) at pp. 20-22.

⁵ Book of Objections, Tab 3 at p. 37.

Monitor's website. A copy of Mr. Kaplan's request to counsel, at 11:40 a.m., is contained in the Committee's second Notice of Objection, filed on April 3. Mr. Kaplan also wrote:

It is not clear from the initial application materials whether the company intends to rely on para. 7 of the Initial Order [to cease funding the Genstar U.S Plans] or seek specific orders and remedies from the court with respect to the plans.⁶

31. I am advised by Mr. Kaplan that he did not receive a response to that email⁷.

32. In the early afternoon of April 1 (Pacific time), I was contacted by some Affected Members who were confused and distressed after noticing that their Genstar U.S. Plan benefits had not been deposited into their bank accounts that day, as was the case on the first day of every prior month, for some people, for up to 30 years. I checked my bank account and confirmed that no payments had been deposited. This was very upsetting to myself and others.

33. On April 1, late in the day, I received in the mail a "Notice to Participants in Non-Qualified Deferred Compensation Plans" from Bracewell LLP, dated March 27 (the "**Cessation Notice**"), informing me that ITCAN "has ceased funding" my GCDIP and SERP benefits:

As part of its restructuring efforts, ITCAN has ceased funding the following legacy qualified deferred compensation plans (the "Affected Plans") as of the Filing Date:

(i) the "deferred income plan" for individuals who are either former senior management employees of Genstar or their beneficiaries ("GCDIP"),

(ii) the "supplemental executive retirement Plan" for individuals who were either former Genstar employees or their beneficiaries ("SERP"), and

(iii) the "supplementary pension plan" for individuals who were either former Genstar employees or their beneficiaries ("SPEN").

ITCAN has represented that its decision to cease funding of the Affected Plans was based largely on the fact that the liabilities under these plans constitute unsecured claims. As payment of these claims is not necessary to ITCAN's ongoing business, although ITCAN has honored its commitment to fund these

⁶ Book of Objections, Tab 3(D) at p. 49.

⁷ Book of Objections, Tab 3 at p. 37.

plans for more than 30 years, it is not in a position to continue to do so given the hundreds of billions of dollars in other unsecured claims asserted.

34. A copy of the Cessation Notice that was received by Committee member Ernest Hartz on April 1 is included with the Committee's second Notice of Objection⁸. I am advised by Mr. Hartz and verily believe that he also received the Cessation Notice late in the afternoon, Pacific time, on April 1 and that he noted the date of receipt accordingly in his handwritten script on the envelope.

35. I and others found the Cessation Notice confusing and unclear. For example, it does not explain what it means that ITCAN has "ceased funding" the plans, nor does it state that I will not receive payment of my benefits from IHGI on April 1, or any other date. I later learned that some Affected Members did not receive a copy of the Cessation Notice until as late as April 5.

36. As a result of this new, yet unclear, information in the Cessation Notice, Mr. Kaplan immediately notified the Applicants' counsel and Monitor's counsel on April 1, at 7:32 p.m., that he will be bringing a motion to direct continuation of payment of the pensions under the Genstar U.S. Plans:

Further to my telephone and email messages to you both, one of my clients received the attached letter this afternoon Pacific time, in the mail (though it is dated March 27). FYI, this is the first explanation and notice to affected members that their pensions are ceased, on the day they were to receive their April pensions by direct deposit.

We will be bringing a motion to direct the continuation of payment of these pensions, which I expect to file on Weds p.m. returnable at the Comeback Motion. It will largely follow the points made in the Notice of Objection, served today.⁹

37. On April 2, in the morning, Mr. Kaplan had a telephone conference with the Applicants' counsel and Monitor's counsel where he learned for the first time that morning that:

- (a) On March 28, the Quebec Class Action Plaintiffs and the Province of Ontario both served and filed motions returnable at the Comeback Motion on April 4 and 5 and

⁸ Book of Objections, Tab 3(E) at pp. 52-54.

⁹ Book of Objections, Tab 3 at p. 38; Tab F at p. 56.

that these materials were posted that morning (April 2) on the Monitor's case website; and

- (b) On March 29, the Applicants had served and filed a Motion for Stay Extension and Amendment to Initial Order and that these materials were posted that morning (April 2) on the Monitor's case website¹⁰.

38. Immediately after the telephone conference, on April 2, Mr. Kaplan obtained the Comeback Motion and Quebec Class Action Plaintiffs' Motion from the Monitor's case website¹¹.

39. Upon reviewing the Comeback Motion, the Committee learned for the first time in a court document (in the "**Second Thauvette Affidavit**") that ITCAN in fact "made a determination to discontinue funding" the Genstar U.S. Plans (as opposed to merely "proposing" it)¹². In what I understood to be a reference to the Cessation Notice, ITCAN states as follows:

On March 27, 2019, Bracewell, in its capacity as U.S. counsel to the Monitor, also sent a notice to participants in the following non-qualified deferred compensation plans [**i.e. the Genstar U.S. Plans**], advising the participants that ITCAN had made a determination to discontinue funding such plans during the pendency of the CCAA proceeding:

- (a) the "deferred income plan" for individuals who are either former senior management employees of Genstar or their beneficiaries;
- (b) the "supplemental executive retirement Plan" for individuals who were either former Genstar employees or their beneficiaries; and
- (c) the "supplementary pension plan" for individuals who were either former Genstar employees or their beneficiaries.

40. The Committee and its counsel also learned on April 2 that the Applicants were seeking an order on April 4 extending the Stay Period from April 11 to June 28 (the "**Stay Extension**"). Mr. Kaplan immediately wrote to the Applicants' counsel and Monitor's counsel opposing the stay extension unless the Affected Members' rights were reserved and for the Committee to be able to schedule this motion for relief¹³.

¹⁰ Book of Objections, Tab 3, at pp. 38-39.

¹¹ Book of Objections, Tab 3, at p. 39.

¹² Affidavit of Eric Thauvette Sworn March 29, 2019 at para. 25.

¹³ Book of Objections, Tab 3(G), at p. 58.

41. The Committee also learned from the Quebec Class Action Plaintiffs motion that those parties sought an order, *inter alia*, prohibiting ITCAN from funding its U.S. Subsidiaries. The Committee immediately opposed that relief to the extent it prohibited funding and payment of benefits under the Genstar U.S. Plans¹⁴. The Committee also learned (in the “**Third Thauvette Affidavit**”) that ITCAN has made capital contributions to its U.S. subsidiary IHGI totaling approximately USD \$7.0 million per year, of which IHGI used approximately \$6 million per year to make payments to Affected Members under the Genstar U.S. Plans. ITCAN stated that it “has decided to discontinue funding these plans during the pendency of the CCAA proceeding and therefore the corresponding transfers to IHGI will no longer be necessary going forward”¹⁵.

42. I have also learned that the present value of the pension obligations to the Affected Members under the Genstar U.S. Plans, in the aggregate and as of December 31, 2017, is estimated to be approximately CAD \$43 million (approximately USD \$32 million)¹⁶.

43. On April 3, Mr. Kaplan served and filed the Committee’s second Notice of Objection¹⁷.

44. Also on April 3, the Monitor issued its First Report, which states as follows with respect to the Committee and the Genstar U.S. Plans:

Communications with the Beneficiaries of the Genstar Plans

23. Prior to the commencement of these CCAA Proceedings, Imperial has, for several decades, funded payments to beneficiaries of the Genstar Plans established by Imasco Holdings Group, Inc., a now largely dormant Imperial subsidiary. As a result of these CCAA Proceedings, these payments are no longer being made. Bracewell and the Monitor have received a number of enquiries from beneficiaries of the Genstar Plans regarding the cessation of benefit payments. The Monitor understands that certain beneficiaries of the Genstar Plans have established the Committee and have retained Canadian and U.S. counsel who are seeking to represent the interests of the beneficiaries of the Genstar Plans.

45. On April 5, 2019, the Court made orders: (a) amending and restating the Initial Order; and (b) extending the Stay Period “from April 11, 2019, until and including June 28, 2019”. The Court

¹⁴ Book of Objections, Tab 3, at p. 41.

¹⁵ Affidavit of Eric Thauvette Sworn April 2, 2019, at paras. 35-36.

¹⁶ First Thauvette Affidavit, at para. 56.

¹⁷ Book of Objections, Tab 3.

also made an order endorsed on the record that “the extension of the Stay Period is without prejudice to the rights of the Former Genstar U.S. Retiree Group Committee to bring and be heard for relief concerning the Genstar U.S. Plans on April 25 with all rights reserved and without regard to the passage of time until then”.

F. The Need for the Appointment of Representatives and Representative Counsel

46. The Affected Members are a significant and vulnerable stakeholder group in these proceedings and they require representation. The Affected Members are not yet represented in the proceeding as an organized group and they are exposed to significant losses to their pension benefits. Of urgent importance, the Applicants caused IHGI to fail to make expected payments to the Affected Members on April 1, without proper notice, which has directly and immediately caused confusion, distress, losses and hardship to Affected Members.

47. Also, the fact that there are two cross-border insolvency proceedings makes it very complicated to navigate protecting our rights and those of Affected Members. Over the past several weeks, I and my fellow Committee members have been in contact with other Affected Members and are organizing ourselves according to our common interests in these proceedings, in which we are significant stakeholders. The Committee continues its efforts to locate and communicate with Affected Members. However, given the length of time that has passed since Genstar was acquired by Imasco and later ITCAN, and the fact that these individuals are elderly and live all over the United States and beyond, it has proved to be a difficult task.

48. Compounding our difficulties, on March 14, the Monitor on behalf of ITCAN filed an interim motion in the U.S. Court (Docket 10) (the “**Seal Motion**”) and obtained an Order Granting Interim Motion to Seal (Docket 15) (the “**Seal Order**”) sealing the names and contact information of all 59 Affected Members. The U.S. Court “found and determined that the relief sought in the Motion is in the best interests of the Monitor in its capacity as foreign representative for the Debtor and all parties in interest and that the legal and factual bases set forth in the Motion establish just

cause for the relief granted”. These filings and the Seal Order are contained in the Committee’s second Notice of Objection¹⁸. In support of the Seal Order, the Monitor represented as follows:

2. The Debtor is the direct or indirect corporate parent of several subsidiaries in the United States. These include Imasco Holdings Group, Inc. (“Imasco”), Imasco Holdings, Inc., ITL (USA) Limited, and Genstar Pacific Corporation (collectively, the “U.S. Subsidiaries”). The U.S. Subsidiaries are dormant but administer various legacy liabilities related to their former business operations, including worker’s compensation claims and pension and retirement benefit plan liabilities. Pursuant to an agreement dated April 2, 1986, the Debtor guaranteed certain of these pension and retirement obligations and over the years, the Debtor has provided funding for the U.S. Subsidiaries on a monthly basis in the form of a capital contribution to Imasco for these obligations. While the Debtor intends to continue to fund Imasco so that the U.S. Subsidiaries can make ordinary course payments in respect of many of the pension and retirement plan obligations, it will no longer be funding several of the executive-level retirement and pension plans. In light of the Debtor guarantee, out of an abundance of caution, the individual members of these plans are included in the parties against whom the Debtor is seeking provisional relief.

3. ... in the instant case, the Monitor is constrained by the Canadian Order for Relief and federal and provincial statutes in Canada from publicly disclosing the names and addresses of creditors who are individuals or any personal information in respect of such individuals. Specifically the Canadian Order for Relief provides that, with respect to any creditor list, the Monitor “shall not include the names, addresses or estimated amounts of the claims of those creditors who are individuals or any personal information in respect of an individual.” See Canadian Order for Relief ¶ 51. ... Given these prohibitions, the Monitor seeks limited relief and authority to file and maintain only the Individual Provisional Relief List under seal. Notably, other parties against whom the Debtor is seeking provisional relief are included on the *List Pursuant To Bankruptcy Rule 1007(a)(4)* [Dkt. No. 2, Ex. C].

49. I am aware that a number of Affected Members have filed statements in the U.S. Chapter 15 Proceeding claiming hardship and prejudice from the cessation of funding and discontinuation of payments under the Genstar U.S. Plans, and confusion regarding the inadequate notice thereof. For example,

¹⁸ Book of Objections, Tab 3(H) at pp. 60-70: *Individual Provisional Relief List Pursuant to Bankruptcy Rule 1007(a)(4)* (Docket 18); *Document Under Seal Per Court Order* (Docket 20); *Order Granting Interim Motion to Seal* (Docket 15); and *Interim Motion to Seal Pursuant to 11 U.S.C. § 107(b) and Fed. R. Bankr. P. 9018* (excerpts) Docket 10.

- (a) Vivian Brennan-Dolezar of Mesa, Arizona objected on behalf of her 89-year-old mother, V.M. Brennan, who was receiving survivor benefits under the GCDIP and SERP following the death of her father in 2012. Ms. Bennis-Dolezar stated that news of the cessation “was devastating” and will “cause extreme financial hardship” to her mother, who is “financially dependent on her pension”. The “very short notice gave no time for preparation for loss of income” and the Imasco retiree center “never returned calls”. She states that “as of April 1, 2019, I have not received any written correspondence from Imperial Tobacco Canada Limited or their Representatives informing retirees of their decision to discontinue pension payments”.

- (b) George Foster of Alamo, California objected on his own behalf and for all Affected Members. Mr. Foster is a member of the GCDIP and states that the agreement supporting those benefits have “binding effect” and “inure to the benefit of the employee [and] heirs and representatives as the case may be and the Company and its successors and assigns”. The agreement requires the company to “have the financial ability to discharge obligations assumed under this plan [and] perform all of the terms and conditions herein contained”. He states that his own funds were “voluntarily deducted from [his] paychecks and contributed” to the GCDIP as “a significant part of retirement planning”. He states most Affected Members “are retired and unable to return to work” and submits that these court proceedings should not “financially harm any retired employees”.

- (c) Glen Jones of Los Gatos, California states that he is “77 years of age and fully retired” and it is not feasible for him to attend court personally. He states that he “participated voluntarily” in the GCDIP and “made salary deduction contributions” to the plan “in return for stipulated monthly retirement payments”. He states that “the failure to continue contributions to the Plan will inflict significant financial harm to the participants all of whom are of advanced retirement age and who have been relying in receipt of these payments”. He submits that the discontinuance of the payments constitutes an “immediate breach of the contractual obligations” provided in the Guarantee; and

- (d) Alfred Mueller of Fremont, California is a former President of the Genstar Cement division and also a member of the GCDIP. Mr. Mueller also states that attendance in court is not feasible for him. He makes similar objections and statements as Mr. Jones.

50. Copies of Ms. Brennan-Dolezar's and Mr. Foster's objections are contained in their sworn affidavits dated April 15¹⁹. Copies of Mr. Jones' and Mueller's objections are contained in the Committee's first Notice of Objection²⁰.

51. On March 25, the Monitor obtained an Order Granting Preliminary Injunction from the U.S. Court in the Chapter 15 Proceeding in which the court found that ITCAN is likely the "subject of a pending foreign main proceeding" in Ontario, established the Monitor as the "foreign representative" of ITCAN and stayed proceedings in the U.S. "until such a time as an order adjudicating the Monitor's request for recognition of the Canadian Proceeding is entered, or as otherwise ordered by this Court" (the "**Recognition Hearing**").

52. On April 15, 2019, the Recognition Hearing for the requested relief was scheduled to take place in the U.S. Court. I understand that the Recognition Hearing was rescheduled for April 17, 2019, and the U.S. Court made an order recognizing the CCAA Proceeding.

53. The Committee retained U.S. counsel in the Chapter 15 Proceedings. We have been referenced accordingly in the Monitor's U.S. Court filings. Attached as **Exhibit "E"** is a copy of the "Monitor's Omnibus Reply in Support of Verified Chapter 15 Petition for Recognition of Foreign Main Proceeding and Related Relief" (Docket 33) (the "**Omnibus Reply**"). Attached as **Exhibit "F"** is a copy of the "Supplemental Declaration of Paul Bishop in Support of Verified Chapter 15 Petition for Recognition of Foreign Main Proceeding" (Docket 34) (the "**Bishop Supplemental Declaration**"). With our instructions, our U.S. counsel has been able to facilitate the following language with the Monitor's U.S. counsel in the court order obtained at the

¹⁹ Affidavit of Vivian Brennan-Dolezar dated April 15, 2019, Exhibits "J" and "K"; Affidavit of George A. Foster dated April 15, 2019, Exhibits "E" and "F".

²⁰ Book of Objections, Tab 2(C), pp. 28-31.

Recognition Hearing (the “**Recognition Order**”, attached as **Exhibit “G”**), that reserves Affected Members’ rights to seek relief in the CCAA Proceedings:

11. Nothing contained herein shall be deemed or construed to impair or otherwise adversely affect any rights of any group representative of the beneficiaries of the Top-Hat Plans appointed by the Canadian Court, if any, or any individual participant of the Top-Hat Plans from pursuing any rights, claims and remedies, collectively or individually, in the Canadian Proceeding or the Debtor’s or Monitor’s rights, claims, defenses and remedies in connection therewith.²¹

54. Two Affected Members, Robert M. Brown and George A. Foster, have come forward as Proposed Representatives in the CCAA Proceedings. I have read their Affidavits filed in support of this motion, both sworn April 15, and I support them as Proposed Representatives. I have also consulted with the other members of the Committee and we unanimously support their appointments. The Proposed Representatives have agreed to act accordingly and are appropriate representatives for the Affected Members. They have specific knowledge of the Genstar U.S. Plans and worked for the company in management capacities at the relevant time.

55. The Committee originally considered whether I and Mr. Hartz, who have been the direct instructing parties working with Mr. Kaplan since March 29, ought to come forward as Proposed Representatives. Mr. Hartz and I have had numerous calls with Mr. Kaplan over the past three weeks, collectively and individually. However, after much reflection, this is not feasible for myself or Mr. Hartz. Over the past two weeks, I have been in and out of hospital because of complications from knee surgery earlier this year. Also, I have spoken to Mr. Hartz and he has Parkinson’s Disease and is also caring for his ailing wife, limiting his ability to be active in these court proceedings. Despite these challenges, we continue to consult with Mr. Kaplan, and our U.S. counsel, and instruct them accordingly.

56. I and my Committee members believe that a representation order will provide all Affected Members, who have common interests and are directly affected by the proceedings and the

²¹ See also, Omnibus Reply, para. 3, footnote 4: “Counsel for the Monitor has consulted U.S. counsel for the Retiree Group on inclusion of this language”. See also Bishop Supplemental Declaration at paras. 5-6.

Applicants' actions, with an organized voice before this Court, avoid a multiplicity of retainers, and benefit the Court, the Applicants and the Monitor.

57. I also support that the Committee's Canadian counsel, Mr. Kaplan of Kaplan Law, is appropriately appointed as Proposed Representative Counsel. He is an experienced lawyer and capable of adequately taking instructions from the Committee and Proposed Representatives and providing assistance to the Affected Members so that they are able to meaningfully participate in the proceedings and the restructuring process. He also has specific experience in CCAA proceedings. I am attaching as **Exhibit "H"** a printout from the Kaplan Law website summarizing his experience.

G. Disclosure of Information and Assessment of Entitlements

58. The Monitor states as follows in its First Report:

24. The Monitor has spoken to proposed Canadian counsel for the beneficiaries of the Genstar Plans and understands that a motion will be brought to determine the entitlement to payments under the Genstar Plans before the end of April (and before the date of the next payments due under the Genstar Plans). The Monitor is also working with Imperial and its Canadian and US counsel to address certain information requests made by proposed counsel for the beneficiaries of the Genstar Plans, and by the Pension Benefit Guaranty Corporation.

59. To date, and despite multiple requests for disclosure of relevant information, ITCAN has not provided to the Committee nor its counsel with any documentation to assist us to properly assess our rights and those of the Affected Members including for the purpose of having a full and proper record for this Motion.

60. The requested Information is reasonably sought and necessary for the Committee and Proposed Representatives to carry out their activities for the benefit of the Affected Members in these proceedings, and is properly required as part of any advance notice required to be given to Affected Members before implementing a proposed cessation of their benefits under the Genstar U.S. Plans. In particular and without limitation:

a. Plan Documents and Agreements

61. The Committee and Proposed Representatives require copies of documents confirming the applicable Genstar U.S. Plan documents, texts, agreements or booklets, which are the starting point for ascertaining Affected Members' rights. For example, the Committee and Proposed Representatives do not have copies of the Guarantee or related documents including the April 2, 1986 agreement involving Genstar and Imasco that vested Affected Members' benefits and is the source of the Applicants' obligation to fund the Genstar U.S. Plans.

62. In addition, until last year, several Affected Members were amongst 148 former Genstar employees receiving post-retirement health benefits from the company. Late last year, they received notice that IHGI terminated this plan effective as at December 31, 2018 and participants were required to file any remaining claims incurred before that date for eligible care and services under the plan by March 31, 2019²².

b. Insurance Policies

63. The Committee and Proposed Representative do not have any information or details of the paid-up life insurance premiums purchased to fund and secure the benefits under the Genstar U.S. Plans. In the Third Thauvette Affidavit, ITCAN states as follows:

42. ... The Committee has asserted that Genstar purchased life insurance policies on the life of each member of a deferred income plan ("GCDIP") and a supplemental executive retirement plan ("SERP") for certain former Genstar employees and their beneficiaries. While Genstar did purchase life insurance policies when the GCDIP and SERP were set up, those policies were all cashed out decades ago. There are no current insurance policies in place related to the GCDIP or SERP.

64. The Committee and Proposed Representatives request full particulars of these policies, their redemption value, the decisions to "cash out" and to whom the proceeds were paid.

65. I am informed by Mr. Kaplan that the information currently thought to be known about the insurance policies is probative evidence of the existence of a constructive trust securing the benefits owed to Affected Members under the Genstar U.S. Plans. The Committee's position is that the Applicants will receive an unjust enrichment and windfall were they to cease funding the

²² This is further described by ITCAN in the First Thauvette Affidavit, at para. 64.

Genstar U.S. Plans and the Affected Members have suffered a corresponding deprivation with no juridical reason. Full disclosure will allow Affected Members to assess these claims and the scope of their rights.

c. Other Pension Plans

66. The Applicants have stated that they are responsible for 11 pension plans in Canada and the United States²³. It appears that the Applicants intend to treat the Affected Members of the Genstar U.S. Plans differently and prejudicially relative to all other pension obligations. ITCAN has stated that during these proceedings, it “intends to continue to make ordinary course payments” in respect of its Canadian pension plans as well as to the “IHGI U.S. Pension Plan”.

67. However, with respect to the Genstar U.S. Plans, the Affected Members appear to be ITCAN’s only pension beneficiaries whose pension payments have stopped. No clear information or explanation has been provided respecting the reason for singling out the Genstar U.S. Plans for differential treatment relative to other creditors, nor about the lack of advance notice of ITCAN’s intention to cease its obligation to pay our pensions.

68. In the Cessation Notice, the Monitor advised Affected Members that a reason for ITCAN ceasing funding of our benefits is because “payment of these claims is not necessary to ITCAN’s ongoing business”. However, ITCAN is continuing to fund the IHGI Pension Plan which is *not* needed for ITCAN’s ongoing business. My understanding is that the IHGI Pension Plan covers strictly former employees and ITCAN has stated that “IHGI is a largely dormant Delaware corporation that holds certain legacy obligations”.

69. Moreover, in the Omnibus Reply in support of the relief requested at the Recognition Hearing, the Monitor states as follows, offering yet another, brand new rationale, for singling out the Genstar U.S. Plans for differential treatment vis-à-vis the IHGI Pension Plan:

The IHGI Plan, however, is a defined benefit plan subject to Title IV of the U.S. *Employee Retirement Income Security Act of 1974* [“ERISA”] and has different rights and regulations than the Top-Hat Plans. As contributions under

²³ See the Summary Sheet of Pension/Benefits, in Book of Objections, Tab 1(B), pp. 24-26. More information concerning the affected pension plans is contained in the First Thauvette Affidavit at paras. 49-56; Second Thauvette Affidavit at paras. 14-18 (ITCAN states that it advised its Canadian retirees about these proceedings, “assuring them that these CCAA Proceedings will not have any impact on ... their Canadian pensions and benefits”).

the IHGI Plan are a fraction of the annual contributions required under the Top-Hat Plans and cover more than 50 times the number of participants, the Debtor determined, in its business judgment, that continued payment of that plan was warranted to avoid the significant penalties and legal costs associated with termination.²⁴

70. The Committee and Proposed Representatives require details of the Applicants' other pension plans in order to assess the accuracy of the Monitor's statements, whether those plans are necessary for ITCAN's ongoing business, whether there is any relevance to the IHGI Pension Plan being subject to ERISA, and what kind of "penalties" ITCAN is exposed to thereunder. Some of the Affected Members are also members of the IHGI Pension Plan and the Committee and Proposed Representatives accordingly seek particulars of those interests.

71. Moreover, Mr. Kaplan has advised that the Pension Benefits Guaranty Corporation, which regulates interests under ERISA-qualified plans, appears to be of the belief that the Applicants sponsor two additional qualified pension plans in the U.S. that have not been disclosed in these proceedings. It is appropriate for particulars of these plans to be disclosed.

72. It is my belief that by unnecessarily singling out the Genstar U.S. Plans for differential treatment, and in light of the confusing and contradictory explanations given, the Applicants and Monitor have not acted evenhandedly to treat all similarly situated pension beneficiaries equitably.

d. Identities of Affected Members

73. The Committee and Proposed Representatives require disclosure of the identity and contact information of the 59 Affected Members so that Proposed Representative Counsel can communicate and inform them as a whole and with regard to each person's particular situation, be a source of reliable information, assist them in evaluating their claims, and advise and represent them on their rights respecting decisions taken during the proceedings, including for a plan of compromise, and bring any concerns to the Court's attention.

74. Of all the pension beneficiaries affected by these proceedings, only the Affected Members are subject to the Seal Order, compounding their difficulty to locate and find one another for the purpose of obtaining information and advancing their common interests. A redacted list of the 59

²⁴ Omnibus Reply, p. 3, footnote 3.

Affected Members is contained at Tab 3(H) in the Book of Objections. Because the Monitor sought and obtained this Seal Order, based on the terms of the Initial Order and representations made to the U.S. Court about Canadian law, we are not able to identify or connect with other similarly-situated Affected Members in the United States without a further order from the Court in Canada.

H. Reinstatement of Payments

75. The Committee states that ITCAN has improperly ceased funding the Genstar U.S. Plans which is *inter alia* a breach of the Guarantee, and has *de facto* disclaimed or resiliated the agreements relating to these plans, contrary to the requirements set out in section 32 of the CCAA. We believe that it is in the interests of justice and fairness that the Applicants reinstate payments under the Genstar U.S. Plans to Affected Members for a reasonable period of time, pending further order of this Court. The Committee's position is that there are serious questions to be determined in assessing the Affected Members' claims pending full disclosure from the Applicants and Monitor, including whether a constructive trust arises from the insurance policies purchased to secure the benefits and the serious questions raised in the Notice of Constitutional Question, both of which are probative and have *prima facie* merit. Moreover, there will be irreparable harm to Affected Members to deny us an interim continuation of our pensions, not least of which because of the inadequate notice of the cessation of our benefits, and further, because the Affected members are elderly (in our 70s and 80s), in ill-health, on fixed incomes, and rely on our pensions for ensuring our physical, mental, psychological and emotional security and stability.

SWORN BEFORE ME in San Mateo County,
in the State of California, this ___th day of
April, 2019.

A Commissioner for Taking Oaths, etc.

RICHARD D. PATERSON

THIS IS **EXHIBIT “A”** REFERRED TO IN THE
AFFIDAVIT OF RICHARD D. PATERSON
SWORN BEFORE ME ON APRIL ___, 2019

A COMMISSIONER FOR TAKING OATHS, ETC.

From: W.Stewart/GenstarSF
To: !All Genstar Mail Network Sites
Copies:
Attach:
Subject: Imasco News Release

270

For your information, the following statement was released to the press today:

Imasco Limited announced today that its discussions with Genstar Corporation's management about the possibility that management would acquire all or part of Genstar's non-trust company assets had concluded without an agreement being reached.

"The proposal presented by Genstar's management could not be reconciled with the valuations we and our financial advisors have placed on these assets," said Paul Pare, chairman and chief executive officer of Imasco. "In these circumstances, we will proceed with the disposition program which may, in whole or in part, be based upon a controlled auction process." Mr. Pare added that "It is possible that either separately or as part of this process, a further proposal or proposals will be received from Genstar's management."

Imasco said it has received more than 100 serious expressions of interest in Genstar's non-trust company assets and has retained Morgan Stanley & Co., Inc. to prepare and manage a disposition program in respect of some of these assets. Details of the procedures to be followed will be announced at a later date.

-END-

**THIS IS EXHIBIT “B” REFERRED TO IN THE
AFFIDAVIT OF RICHARD D. PATERSON
SWORN BEFORE ME ON APRIL ____, 2019**

A COMMISSIONER FOR TAKING OATHS, ETC.

APR 17 1986

April 16, 1986

To: CORPORATE STAFF
FR: P.J. KEHOE
SUBJECT: IMASCO ACQUISITION

I know that many of us may have been disappointed to have read Friday's announcement that Genstar and Imasco have not been able to reach agreement on the purchase of the assets of Genstar, excluding financial service assets, within the set deadline. As a result, the Imasco offer will now go forward to exchange \$58 (Canadian) in cash for all Genstar common shares.

Assuming that a sufficient number of common shares are tendered under the Imasco offer and that the acquisition proceeds as is presently envisioned, an Employee Relations Agreement, a summary of which is enclosed, will become effective.

A great deal of discussion has already taken place about the form that Genstar might take and still continue to operate and discussions are continuing to this end. For the next several months, Imasco will be familiarizing itself with Genstar's businesses, and accordingly, no major restructuring is anticipated. In the meantime, it is reassuring to know that the provisions of the Employment Agreement and Severance Policy to which Imasco has agreed provides a "safety net" for our corporate staff employees.

You will be invited to a group meeting over the next two (2) days to discuss how the agreement or policy applies to you.

In the meantime, it is important that we carry on business as usual in the conduct of our responsibilities.

SUMMARY OF EMPLOYEE RELATIONS AGREEMENT

This Employee Relations Agreement becomes effective if IMASCO purchases common shares under the tender offer and receives a majority of the voting rights attached to all Genstar shares.

1. PENSION PLANS

IMASCO agrees to maintain all pension plans and supplemental retirement plans for a period of five (5) years on a basis no less favorable to employees as those in effect on March 1, 1986.

Upon disposition of any or all subsidiaries, divisions or businesses of Genstar, such plans will be maintained by the purchaser(s) for the time remaining in the five (5) year period or the obligation will be maintained by IMASCO.

2. THRIFT PLAN (U.S. SALARIED EMPLOYEES)

IMASCO agrees to maintain the Thrift Plan (401K) on a basis no less favorable to employees for a period of at least two (2) years.

Upon disposition of any or all subsidiaries, divisions or businesses of Genstar the plan will be maintained by the purchaser(s) for the time remaining in the two (2) year period or the obligation will be maintained by IMASCO.

3. STOCK OPTIONS

1982 Incentive Stock Option Plan

Each holder of an outstanding and exercisable option to purchase common shares will be entitled to receive, upon surrender of each such option, a cash payment from Genstar in an amount equal to the product of:

- i. the offer price minus the exercise price per common share, and
- ii. the number of common shares covered by such option.

Options granted in September 1985 are not exercisable until after September 20, 1986; however, the company can accelerate the exercisability. The advisability of acceleration will be reviewed by the company in the next few weeks.

The gain on such options will be taxed as ordinary income, since they were exercised and sold immediately. Capital gains treatment is available only if the shares are held for twelve (12) months after exercise.

SUMMARY OF EMPLOYEE RELATIONS AGREEMENT

4. WELFARE PLANS

These plans include any health, hospitalization, medical, surgical, salary continuation, life or similar insurance plan. IMASCO has agreed to maintain these plans in effect for two (2) years on a basis no less favorable to employees than those in effect on March 1, 1986.

Upon disposition of any or all subsidiaries, divisions or businesses of Genstar, the plans will be maintained by the purchaser(s) for the period of time remaining in the two (2) year period, or the obligation will be maintained by IMASCO.

5. DEFERRED INCOME PLAN

IMASCO will maintain this plan in effect for two (2) years on a basis no less favorable to employees than that presently in effect.

Upon disposition of any or all subsidiaries, divisions or businesses of Genstar, the plan will be maintained by the purchaser(s) for the period of time remaining in the two-year (2) period.

6. HOUSING LOANS

Existing housing loan agreements will be honored. Housing loan agreements call for no acceleration of principal repayments under termination of employment following a change of control.

7. OTHER PLANS AND PROGRAMS

IMASCO will maintain GENSTAR's bonus and incentive programs for a period of two (2) years on a basis no less favorable to employees than that in effect on March 1, 1986. GENSTAR's Stock, stock option and stock-based plans will not be maintained; however, IMASCO agrees that, for the two (2) year period, Genstar employees shall be eligible to participate in bonus or incentive compensation plans providing benefits which, in the aggregate, are comparable in amount to those for which they were eligible under such stock, stock option or stock-based plans.

Upon disposition of any or all subsidiaries, divisions or businesses of Genstar, the plans will be maintained by the purchaser(s) for the time remaining in the two-year (2) period, or the obligation will be maintained by IMASCO.

8. GUARANTEE

IMASCO guarantees in full all obligations of Genstar and its subsidiaries under the supplemental plans and the Deferred Income Plan.

9. SERVICE CREDIT

Any Genstar employee who may become an employee of IMASCO will receive credit for service with IMASCO under all personnel and employee benefit plans of Genstar, unless such person agrees in writing to another arrangement.

10. SEPARATION POLICY

For a period of two (2) years following the completion of the tender offer, IMASCO will maintain the Separation Policy outlined in the attachment for the benefit of Genstar's corporate staff employees and the first two levels of division management (other than Canada Trustco, Genstar Container or TXL or persons employed by Genstar or its subsidiaries for less than three [3] months at the time of termination of employment.)

For all other employees, the applicable Separation Policy in effect on March 1, 1986 will be maintained for a period of two (2) years.

Upon disposition of any or all subsidiaries divisions or businesses of Genstar, such Separation Policies will remain in effect for the balance of the two (2) year period.

11. INDEMNIFICATION AND INSURANCE

IMASCO agrees that all rights to indemnification now existing in favor of employees, agents, directors or officers of Genstar and its subsidiaries will continue in full force and effect, and be honored by IMASCO, for a period of five (5) years.

IMASCO agrees that the current policies of the directors and officers liability insurance maintained by Genstar will be continued on the same basis, or on terms no less advantageous for three (3) years with the proviso that such policies shall be required to be maintained only to the extent available with an annual premium not to exceed five (5) times the current annual premium.

12. COMPANY MANAGEMENT

It is IMASCO's intention that, after the purchase of common shares under the offer, the company will continue to be managed by its present management.

13. COMPANY OFFICES

IMASCO has agreed that for a period of three (3) years following change of control, the company's operations (other than Financial Services) will continue to be managed in San Francisco.

SEPARATION POLICY

IMASCO has agreed to a separation policy for our corporate staff. This applies to all corporate staff employees with more than 3 months' service at the time of separation and will remain in effect for the next 2 years. It will not be given to those employees who leave the company voluntarily.

For Managerial, Supervisory and Exempt Employees

Payments are based on salary rate plus 50% of the maximum incentive opportunity at the time of termination. Pay would be one month per year of service (maximum 24 months) with a minimum of 6 months for exempt employees and 12-18 months for employees at the managerial level determined by job size (points).

For Secretarial, Clerical and Other Non-Exempt Employees

Pay would be 2 weeks per year of service (maximum 12 months) with a minimum of 3 months and four weeks' notice or pay in lieu of notice.

OTHER SEPARATION PROVISIONS

Continued Medical and Dental Plans

Coverage will continue for the period covered by separation pay or until full-time employment with a new employer, if less.

Pension Plan

Service credit would not continue to accrue during the period of separation, subject to the limitations of ERISA, however, all accrued benefits would become fully vested.

Career Counselling

Career counselling will be provided through professional career counselling service.

SEPARATION POLICY

Relocation Expenses

For those who have been relocated by the company since 1979, the company will absorb the reasonable costs of relocation, not in excess of that to the point of origin from which they were moved by the company, in accordance with the company's current relocation expense policy. This policy will only apply where relocation does occur within 2 years, and where the costs of such relocation have not been absorbed by a new employer. Individual personal financial counselling will be provided to such transferred employees. This policy would not apply to those obtaining full-time employment in the city where they are currently located.

Housing Loans

Existing housing loans continue to their full term in accordance with the existing plan.

Housing Assistance Payments (Existing)

Housing assistance in the form of mortgage rate interest differential and area housing cost differential would be paid for the duration of the separation pay period.

General

In the event that any amount received by an employee in accordance with this policy would cause an "excess parachute payment" to exist within the meaning of Sections 280G or 4999 of the Internal Revenue Code, as amended, the company shall reduce the amount payable to the employee to a lesser amount so that no portion of any amount received by the employee would be an "excess parachute payment".

- 5Q - If I want life insurance coverage at the end of the severance period, what can I do?
- A - For Canadian employees, you can change your coverage within 31 days of the end of your severance period by application to the Great-West Life Assurance Company.
- For U.S. employees, you can change your coverage by application to INA Insurance Company within 31 days of the end of your severance period.
- 6Q - Do I get service credit in my pension for the severance payment period?
- A - No, you do not.
- 7Q - Am I vested in the pension plan if I have less than 10 years of service?
- A - Yes, you become 100% vested in the plan upon your release from the company.
- 8Q - What health and welfare benefits are included during the severance period?
- A - The program includes group life insurance, AD&D (Accident, Death & Dismemberment), medical and dental coverage. It does not include short-term or long-term disability.

**THIS IS EXHIBIT “C” REFERRED TO IN THE
AFFIDAVIT OF RICHARD D. PATERSON
SWORN BEFORE ME ON APRIL ____, 2019**

A COMMISSIONER FOR TAKING OATHS, ETC.

PROGRAM FOR
CORPORATE PERSONNEL

1. Employee Relations Agreement

Employee Relations Agreement providing severance provisions for all Corporate employees expires in April 1988.

If it appears that the two-year period set out in the agreement is not sufficient to complete the work required to make the transition from the Company's pre-acquisition status, the agreement will be extended for Corporate Staff employees in October 1987 for a one-year period.

Similarly, for employees covered by the severance policy, the policy will be effective until April 1988, but if this time is not sufficient to complete the work required for the sale of a division, the agreement will be extended in October 1987 for a one-year period.

2. Change in Severance Policy for Non-Exempt Personnel:

Imasco has decided that the severance policy for non-exempt personnel will be changed to one-month's pay per year of service from two weeks, and will retain the existing three-month minimum and twelve-month maximum.

3. Provision for Corporate Staff During Transition Period:

- a. Severance pay equal to present policy, as previously communicated to you.
- b. Anticipated minimum period of employment to be communicated to each employee as soon as possible.
- c. For incentive-eligible personnel, the 1985 bonus will be folded into salary as of July 1, 1986.
- d. For all other personnel, a supplemental bonus of 10% salary earned after July 1, 1986 would be payable at the time of employment termination by Imasco.
- e. Minimum notice period of termination will be one calendar month or payment in lieu thereof, and every effort will be made to advise each employee two to three months in advance of termination.

6/17/86

**THIS IS EXHIBIT “D” REFERRED TO IN THE
AFFIDAVIT OF RICHARD D. PATERSON
SWORN BEFORE ME ON APRIL ____, 2019**

A COMMISSIONER FOR TAKING OATHS, ETC.

Fill in this information to identify the case:

282

United States Bankruptcy Court for the:
Southern District of New York
Case number (if known): 19- Chapter 15

Check if this is an amended filing

Official Form 401

Chapter 15 Petition for Recognition of a Foreign Proceeding 12/15

If more space is needed, attach a separate sheet to this form. On the top of any additional pages, write debtor's name and case number (if known).

1. Debtor's name Imperial Tobacco Canada Limited

2. Debtor's unique identifier

For non-individual debtors:

Federal Employer Identification Number (EIN) 9 8 -0 4 5 4 3 7 4

Other _____ Describe identifier _____

For individual debtors:

Social Security number: xxx - xx- _____

Individual Taxpayer Identification number (ITIN): 9 xx - xx - _____

Other _____ Describe identifier _____

3. Name of foreign representative(s) Paul Bishop

4. Foreign proceeding in which appointment of the foreign representative(s) occurred In the Matter of a Plan of Compromise or Arrangement of Imperial Tobacco Canada Limited et. al. (Ontario Superior Court of Justice (Commercial List) at Toronto)

5. Nature of the foreign proceeding

Check one:

- Foreign main proceeding
- Foreign nonmain proceeding
- Foreign main proceeding, or in the alternative foreign nonmain proceeding

6. Evidence of the foreign proceeding

- A certified copy, translated into English, of the decision commencing the foreign proceeding and appointing the foreign representative is attached.
- A certificate, translated into English, from the foreign court, affirming the existence of the foreign proceeding and of the appointment of the foreign representative, is attached.
- Other evidence of the existence of the foreign proceeding and of the appointment of the foreign representative is described below, and relevant documentation, translated into English, is attached.

7. Is this the only foreign proceeding with respect to the debtor known to the foreign representative(s)?

- No. (Attach a statement identifying each country in which a foreign proceeding by, regarding, or against the debtor is pending.)
- Yes



Debtor Imperial Tobacco Canada Limited
Name

Case number (if known) 19- 283

8. Others entitled to notice

Attach a list containing the names and addresses of:

- (i) all persons or bodies authorized to administer foreign proceedings of the debtor,
- (ii) all parties to litigation pending in the United States in which the debtor is a party at the time of filing of this petition, and
- (iii) all entities against whom provisional relief is being sought under § 1519 of the Bankruptcy Code.

9. Addresses

Country where the debtor has the center of its main interests:

Canada

Debtor's registered office:

3711 Saint-Antoine Street
Number Street

P.O. Box

Montreal (Quebec)
City State/Province/Region ZIP/Postal Code

Canada H4C 3P6
Country

Individual debtor's habitual residence:

Number Street

P.O. Box

City State/Province/Region ZIP/Postal Code

Country

Address of foreign representative(s):

TD South Tower
79 Wellington Street West
Toronto Dominion Center
Number Street

Suite 2010, P.O. Box 104
P.O. Box

Toronto (Ontario)
City State/Province/Region ZIP/Postal Code

Canada M5K 1G8
Country

10. Debtor's website (URL)

http://www.imperialtobaccocanada.com/

11. Type of debtor

Check one:

- Non-individual (check one):
 - Corporation. Attach a corporate ownership statement containing the information described in Fed. R. Bankr. P. 7007.1.
 - Partnership
 - Other. Specify: _____
- Individual

Debtor Imperial Tobacco Canada Limited
Name

Case number (if known) 19-

12. Why is venue proper in this district?

Check one:

- Debtor's principal place of business or principal assets in the United States are in this district.
- Debtor does not have a place of business or assets in the United States, but the following action or proceeding in a federal or state court is pending against the debtor in this district:

- If neither box is checked, venue is consistent with the interests of justice and the convenience of the parties, having regard to the relief sought by the foreign representative, because:

13. Signature of foreign representative(s)

I request relief in accordance with chapter 15 of title 11, United States Code.

I am the foreign representative of a debtor in a foreign proceeding, the debtor is eligible for the relief sought in this petition, and I am authorized to file this petition.

I have examined the information in this petition and have a reasonable belief that the information is true and correct.

I declare under penalty of perjury that the foregoing is true and correct,

x Paul Bishop

Signature of foreign representative

Paul Bishop

Printed name

Executed on 03/12/2019
MM / DD / YYYY

x

Signature of foreign representative

Printed name

Executed on _____
MM / DD / YYYY

14. Signature of attorney

x Jennifer Feldsher
Signature of Attorney for foreign representative

Date 3/12/2019
MM / DD / YYYY

Jennifer Feldsher

Printed name

Bracewell LLP

Firm name

1251 Avenue of the Americas

Number Street

New York

City

NY

State

10020

ZIP Code

(212) 508-6100

Contact phone

Jennifer.Feldsher@bracewell.com

Email address

3989357

Bar number

NY

State

EXHIBIT A

STATEMENT PURSUANT TO BANKRUPTCY RULE 1007(a)(4)

Bracewell LLP

1251 Avenue of the Americas
New York, NY 10020-1100
Telephone: (212) 508-6100
Facsimile: (212) 508-6101
Jennifer Feldsher
Mark E. Dendinger

*Attorneys for FTI Consulting Canada Inc.
In its Capacity as Monitor and 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.

Chapter 15

Case No. 19- ____ (____)

STATEMENT PURSUANT TO BANKRUPTCY RULE 1007(a)(4)

FTI Consulting Canada Inc. (the “Monitor”) is the Court-appointed monitor for Imperial Tobacco Canada Limited (the “Debtor”) 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) at Toronto (the “Canadian Proceeding”). The Monitor is the duly authorized foreign representative of the Debtor as defined by section 101(24) of title 11 of the United States Code (the “Bankruptcy Code”). On March 13, 2019, the Monitor commenced this Chapter 15 case (the “Chapter 15 Case”) by filing, on behalf of the Debtor and pursuant to sections 1504 and 1515 of the Bankruptcy Code, the *Verified Chapter 15 Petition for Recognition of Foreign Main Proceeding and Related Relief* along with Official Form 401 (*Chapter 15 Petition for Recognition of a Foreign Proceeding*).

The Monitor hereby files this statement pursuant to Rule 1007(a)(4) of the Federal Rules of Bankruptcy Procedure and respectfully states as follows:

Administrators in Foreign Proceeding Concerning the Debtor

1. The Monitor is the foreign representative, as that term is defined in section 101(24) of the Bankruptcy Code, because it has been authorized by court order in the Canadian Proceeding to act as the foreign representative for the Debtor and to prosecute this Chapter 15 Case. Canadian Order for Relief ¶ 62.

2. The Monitor believes that, other than the Canadian Proceeding and this Chapter 15 Case, there are no foreign proceedings pending with respect to the Debtor.

3. The Monitor's address is:

TD South Tower
79 Wellington Street West
Suite 2010, P.O. Box 104
Toronto ON M5K 1G8
Canada

Parties to Litigation Pending in the United States in Which the Debtor is a Party

4. There are currently no cases in the United States to which the Debtor is a Party, however, the Debtor's subsidiary, Imperial Tobacco Company Limited, is a party to *Ashlynn Mktg. Grp., Inc. v. Imperial Tobacco Ltd. et al.*, Docket No. 3:16-cv-01001 (S.D. Cal. Apr. 25, 2016).

Entities Against Which Provisional Relief Is Sought Pursuant to 11 U.S.C. § 1519

5. The Monitor seeks provisional relief on behalf of the Debtor to stay the execution of assets of the Debtor and the application of section 362 of the Bankruptcy Code in the Debtor's Chapter 15 Case on a provisional basis, against all known creditors of the Debtor and other interested parties, including without limitation, the following persons:

- Celadon Trucking Services, Inc.
One Celadon Drive
9503 East 33rd Street
Indianapolis, IN 46235
Attn: Chase Welsh, Executive Vice President, General Counsel and Secretary
Attn: Kenneth L. Core, Registered Agent
- DIAMOND CENTER ONE, LLC
4832 Richmond Road Suite 100
Cleveland, OH 44128
Attn: General Counsel

With copy to:

1932 Service Corp.
1301 E. Ninth Street, Suite 3500
Cleveland, OH 44114

- D S D PROPERTIES, LLC
300 Main Street
Shelby, MT 59474
Attn: Stuart Howell, Registered Agent
- Ryder Dedicated
30 Pedigree Court, Unit 1
Brampton, ON L6T 5T8
Canada
Attn: Legal Counsel
- Ryder Integrated Logistics, a division of Ryder Truck Rental Canada Ltd.

Notice to:

Ryder Truck Rental Canada Ltd.
2233 Argentia Road
Suite 302
Mississauga, Ontario
L5N 2X7
Attention: Vice-President and General Manager

With a copy to:

Ryder Truck Rental Canada Ltd.
2233 Argentia Road
Suite 300
Mississauga, Ontario

L5N 2X7
Attention: General Counsel

And to:

Ryder System, Inc.
11690 NW 105 Street
Miami, FL
33178-1103
Attention: General Counsel

- UPS-SCS
1221 32nd Avenue
Bureau 401
Lachine, QC H8T 3H2
Canada
Attn: Legal Counsel

With copy to:

UPS Supply Chain Solutions
12380 Morris Road
Alpharetta, GA 30005
Attn: Legal Counsel

And to:

Corporation Service Company
40 Technology Parkway South, Suite 300
Norcross, GA 30092
Attn: Registered Agent for UPS-SCS

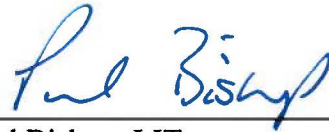
- New York State Department of Environmental Conservation
c/o Commissioner
625 Broadway
Albany, New York 12233-0001
- BKK Working Group
c/o Douglas Gravelle
Hinson Gravelle & Adair LLP
28470 Avenue Stanford
Suite 350
Valencia, CA 91355
Counsel for BKK Working Group: Douglas Gravelle

- PointTrade Services, Inc.
Corporate Office
1518 Jenks Avenue
Panama City, FL 32405
- Trudel Johnston & Lespérance
750, Côte de la Place d'Armes
Bureau 90, Montréal QC H2Y 2X8
- Kugler Kandestin
1 Place Ville-Marie
Suite 1170
Montréal, Québec
Canada H3B 2A7
- Fishman Flanz Meland Paquin LLP
1250 boul. René-Lévesque Ouest
Suite 4100
Montreal, QC H3B 4W8
Avram Fishman
- Chaitons LLP
5000 Yonge Street, 10th Floor Toronto, ON M2N 7E9
Attention: Harvey Chaiton
- The Individual Provisional Relief List, *filed separately*

[Remainder of page intentionally left blank.]

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

Date: March 13, 2019
Toronto, Canada



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

EXHIBIT B

**STATEMENT IDENTIFYING FOREIGN
PROCEEDINGS PURSUANT TO 11 U.S.C. § 1515(c)**

Bracewell LLP

1251 Avenue of the Americas
New York, NY 10020-1100
Telephone: (212) 508-6100
Facsimile: (212) 508-6101
Jennifer Feldsher
Mark E. Dendinger

*Attorneys for FTI Consulting Canada Inc.
In its Capacity as Monitor and 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.

Chapter 15

Case No. 19-____ (____)

**STATEMENT IDENTIFYING FOREIGN
PROCEEDINGS PURSUANT TO 11 U.S.C. § 1515(c)**

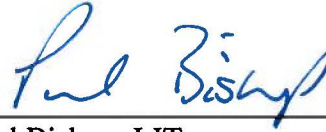
FTI Consulting Canada Inc. (the “Monitor”) is the Canadian Court-appointed monitor for Imperial Tobacco Canada Limited (“Debtor”) in a proceeding under Canada’s *Companies’ Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended, pending before the Ontario Superior Court of Justice (Commercial List) at Toronto (the “Canadian Proceeding”). The Monitor is the duly authorized foreign representative of the Debtor as defined by section 101(24) of title 11 of the United States Code (the “Bankruptcy Code”). On March 12, 2019, the Monitor commenced this Chapter 15 case (the “Chapter 15 Case”) by filing, on behalf of the Debtor and pursuant to sections 1504 and 1515 of the Bankruptcy Code, the *Verified Chapter 15 Petition for Recognition of Foreign Main Proceeding and Related Relief* along with the Official Form 401 (*Chapter 15 Petition for Recognition of a Foreign Proceeding*).

Pursuant to 11 U.S.C. § 1515(c), the Monitor respectfully represents that the Canadian Proceeding is the only foreign proceeding (as such term is defined in section 101(23) of the Bankruptcy Code) pending with respect to the Debtor that is known to the Monitor.

[Remainder of Page Intentionally Left Blank]

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

Date: March 13, 2019
Toronto, Canada



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

Bracewell LLP
1251 Avenue of the Americas
New York, NY 10020-1100
Telephone: (212) 508-6100
Facsimile: (212) 508-6101
Jennifer Feldsher
Mark E. Dendinger

*Attorneys for FTI Consulting Canada Inc.
In its Capacity as Monitor and 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.

Chapter 15
Case No. 19-10771()

**VERIFIED CHAPTER 15 PETITION FOR
RECOGNITION OF FOREIGN MAIN PROCEEDING AND RELATED RELIEF**

FTI Consulting Canada Inc. (“FTI,” or the “Monitor”) is the Court-appointed monitor for Imperial Tobacco Canada Limited (“ITCAN” or the “Debtor”) 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) at Toronto (the “Canadian Proceeding”). The Monitor is authorized to serve as the foreign representative of the Debtor as defined by section 101(24) of title 11 of the United States Code (the “Bankruptcy Code”).

On March 13, 2019, the Monitor commenced this Chapter 15 case (the “Chapter 15 Case”) by filing, on behalf of the Debtor and pursuant to sections 1504 and 1515 of the Bankruptcy Code, this Verified Chapter 15 Petition for Recognition of Foreign Main Proceeding and Related Relief (the “Verified Petition”) along with the Official Form 401 (*Chapter 15 Petition for Recognition of*



a Foreign Proceeding); the Application for an Order (I) Scheduling Recognition Hearing, (II) Specifying Deadline for Filing Objections and (III) Specifying Form and Manner of Notice (the “Notice Application”); and an Ex Parte Application for Temporary Restraining Order and Relief Pursuant to Sections 1519 and 105(a) of the Bankruptcy Code (the “Application for Provisional Relief” and, collectively with the Verified Petition and Notice Application, the “First Day Motions”).

In support of the First Day Motions, the Monitor has also filed a memorandum of law (the “Memorandum of Law”) and a Declaration of the Monitor in support of the First Day Motions (the “Bishop Declaration”).

PRELIMINARY STATEMENT

1. The Monitor has commenced this Chapter 15 case ancillary to the Canadian Proceeding and respectfully files this Verified Petition with the required accompanying documentation pursuant to sections 1504 and 1515 of title 11 of the Bankruptcy Code. By this Verified Petition, the Monitor seeks (a) recognition of the Monitor as the foreign representative (the “Foreign Representative”), as defined in section 101(24) of the Bankruptcy Code, (b) recognition of the Canadian Proceeding as a foreign main proceeding pursuant to sections 1515, 1517 and 1520 of the Bankruptcy Code and (c) recognition and enforcement of the Initial Order of the Canadian Court dated March 12, 2019 (the “Canadian Order for Relief”) in the United States.¹

2. The Monitor seeks recognition of the Canadian Proceeding and related relief from this Court to protect the Debtor’s assets in the United States and to ensure continuation

¹ Alternatively, if the Court does not recognize the Canadian Proceeding as a foreign main proceeding, the Monitor requests that the Court grant the relief available under sections 1507 and 1521 of the Bankruptcy Code as a foreign non-main proceeding.

of the Debtor's supply chain and inventory management and distribution processes while the Debtor pursues a comprehensive restructuring in Canada. The Verified Petition satisfies all of the requirements set forth in section 1515 of the Bankruptcy Code. A certified copy of the Canadian Order for Relief is attached hereto as **Exhibit A**, in fulfillment of the requirement of Section 1515(b) of the Bankruptcy Code. A Statement Identifying Foreign Main Proceedings is attached hereto as part of **Exhibit B**, in fulfillment of the requirement of Section 1515(c) of the Bankruptcy Code. Pursuant to Rule 1007(a)(4) of the Federal Rules of Bankruptcy Procedure, a list containing the names and addresses of all persons or bodies authorized to administer foreign proceedings of the Debtor, and all parties to litigation pending in the United States in which the Debtor is a party at the time of the filing of this Verified Petition, is attached hereto as part of **Exhibit C**, and a corporate ownership statement is attached hereto as **Exhibit D**.

3. Based on the foregoing and for the reasons described herein, the Monitor submits it has satisfied the requirements for an order granting recognition of the Canadian Proceeding under Chapter 15 of the Bankruptcy Code.

JURISDICTION AND VENUE

4. This Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(P). Venue is proper in this district pursuant to 28 U.S.C. § 1410(1), as the Debtor maintains its principal place of business in the United States in this district and has a bank account in this district.

5. The statutory predicates for the relief requested herein are sections 105(a), 1504, 1507, 1515, 1517, 1520, and 1521 of the Bankruptcy Code.

BACKGROUND

I. The Debtor's Business

6. As more fully described in the Affidavit of Eric Thauvette of the Debtor (the "ITCAN Affidavit"),² the Debtor is a privately held corporation incorporated under the Canada Business Corporations Act, R.S.C., 1985, c. C-44 ("CBCA"). The Debtor is 100% owned by British American Tobacco International (Holdings) B.V. which is itself an indirect subsidiary of British American Tobacco, p.l.c. ("BAT").³ The Debtor's registered head office is located in Brampton, Ontario. [ITCAN Aff. ¶ 17]

A. The Debtor's Tobacco Business and U.S. Inventory

7. The Debtor is primarily a tobacco importer. It purchases finished tobacco products from its affiliate British American Tobacco Mexico S.A. de C.V. ("BAT MX") and imports them, through the United States, into Canada.⁴ [ITCAN Aff. ¶¶ 4, 19] The Debtor's tobacco products lead the industry in Canada with roughly 48% market share of all legal Canadian tobacco sales in 2018. [ITCAN Aff. ¶ 28]

8. The Debtor's subsidiary, Imperial Tobacco Company Limited ("ITCO"), is the exclusive distributor of the Debtor's tobacco products and PRRPs in Canada. ITCO buys finished products from the Debtor and sells them to wholesalers and retailers throughout Canada. In all, ITCO sells 15 brands of cigarette products and PRRPs under various trademarks to

² The ITCAN Affidavit has been filed as Exhibit A to the Bishop Declaration. Dkt. No. [5].

³ Copies of the Debtor's Certificate of Amalgamation and Certificate of Amendment are attached to the Bishop Declaration as Exhibit C.

⁴ The Debtor also buys a small amount of tobacco finished goods from two BAT affiliated companies and imports tobacco heated products and vaping products (collectively, "PRRPs" or "the potentially reduced-risk products") for sale in Canada, albeit not through the United States.

approximately 26,825 retailers and 184 wholesalers. [ITCAN Aff. ¶ 4] ITCO also operates all of ITCAN's distribution centers in Canada. [ITCAN Aff. ¶ 20]

9. The Debtor acquires title to the product it purchases from BAT MX once it is loaded onto trucks in Mexico bound for the United States. The product is brought to the United States and warehoused in the Debtor's two free trade zone distribution centers located in Ohio and Montana and then transported on an "as needed" basis into Canada by ground with Ryder Dedicated (and/or Integrated Logistics, a division of Ryder Truck Rental Canada Ltd. (such Ryder entities, collectively with Ryder subcontractors, "Ryder")) or Baine Johnston Corporation ("BJC"). [ITCAN Aff. ¶¶ 41, 68] Some product is also transported by UPS. [ITCAN Aff. ¶ 76] Based on historical 2018 data, approximately four weeks' worth of finished product inventory is stored in the U.S. distribution centers, one and a half weeks' worth of inventory is in transit and eight to ten days' worth of inventory is in Canada at any given time. [ITCAN Aff. ¶ 68]

10. While ITCO is technically in charge of distribution of finished products in the Canadian distribution centers, day-to-day operations and management of ITCAN's distribution centers in both Canada and the United States are performed by either Ryder or BJC. [ITCAN Aff. ¶ 74]

11. As of December 31, 2018, the Debtor had total assets of approximately C\$5.53 billion and total liabilities of approximately C\$1.09 billion. [ITCAN Aff. ¶¶ 117, 123] As of December 31, 2018, the Debtor and ITCO employed approximately 466 full-time employees and 98 contract employees. [ITCAN Aff. ¶¶ 45, 46]

B. The Debtor's U.S. Operations and Subsidiaries

12. The Debtor is the direct or indirect corporate parent of several subsidiaries in the United States. These include Imasco Holdings Group, Inc. ("Imasco"), Imasco Holdings, Inc., ITL (USA) Limited and Genstar Pacific Corporation (collectively, the "U.S. Subsidiaries").

[ITCAN Aff. ¶ 25] The U.S. Subsidiaries are dormant but administer various legacy liabilities related to their former business operations, including workman’s compensation claims and pension and health plan liabilities. [ITCAN Aff. ¶ 25] Over the years, the Debtor has provided funding for the U.S. Subsidiaries on a monthly basis in the form of a capital contribution to Imasco. [ITCAN Aff. ¶ 25]

13. In 2015, the Debtor moved its principal and only place of business in the United States to New York, New York (the “New York Office”), where it is registered to do business. The Debtor leases the New York Office for the purpose of administering funding of the U.S. Subsidiaries and otherwise managing its interests in the United States. The Debtor has a U.S. bank account with Citibank N.A. in New York City, which is primarily used to fund Imasco. [ITCAN Aff. ¶¶ 40, 86]

14. Pursuant to an agreement dated April 2, 1986, ITCAN guaranteed payment of certain pension and retirement obligations of its U.S. Subsidiaries. [ITCAN Aff. ¶ 55] During the pendency of this case, ITCAN intends to continue to fund contributions to Imasco so that its U.S. Subsidiaries can make ordinary course payments in respect of their pension and retirement plan obligations, with the exception of (i) a non-U.S. tax qualified “deferred income plan” for approximately 53 individuals who are either former senior management employees of Genstar or their surviving spouses, (ii) a non-U.S. tax qualified ”supplemental executive retirement plan” for approximately 14 individuals who were either former Genstar employees or their surviving spouses, and (iii) a non-U.S. tax qualified “supplementary pension plan” for 3 individuals who were either former Genstar employees or their surviving spouses. [ITCAN Aff. ¶ 55]

II. Events Giving Rise to the Canadian Proceeding

15. The Debtor and ITCO commenced the Canadian Proceeding as a result of mounting claims and ongoing product liability and consumer litigation across Canada (the

“Tobacco Litigation”). In the aggregate, the plaintiffs in the Tobacco Litigation seek hundreds of billions of dollars in damages, which exceed the Debtor’s total assets by many orders of magnitude. Recently, the Quebec Court of Appeal substantially upheld a trial judgment in the maximum amount of approximately C\$13.6 billion (the “Damages Award”) arising from the May 27, 2015 judgment in the Letourneau and Blais class actions (bearing court file numbers 500-06-00070-983 and 500-06-000076-80). [ITCAN Aff. ¶¶ 6, 133, 139] ITCAN’s share of the Damages Award alone is over C\$9 billion. [ITCAN Aff. ¶ 139]

16. The Quebec class actions are only two of approximately 20 significant lawsuits currently pending against the Debtor in Canada.⁵ [ITCAN Aff. ¶ 143] Moreover, the ongoing proceedings do not represent all of the potential claims brought or that could be brought under applicable law in relation to the development, manufacturing, production, marketing, advertising of, representations made in respect of, the purchase, sale, and use of, or exposure to tobacco products (collectively, with the Tobacco Litigation, the “Tobacco Claims”). Although the Debtor and ITCO have tried for years to manage the Tobacco Litigation, in light of the magnitude of the Damages Award, the Debtor and ITCO were forced to initiate the Canadian Proceeding to obtain, among other things, a stay of proceedings while they develop and institute a fair and streamlined court-approved process for the quantification and resolution of all Tobacco Claims. [ITCAN Aff. ¶ 7]

⁵ A chart detailing the pending lawsuits is attached to the ITCAN Affidavit as Schedule A.

III. Commencement of the Canadian Proceeding

17. On March 12, 2019, the Debtor and ITCO (together, the “CCAA Entities”) filed an application in the Canadian Court for an Initial Order and related relief under the CCAA. That same day, the Canadian Court issued the Canadian Order for Relief which, among other things, stays proceedings against the CCAA Entities. Canadian Order for Relief at ¶¶ 18-21. In addition, the Canadian Court expressly authorized the Monitor to seek the relief requested from this Court in aid of the Canadian Proceeding. *Id.* at ¶ 62.

18. As provided in the Bishop Declaration, the Monitor has been advised by counsel of the definition of a “foreign proceeding” under Bankruptcy Code section 101(23). As provided in the Bishop Declaration, to the best of the Monitor’s knowledge, the Monitor is not aware of any other “foreign proceeding” within the meaning of Bankruptcy Code section 101(23) with respect to the Debtor.

IV. Center of Main Interests of the Debtor

19. The center of main interests, or “COMI,” for the Debtor is in Canada. The Debtor is organized under Canadian federal law pursuant to the CBCA and has its registered office in Canada. [ITCAN Aff. ¶ 17]

20. Further, the majority of the Debtor’s revenue is generated in Canada through Canadian sales to its subsidiary, ITCO. [ITCAN Aff. ¶ 4] The Debtor’s head office, its senior management, and virtually all of its employees are in Canada. [ITCAN Aff. ¶¶ 4, 17, 45] Also, the Debtor’s central decision-making function, both long-range and day-to-day, takes place in Canada. [ITCAN Aff. ¶ 17]

21. Accordingly, pursuant to Bankruptcy Code section 1516(c), the Debtor is entitled to the presumption that its COMI is Canada.

RELIEF SOUGHT

22. By this Verified Petition, the Monitor seeks the following relief:
- (a) recognition pursuant to section 1517 of the Bankruptcy Code of the Canadian Proceeding as a “foreign main proceeding” as defined in section 1502(4) of the Bankruptcy Code;
 - (b) recognition that the Monitor is the “foreign representative” on a final basis (as defined in section 101(24) of the Bankruptcy Code);
 - (c) all relief automatically available pursuant to section 1520 of the Bankruptcy Code, including a stay of execution against the Debtor’s assets in the United States and express authorization from the Court for the Debtor to maintain its supply chain, inventory management and distribution processes and otherwise continue its activities in the United States in the ordinary course, and barring, enjoining, and staying, pursuant to section 362 of the Bankruptcy Code, any action to interfere with these assets, business operations or processes;
 - (d) the extension of any provisional relief granted under section 1519(a) of the Bankruptcy Code pursuant to section 1521(a)(6); and
 - (e) such other and further relief as is appropriate under the circumstances pursuant to sections 105(a) and 1507 of the Bankruptcy Code.⁶

23. To the extent the relief requested herein exceeds the relief available to the Monitor with respect to the Debtor pursuant to section 1520 of the Bankruptcy Code, the Monitor requests this relief pursuant to sections 1507 and 1521(a)(1) and (2).

24. In the event the Court were to determine the Canadian Proceeding is not a foreign main proceeding, the Monitor requests that the Court nevertheless grant the relief requested above pursuant to sections 1521 and 1507 of the Bankruptcy Code.

⁶ The Monitor, on behalf of the Debtor, has filed separately its Application for Provisional Relief and declaration in support of the Application for Provisional Relief, but reserves the right to request provisional relief on an expedited basis in the event any actions are brought against the Debtor during the interim period, or as otherwise necessary.

BASIS FOR RELIEF

25. For the reasons set forth herein and in the Memorandum of Law, the Canadian Proceeding is entitled to recognition under section 1517 of the Bankruptcy Code. The Canadian Proceeding is (i) a foreign proceeding within the meaning of Bankruptcy Code section 101(23) and (ii) a foreign main proceeding within the meaning of Bankruptcy Code section 1502(4). As described above, the Debtor's registered office and its principal place of business are located in Canada, which is the Debtor's center of main interests within the meaning of Bankruptcy Code section 1516(c). The Monitor is a foreign representative within the meaning of Bankruptcy Code section 101(24). Moreover, the Verified Petition meets the requirements of Bankruptcy Code section 1515.

26. The requested relief is also consistent with the goals of Chapter 15. The Monitor is informed and submits that granting the relief sought herein will aid the Canadian Proceeding and will best assure an opportunity for the Debtor to conduct an orderly reorganization of its financial affairs. Through the Canadian Proceeding, the Debtor is seeking to maximize value for the benefit of its stakeholders and to ensure the just treatment of all holders of claims against and interests in the Debtor. These goals are aligned with the objectives of Chapter 15. *See* 11 U.S.C. § 1501(a)(3).

27. Moreover, granting recognition will promote the U.S. public policy of respecting foreign proceedings as articulated in, *inter alia*, Bankruptcy Code sections 1501(a) and 1508 and does not violate section 1506. Thus, the conditions for recognition of the Monitor and the Canadian Proceedings under Bankruptcy Code section 1517 have been satisfied.

28. Finally, having both substantial assets within the United States and a place of business in the United States, the Debtor qualifies as a "debtor" under section 109(a) of the

Bankruptcy Code. Accordingly, the Debtor qualifies as a Chapter 15 debtor under applicable Second Circuit authority.

NOTICE

29. Notice of this Verified Petition will be provided to all parties listed on Exhibit C to the Notice Application filed contemporaneously herewith.

NO PRIOR REQUEST

30. The Monitor has not previously sought the relief requested herein from this or any other court.

CONCLUSION

WHEREFORE, the Monitor respectfully requests that this Court (a) grant the relief requested in this Verified Petition and enter an order in the form attached hereto as **Exhibit E** and (b) grant such other further relief and additional assistance as this Court may deem just and proper.

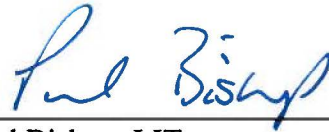
Dated: March 13, 2019
New York, New York

By: /s/ Jennifer Feldsher
Jennifer Feldsher
Mark E. Dendinger
BRACEWELL LLP
1251 Avenue of Americas
New York, New York 10020-1104
Telephone: (212) 508-6100
Facsimile: (212) 938-3837
Jennifer.Feldsher@bracewell.com
Mark.Dendinger@bracewell.com

*Attorneys for FTI Consulting Canada Inc.
In its Capacity as Monitor and Foreign
Representative for the Debtor*

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

Date: March 13, 2019
Toronto, Canada

A handwritten signature in blue ink that reads "Paul Bishop". The signature is written in a cursive style with a horizontal line underneath it.

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

EXHIBIT A

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REGISTRAR GREFFIER

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SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

Court File No.

CV-19-616077001

THE HONOURABLE
JUSTICE MCEWEN

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TUESDAY, THE 12TH
DAY OF MARCH, 2019



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
(the "Applicants")

INITIAL ORDER

THIS APPLICATION, made by the Applicants, pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "CCAA") was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING (i) the affidavit of Eric Thauvette sworn March 12, 2019 and the exhibits thereto (the "**Thauvette Affidavit**"), (ii) the affidavit of Nancy Roberts sworn March 12, 2019, and (iii) the pre-filing report dated March 12, 2019 (the "**Monitor's Pre-Filing Report**") of FTI Consulting Canada Inc. ("**FTI**") in its capacity as the proposed Monitor of the Applicants, and on hearing the submissions of counsel for the Applicants, BAT (as defined herein), FTI and the Honourable Warren K. Winkler, Q.C. in his capacity as proposed Interim Tobacco Claimant Coordinator (as defined herein), and on reading the consent of FTI to act as the Monitor,

SERVICE

1. THIS COURT ORDERS that the time for service and filing of the Notice of Application and the Application Record is hereby abridged and validated so that this Application

is properly returnable today and hereby dispenses with further service thereof.

APPLICATION

2. THIS COURT ORDERS AND DECLARES that the Applicants are companies to which the CCAA applies.

PLAN OF ARRANGEMENT

3. THIS COURT ORDERS that the Applicants, individually or collectively, shall have the authority to file and may, subject to further order of this Court, file with this Court a plan of compromise or arrangement (hereinafter referred to as the “Plan”).

DEFINITIONS

4. THIS COURT ORDERS that for purposes of this Order:

- (a) “**BAT**” means British American Tobacco p.l.c.;
- (b) “**BAT Group**” means, collectively, BAT, BATIF, B.A.T Industries p.l.c., British American Tobacco (Investments) Limited, Carreras Rothmans Limited or entities related to or affiliated with them other than the Applicants and the ITCAN Subsidiaries;
- (c) “**BATIF**” means B.A.T. International Finance p.l.c.;
- (d) “**Deposit Posting Order**” means the order of the Quebec Court of Appeal granted October 27, 2015 or any other Order requiring the posting of security or the payment of a deposit in respect of the Quebec Class Actions;
- (e) “**ITCAN**” means Imperial Tobacco Canada Limited;
- (f) “**ITCAN Subsidiaries**” means the direct and indirect subsidiaries of the Applicants listed in Schedule “B”;
- (g) “**Pending Litigation**” means any and all actions, applications and other lawsuits existing at the time of this Order in which any of the Applicants is a named

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defendant or respondent (either individually or with other Persons (as defined below)) relating in any way whatsoever to a Tobacco Claim, including without limitation the litigation listed in Schedule "A";

(h) "Quebec Class Actions" means the proceedings in the Quebec Superior Court and the Quebec Court of Appeal in (i) *Cécilia Létourneau et al. v. JTI Macdonald Corp., Imperial Tobacco Canada Limited and Rothmans, Benson & Hedges Inc.* and (ii) *Conseil Québécois sur le Tabac et la Santé and Jean-Yves Blais v. JTI Macdonald Corp., Imperial Tobacco Canada Limited and Rothmans, Benson & Hedges Inc.* and all decisions and orders in such proceedings, including, without limitation, the Deposit Posting Order;

(i) "Sales & Excise Taxes" means all goods and services, harmonized sales or other applicable federal, provincial or territorial sales taxes, and all federal excise taxes and customs and import duties and all federal, provincial and territorial tobacco taxes;

(j) "Tobacco Claim" means any right or claim (including, without limitation, a claim for contribution or indemnity) of any Person against or in respect of the Applicants, the ITCAN Subsidiaries or any member of the BAT Group that has been advanced (including, without limitation, in the Pending Litigation), that could have been advanced or that could be advanced, and whether such right or claim is on such Person's own account, on behalf of another Person, as a dependent of another Person, or on behalf of a certified or proposed class, or made or advanced as a government body or agency, insurer, employer, or otherwise, under or in connection with:

(i) applicable law, to recover damages in respect of the development, manufacture, production, marketing, advertising, distribution, purchase or sale of Tobacco Products, the use of or exposure to Tobacco Products or any representation in respect of Tobacco Products, in Canada, or in the case of any of the Applicants, anywhere else in the world; or

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(ii) the legislation listed on Schedule “C”, as may be amended or restated, or similar or analogous legislation that may be enacted in future, excluding any right or claim of a supplier relating to goods or services supplied to, or the use of leased or licensed property by, the Applicants, the ITCAN Subsidiaries or any member of the BAT Group; and

(k) “**Tobacco Products**” means tobacco or any product made or derived from tobacco or containing nicotine that is intended for human consumption, including any component, part, or accessory of or used in connection with a tobacco product, including cigarettes, cigarette tobacco, roll your own tobacco, smokeless tobacco, electronic cigarettes, vaping liquids and devices, heat-not-burn tobacco, and any other tobacco or nicotine delivery systems and shall include materials, products and by-products derived from or resulting from the use of any tobacco products.

POSSESSION OF PROPERTY AND OPERATIONS

5. THIS COURT ORDERS that the Applicants shall remain in possession and control of their respective current and future assets, undertakings and properties of every nature and kind whatsoever, and wherever situate including all proceeds thereof (the “**Property**”). Subject to further Order of this Court, the Applicants shall continue to carry on business in a manner consistent with the preservation of their business (the “**Business**”) and Property. The Applicants are authorized and empowered to continue to retain and employ the employees, independent contractors, consultants, agents, experts, accountants, counsel and such other persons (collectively “**Assistants**”) currently retained or employed by them, with liberty to retain such further Assistants as they deem reasonably necessary or desirable in the ordinary course of business, to preserve the value of the Property or Business or for the carrying out of the terms of this Order.

6. THIS COURT ORDERS that the Applicants shall be entitled to continue to utilize the central cash management system currently in place as described in the Thauvette Affidavit or replace it with another substantially similar central cash management system (the “**Cash Management System**”) and that any present or future bank or other Person providing the Cash

Management System (including, without limitation, BATIF and its affiliates, The Bank of Nova Scotia and Citibank, N.A.) shall not be under any obligation whatsoever to inquire into the propriety, validity or legality of any transfer, payment, collection or other action taken under the Cash Management System, or as to the use or application by the Applicants of funds transferred, paid, collected or otherwise dealt with in the Cash Management System, shall be entitled to provide the Cash Management System without any liability in respect thereof to any Person other than the Applicants, pursuant to the terms of the documentation applicable to the Cash Management System, and shall be, in its capacity as provider of the Cash Management System, an unaffected creditor under the Plan with regard to any claims or expenses it may suffer or incur in connection with the provision of the Cash Management System.

7. THIS COURT ORDERS that the Applicants shall be entitled but not required to pay the following expenses whether incurred prior to, on or after the date of this Order:

- (a) all outstanding and future wages, salaries, commissions, compensation, vacation pay, bonuses, incentive and share compensation plan payments, employee and retiree pension and other benefits and related contributions and payments (including, without limitation, expenses related to the Applicants' employee and retiree medical, dental, disability, life insurance and similar benefit plans or arrangements, employee assistance programs and contributions to or any payments in respect of the Applicants' other retirement programs), reimbursement expenses (including, without limitation, amounts charged to corporate credit cards), termination pay, salary continuance and severance pay payable to employees, independent contractors and other personnel, in each case incurred in the ordinary course of business and consistent with existing compensation policies and arrangements or with Monitor approval;
- (b) the fees and disbursements of any Assistants retained or employed by the Applicants, including without limitation in respect of any proceedings under Chapter 15 of the United States Bankruptcy Code, 11 U.S.C. §§ 101-1330, as amended, at their standard rates and charges;
- (c) with the consent of the Monitor, amounts for goods or services actually supplied to the Applicants prior to the date of this Order;

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- (i) by logistics or supply chain providers, including customs brokers and freight forwarders;
 - (ii) by providers of information technology, social media marketing strategies and publishing services; and
 - (iii) in respect of the Loyalty Program as set out in the Thauvette Affidavit;
- with the consent of the Monitor, amounts payable in respect of any Intercompany Transactions (as defined herein); and

- (e) by other third party suppliers, if, in the opinion of the Applicants, such payment is necessary or desirable to preserve the operations of the Business or the Property.

8. THIS COURT ORDERS that, except as otherwise provided to the contrary herein, the Applicants shall be entitled but not required to pay all reasonable expenses incurred by the Applicants in carrying on the Business in the ordinary course after this Order, and in carrying out the provisions of this Order, which expenses shall include, without limitation:

- (a) all expenses and capital expenditures reasonably necessary for the preservation of the Property or the Business including, without limitation, payments on account of insurance (including directors and officers insurance), maintenance and security services;
- (b) capital expenditures other than as permitted in clause (a) above to replace or supplement the Property or that are otherwise of benefit to the Business, provided that Monitor approval is obtained for any single such expenditure in excess of \$1 million or an aggregate of such expenditures in a calendar year in excess of \$5 million; and
- (c) payment for goods or services supplied or to be supplied to the Applicants on or after the date of this Order (including the payment of any royalties).

9. THIS COURT ORDERS that the Applicants are authorized to complete outstanding transactions and engage in new transactions with any member of the BAT Group and to continue, on and after the date hereof, to buy and sell goods and services and to allocate, collect

and pay costs, expenses and other amounts from and to the members of the BAT Group, including without limitation in relation to head office and shared services, finished, unfinished and semi-finished materials, personnel, administrative, technical and professional services, and royalties and fees in respect of trademark licenses (collectively, together with the Cash Management System and all transactions and all inter-company funding policies and procedures between any of the Applicants and any member of the BAT Group, the "Intercompany Transactions") in the ordinary course of business as described in the affidavit or as otherwise approved by the Monitor. All Intercompany Transactions in the ordinary course of business between the Applicants and any member of the BAT Group, including the provision of goods and services from any member of the BAT Group to any of the Applicants, shall continue on terms consistent with existing arrangements or past practice or as otherwise approved by the Monitor.

10. THIS COURT ORDERS that the Applicants shall remit, in accordance with legal requirements, or pay (whether levied, accrued or collected before, on or after the date of this Order):

- (a) any statutory deemed trust amounts in favour of the Crown in right of Canada or of any Province thereof or any other taxation authority which are required to be deducted from employees' wages, including, without limitation, amounts in respect of (i) employment insurance, (ii) Canada Pension Plan, (iii) Quebec Pension Plan, and (iv) income taxes;
- (b) all Sales & Excise Taxes required to be remitted by the Applicants in connection with the Business; and
- (c) any amount payable to the Crown in right of Canada or of any Province thereof or any political subdivision thereof or any other taxation authority in respect of municipal realty, municipal business or other taxes, assessments or levies of any nature or kind which are entitled at law to be paid in priority to claims of secured creditors and which are attributable to or in respect of the carrying on of the Business by the Applicants.

11. THIS COURT ORDERS that the Applicants are, subject to paragraph 12, authorized to post and to continue to have posted, cash collateral, letters of credit, performance

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bonds, payment bonds, guarantees and other forms of security from time to time, in an aggregate amount not exceeding \$111 million (the “**Bonding Collateral**”), to satisfy regulatory or administrative requirements to provide security that have been imposed on the Applicants in the ordinary course and consistent with past practice in relation to the collection and remittance of federal excise taxes and customs and import duties and federal, provincial and territorial tobacco taxes, whether the Bonding Collateral is provided directly or indirectly by the Applicants as such security.

12. THIS COURT ORDERS that the Canadian federal, provincial and territorial authorities entitled to receive payments or collect monies from the Applicants in respect of Sales & Excise Taxes are hereby stayed during the Stay Period from requiring that any additional bonding or other security be posted by or on behalf of the Applicants in connection with Sales & Excise Taxes, or any other matters for which such bonding or security may otherwise be required.

13. THIS COURT ORDERS that until a real property lease is disclaimed or resiliated in accordance with the CCAA, the Applicants shall pay all amounts constituting rent or payable as rent under real property leases (including, for greater certainty, common area maintenance charges, utilities and realty taxes and any other amounts payable to the landlord under the lease) or as otherwise may be negotiated between the relevant Applicant and the landlord from time to time (“**Rent**”), for the period commencing from and including the date of this Order, at such intervals as such Rent is usually paid in the ordinary course of business. On the date of the first of such payments, any Rent relating to the period commencing from and including the date of this Order shall also be paid.

14. THIS COURT ORDERS that, except as specifically permitted herein, the Applicants are hereby directed, until further Order of this Court: (a) to make no payments of principal, interest thereon or otherwise on account of amounts owing by the Applicants or claims to which they are subject to any of their creditors as of this date and to post no security in respect of such amounts or claims, including pursuant to an order or judgment; (b) to grant no security interests, trust, liens, charges or encumbrances upon or in respect of any of their Property; and (c) to not grant credit or incur liabilities except in the ordinary course of the Business.

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RESTRUCTURING

15. THIS COURT ORDERS that the Applicants shall, subject to such requirements as are imposed by the CCAA, have the right to:

- (a) permanently or temporarily cease, downsize or shut down any of their respective businesses or operations and to dispose of redundant or non-material assets not exceeding \$1,000,000 in any one transaction or \$5,000,000 in the aggregate;
- (b) terminate the employment of such of its employees or temporarily lay off such of its employees as it deems appropriate;
- (c) pursue all avenues of refinancing of the Business or Property, in whole or part, subject to prior approval of this Court being obtained before any material refinancing; and
- (d) pursue all avenues to resolve any of the Tobacco Claims, in whole or in part,

all of the foregoing to permit the Applicants to proceed with an orderly restructuring of the Business (the “**Restructuring**”).

16. THIS COURT ORDERS that the Applicants shall provide each of the relevant landlords with notice of the relevant Applicant’s intention to remove any fixtures from any leased premises at least seven (7) days prior to the date of the intended removal. The relevant landlord shall be entitled to have a representative present in the leased premises to observe such removal and, if the landlord disputes the relevant Applicant’s entitlement to remove any such fixture under the provisions of the lease, such fixture shall remain on the premises and shall be dealt with as agreed between any applicable secured creditors, such landlord and such Applicant, or by further Order of this Court upon application by such Applicant on at least two (2) days’ notice to such landlord and any such secured creditors. If the relevant Applicant disclaims or resiliates the lease governing such leased premises in accordance with Section 32 of the CCAA, it shall not be required to pay Rent under such lease pending resolution of any such dispute (other than Rent payable for the notice period provided for in Section 32(5) of the CCAA), and the disclaimer or resiliation of the lease shall be without prejudice to such Applicant’s claim to the fixtures in dispute.

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THIS COURT ORDERS that if a notice of disclaimer or resiliation is delivered pursuant to Section 32 of the CCAA, then (a) during the notice period prior to the effective time of the disclaimer or resiliation, the landlord may show the affected leased premises to prospective tenants during normal business hours, on giving the relevant Applicant and the Monitor 24 hours' prior written notice, and (b) at the effective time of the disclaimer or resiliation, the relevant landlord shall be entitled to take possession of any such leased premises without waiver of or prejudice to any claims or rights such landlord may have against such Applicant in respect of such lease or leased premises, provided that nothing herein shall relieve such landlord of its obligation to mitigate any damages claimed in connection therewith.

STAY OF PROCEEDINGS

18. THIS COURT ORDERS that until and including April 11, 2019, or such later date as this Court may order (the "Stay Period"), no proceeding or enforcement process in any court or tribunal (each, a "Proceeding"), including but not limited to any Pending Litigation and any other Proceeding in relation to any other Tobacco Claim, shall be commenced, continued or take place against or in respect of the Applicants, the ITCAN Subsidiaries, the Monitor, any of their respective employees and representatives acting in that capacity, the Interim Tobacco Claimant Coordinator, or affecting the Business or the Property or the funds deposited pursuant to the Deposit Posting Order except with the written consent of the Applicants and the Monitor, or with leave of this Court, and any and all Proceedings currently under way or directed to take place against or in respect of any of the Applicants or the ITCAN Subsidiaries, any of their respective employees and representatives acting in that capacity or affecting the Business or the Property or the funds deposited pursuant to the Deposit Posting Order are hereby stayed and suspended pending further Order of this Court. All counterclaims, cross-claims and third party claims of the Applicants in the Pending Litigation are likewise subject to this stay of Proceedings during the Stay Period.

19. THIS COURT ORDERS that, during the Stay Period, no Proceeding in Canada that relates in any way to a Tobacco Claim or to the Applicants, the Business or the Property, including the Pending Litigation, shall be commenced, continued or take place against or in respect of any member of the BAT Group except with the written consent of the Applicants and the Monitor, or with leave of this Court, and any and all such Proceedings currently underway or directed to take

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Exhibit A Pg 12

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DATED AT TORONTO THIS 13 DAY OF March 20 19

Ray Williams
REGISTRAR

place against or in respect of any member of the BAT Group are hereby stayed and suspended pending further Order of this Court.

20. THIS COURT ORDERS that, to the extent any prescription, time or limitation period relating to any Proceeding against or in respect of the Applicants, the ITCAN Subsidiaries or any member of the BAT Group that is stayed pursuant to this Order may expire, the term of such prescription, time or limitation period shall hereby be deemed to be extended by a period equal to the Stay Period.

NO EXERCISE OF RIGHTS OR REMEDIES

21. THIS COURT ORDERS that during the Stay Period, all rights and remedies of any individual, firm, corporation, governmental body or agency, or any other entities (all of the foregoing, collectively being "Persons" and each being a "Person") against or in respect of the Applicants, the ITCAN Subsidiaries or the Monitor or their respective employees and representatives acting in that capacity, or affecting the Business or the Property or to obtain the funds deposited pursuant to the Deposit Posting Order (including, for greater certainty, any enforcement process or steps or other rights and remedies under or relating to the Quebec Class Actions against the Applicants, the Property or the ITCAN Subsidiaries), are hereby stayed and suspended except with the written consent of the Applicants and the Monitor, or leave of this Court, provided that nothing in this Order shall (i) empower the Applicants or the ITCAN Subsidiaries to carry on any business which the Applicants or the ITCAN Subsidiaries are not lawfully entitled to carry on, (ii) affect such investigations, actions, suits or proceedings by a regulatory body as are permitted by Section 11.1 of the CCAA, (iii) prevent the filing of any registration to preserve or perfect a security interest, or (iv) prevent the registration of a claim for lien.

NO INTERFERENCE WITH RIGHTS

22. THIS COURT ORDERS that during the Stay Period, no Person shall discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, licence or permit in favour of or held by the Applicants or the ITCAN Subsidiaries, except with the written consent of the Applicants and the Monitor, or leave of this Court.

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DATED AT TORONTO THIS 13 DAY OF March 20 19
 FAIT A TORONTO LE _____ JOUR DE _____

Ray Williams
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CONTINUATION OF SERVICES

23. THIS COURT ORDERS that during the Stay Period, all Persons having oral or written agreements with the Applicants or the ITCAN Subsidiaries or statutory or regulatory mandates for the supply of goods and/or services, including without limitation all computer software, communication and other data services, centralized banking services, payroll services, insurance, transportation services, utility, customs clearing, warehouse or logistical services or other services to the Business, the Applicants or the ITCAN Subsidiaries, are hereby restrained until further Order of this Court from discontinuing, altering, interfering with or terminating the supply of such goods or services as may be required by the Applicants or the ITCAN Subsidiaries, and that the Applicants and the ITCAN Subsidiaries shall be entitled to the continued use of their current premises, telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case that the normal prices or charges for all such goods or services received after the date of this Order are paid by the Applicants and the ITCAN Subsidiaries in accordance with normal payment practices of the Applicants and the ITCAN Subsidiaries or such other practices as may be agreed upon by the supplier or service provider and the respective Applicant or ITCAN Subsidiary and the Monitor, or as may be ordered by this Court.

NON-DEROGATION OF RIGHTS

24. THIS COURT ORDERS that, notwithstanding anything else in this Order, no Person shall be prohibited from requiring immediate payment for goods, services, use of leased or licensed property or other valuable consideration provided on or after the date of this Order, nor shall any Person be under any obligation on or after the date of this Order to advance or re-advance any monies or otherwise extend any credit to the Applicants. Nothing in this Order shall derogate from the rights conferred and obligations imposed by the CCAA.

SALES AND EXCISE TAX CHARGE

25. THIS COURT ORDERS that the Canadian federal, provincial and territorial authorities that are entitled to receive payments or collect monies from the Applicants in respect of Sales & Excise Taxes (including for greater certainty the Canada Border Services Agency) shall be entitled to the benefit of and are hereby granted a charge (the "Sales and Excise Tax Charge") on the Property, which charge shall not exceed an aggregate amount of \$580 million, as security

for all amounts owing by the Applicants in respect of Sales & Excise Taxes, after taking into consideration any Bonding Collateral posted in respect thereof. The Sales and Excise Tax Charge shall have the priority set out in paragraphs 45 and 47 hereof.

PROCEEDINGS AGAINST DIRECTORS AND OFFICERS

26. THIS COURT ORDERS that during the Stay Period, and except as permitted by subsection 11.03(2) of the CCAA, no Proceeding may be commenced or continued against any of the former, current or future directors or officers of the Applicants with respect to any claim against the directors or officers that arose before the date hereof and that relates to any obligations of the Applicants whereby the directors or officers are alleged under any law to be liable in their capacity as directors or officers for the payment or performance of such obligations.

DIRECTORS' AND OFFICERS' INDEMNIFICATION AND CHARGE

27. THIS COURT ORDERS that the Applicants shall indemnify their directors and officers against obligations and liabilities that they may incur as directors or officers of the Applicants after the commencement of the within proceedings, except to the extent that, with respect to any officer or director, the obligation or liability was incurred as a result of the director's or officer's gross negligence or wilful misconduct.

28. THIS COURT ORDERS that the directors and officers of the Applicants shall be entitled to the benefit of and are hereby granted a charge (the "Directors' Charge") on the Property, which charge shall not exceed an aggregate amount of \$16 million, as security for the indemnity provided in paragraph 27 of this Order. The Directors' Charge shall have the priority set out in paragraphs 45 and 47 herein.

29. THIS COURT ORDERS that, notwithstanding any language in any applicable insurance policy to the contrary, (a) no insurer shall be entitled to be subrogated to or claim the benefit of the Directors' Charge, and (b) the Applicants' directors and officers shall only be entitled to the benefit of the Directors' Charge to the extent that they do not have coverage under any directors' and officers' insurance policy, or to the extent that such coverage is insufficient to pay amounts indemnified in accordance with paragraph 27 of this Order.

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Ray Williams
 REGISTRAR / GREFFIER

APPOINTMENT OF MONITOR

30. THIS COURT ORDERS that FTI Consulting Canada Inc. is hereby appointed pursuant to the CCAA as the Monitor, an officer of this Court, to monitor the business and financial affairs of the Applicants with the powers and obligations set out in the CCAA or set forth herein and that the Applicants and their shareholders, officers, directors, and Assistants shall advise the Monitor of all material steps taken by the Applicants pursuant to this Order, and shall co-operate fully with the Monitor in the exercise of its powers and discharge of its obligations and provide the Monitor with the assistance that is necessary to enable the Monitor to adequately carry out the Monitor's functions.

31. THIS COURT ORDERS that the Monitor, in addition to its prescribed rights and obligations under the CCAA, is hereby directed and empowered to:

- (a) monitor the Applicants' receipts and disbursements;
- (b) report to this Court at such times and intervals as the Monitor may deem appropriate with respect to matters relating to the Property, the Business, and such other matters as may be relevant to the proceedings herein;
- (c) advise the Applicants in their preparation of the Applicants' cash flow statements;
- (d) advise the Applicants in their development of the Plan and any amendments to the Plan;
- (e) assist the Applicants, to the extent required by the Applicants, with the holding and administering of creditors' or shareholders' meetings for voting on the Plan;
- (f) have full and complete access to the Property, including the premises, books, records, data, including data in electronic form, and other financial documents of the Applicants, to the extent that is necessary to adequately assess the Applicants' business and financial affairs or to perform its duties arising under this Order;
- (g) be at liberty to engage independent legal counsel or such other persons as the Monitor deems necessary or advisable respecting the exercise of its powers and performance of its obligations under this Order;

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- (h) assist the Applicants, to the extent required by the Applicants, in its efforts to explore the potential for a resolution of any of the Tobacco Claims;
 - (i) consult with the Interim Tobacco Claimant Coordinator in connection with the Interim Tobacco Claimant Coordinator’s mandate, including in relation to any negotiations to settle any Tobacco Claims and the development of the Plan;
- be and is hereby appointed to serve as the “foreign representative” of the Applicants in respect of an application to the United States Bankruptcy Court for relief pursuant to Chapter 15 of the United States Bankruptcy Code, 11 U.S.C. §§ 101-1330, as amended; and
- (k) perform such other duties as are required by this Order or by this Court from time to time.

32. THIS COURT ORDERS that the Monitor shall not take possession of the Property and shall take no part whatsoever in the management or supervision of the management of the Business and shall not, by fulfilling its obligations hereunder, be deemed to have taken or maintained possession or control of the Business or Property, or any part thereof.

33. THIS COURT ORDERS that nothing herein contained shall require the Monitor to occupy or to take control, care, charge, possession or management (separately and/or collectively, “**Possession**”) of any of the Property that might be environmentally contaminated, might be a pollutant or a contaminant, or might cause or contribute to a spill, discharge, release or deposit of a substance contrary to any federal, provincial or other law respecting the protection, conservation, enhancement, remediation or rehabilitation of the environment or relating to the disposal of waste or other contamination including, without limitation, the *Canadian Environmental Protection Act*, the *Ontario Environmental Protection Act*, the *Ontario Water Resources Act*, the *Ontario Occupational Health and Safety Act*, the *Quebec Environment Quality Act*, the *Quebec Act Respecting Occupational Health and Safety* and any regulations under any of the foregoing statutes (the “**Environmental Legislation**”), provided however that nothing herein shall exempt the Monitor from any duty to report or make disclosure imposed by applicable Environmental Legislation. The Monitor shall not, as a result of this Order or anything done in pursuance of the

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Monitor's duties and powers under this Order, be deemed to be in Possession of any of the Property within the meaning of any Environmental Legislation, unless it is actually in possession.

34. THIS COURT ORDERS that the Monitor shall provide any creditor of the Applicants and the Interim Tobacco Claimant Coordinator with information provided by the Applicants in response to reasonable requests for information made in writing by such person addressed to the Monitor. The Monitor shall not have any responsibility or liability with respect to the information disseminated by it pursuant to this paragraph. In the case of information that the Monitor has been advised by the Applicants is confidential, the Monitor shall not provide such information to creditors unless otherwise directed by this Court or on such terms as the Monitor and the Applicants may agree.

35. THIS COURT ORDERS that, in addition to the rights and protections afforded the Monitor under the CCAA or as an officer of this Court, the Monitor shall incur no liability or obligation as a result of its appointment or the carrying out of the provisions of this Order, save and except for any gross negligence or wilful misconduct on its part. Nothing in this Order shall derogate from the protections afforded the Monitor by the CCAA or any applicable legislation.

36. THIS COURT ORDERS that the Monitor, counsel to the Monitor and counsel to the Applicants shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges, by the Applicants as part of the costs of these proceedings. The Applicants are hereby authorized and directed to pay the accounts of the Monitor, counsel to the Monitor and counsel to the Applicants on a bi-weekly basis and, in addition, the Applicants are hereby authorized, *nunc pro tunc*, to pay to the Monitor, counsel to the Monitor and counsel to the Applicants retainers to be held by them as security for payment of their respective fees and disbursements outstanding from time to time.

37. THIS COURT ORDERS that the Monitor and its legal counsel shall pass their accounts from time to time, and for this purpose the accounts of the Monitor and its legal counsel are hereby referred to a judge of the Commercial List of the Ontario Superior Court of Justice.

38. THIS COURT ORDERS that the Monitor, counsel to the Monitor and counsel to the Applicants shall be entitled to the benefit of and are hereby granted a charge (the "Administration Charge") on the Property, which charge shall not exceed an aggregate amount

of \$5 million, as security for their professional fees and disbursements incurred at the standard rates and charges of the Monitor and such counsel, both before and after the making of this Order in respect of these proceedings. The Administration Charge shall have the priority set out in paragraphs 45 and 47 hereof.

INTERIM TOBACCO CLAIMANT COORDINATOR

39. THIS COURT ORDERS that the Hon. Warren K. Winkler Q.C. is hereby appointed, on an interim basis until April 30, 2019 or as may be agreed to by the Applicants and the Monitor (the “**Interim Period**”), as an officer of the Court and shall act as an independent third party (the “**Interim Tobacco Claimant Coordinator**”) to assist and to coordinate the interests of all Persons (other than any defendant or respondent, any of their respective affiliates, and the federal, provincial and territorial governments of Canada) in these proceedings (the “**Tobacco Claimants**”) in connection with the Pending Litigation and any Tobacco Claim (the “**Interim Duties**”).

40. THIS COURT ORDERS that, during the Interim Period, the Interim Tobacco Claimant Coordinator shall be at liberty to, among other things:

(a) retain independent legal counsel and such other advisors and persons as the Interim Tobacco Claimant Coordinator considers necessary or desirable to assist him in relation to the Interim Duties;

(b) consult with Tobacco Claimants, the Monitor, the Applicants and other creditors and stakeholders of the Applicant, including in connection with any recommendations that the Interim Tobacco Claimant Coordinator has in respect of the (i) establishment of a committee of Tobacco Claimants (the “**Tobacco Claimant Committee**”) to consult with and provide input to the Interim Tobacco Claimant Coordinator and the procedures to govern the formation and operation of the Interim Tobacco Claimant Committee; and (ii) procedural mechanisms to be implemented to facilitate the resolution of the Tobacco Claims;

accept a court appointment of similar nature to represent claimants with interests similar to the Tobacco Claimants in any proceedings under the CCAA commenced by a company that is a co-defendant with any of the Applicants in any action

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JURY AT TORONTO LE 13 JOUR DE Mars 2019
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brought by one or more Tobacco Claimants, including the Pending Litigation; and

- (d) apply to this Court for advice and directions at such times as the Interim Tobacco Claimant Coordinator may so require.

41. THIS COURT ORDERS that, subject to an agreement between the Applicants and the Interim Tobacco Claimant Coordinator, all reasonable fees and disbursements of the Interim Tobacco Claimant Coordinator and his legal counsel and financial and other advisors as may have been incurred by them prior to the date of this Order or which shall be incurred by them in relation to the Interim Duties shall be paid by the Applicants on a monthly basis, forthwith upon the rendering of accounts to the Applicants.

42. THIS COURT ORDERS that the Interim Tobacco Claimant Coordinator shall be entitled to the benefit of and is hereby granted a charge (the “**Interim Tobacco Claimant Coordinator Charge**”) on the Property, which charge shall not exceed an aggregate amount of \$1 million, as security for his fees and disbursements and for the fees and disbursements of his legal counsel and financial and other advisors, in each case incurred at their standard rates and charges, both before and after the making of this Order in respect of these proceedings. The Interim Tobacco Claimant Coordinator Charge shall have the priority set out in paragraphs 45 and 47 hereof.

43. THIS COURT ORDERS that the Interim Tobacco Claimant Coordinator is authorized to take all steps and to do all acts necessary or desirable to carry out the terms of this Order, including dealing with any Court, regulatory body or other government ministry, department or agency, and to take all such steps as are necessary or incidental thereto.

44. THIS COURT ORDERS that, in addition to the rights and protections afforded as an officer of this Court, the Interim Tobacco Claimant Coordinator shall incur no liability or obligation as a result of his appointment or the carrying out of the provisions of this Order, save and except for any gross negligence or wilful misconduct on his part. Nothing in this Order shall derogate from the protections afforded a person pursuant to Section 142 of the *Courts of Justice Act* (Ontario).

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DATED AT TORONTO THIS 13 DAY OF March 20 19
 FAIT A TORONTO LE 13 JOUR DE March 20 19

Mans M. Sullivan
 REGISTRAR GREFFIER

VALIDITY AND PRIORITY OF CHARGES CREATED BY THIS ORDER

45. THIS COURT ORDERS that the priorities of the Administration Charge, the Interim Tobacco Claimant Coordinator Charge, the Directors' Charge, and the Sales and Excise Tax Charge (collectively, the "Charges"), as among them, shall be as follows:

- (a) First – Administration Charge (to the maximum amount of \$5 million) and the Interim Tobacco Claimant Coordinator Charge (to the maximum amount of \$1 million), *pari passu*;
- (b) Second – Directors' Charge (to the maximum amount of \$16 million); and
- (c) Third – the Sales and Excise Tax Charge (to the maximum amount of \$580 million).

46. THIS COURT ORDERS that the filing, registration or perfection of the Charges shall not be required, and that the Charges shall be valid and enforceable for all purposes, including as against any right, title or interest filed, registered, recorded or perfected subsequent to the Charges coming into existence, notwithstanding any such failure to file, register, record or perfect.

47. THIS COURT ORDERS that each of the Charges shall constitute a charge on the Property and such Charges shall rank in priority to all other security interests, trusts, liens, charges encumbrances, and claims of secured creditors, statutory or otherwise (collectively, the "Encumbrances") in favour of any Person in respect of such Property save and except for:

- (a) purchase-money security interests or the equivalent security interests under various provincial legislation and financing leases (that, for greater certainty, shall not include trade payables);
- (b) statutory super-priority deemed trusts and liens for unpaid employee source deductions;
- (c) deemed trusts and liens for any unpaid pension contribution or deficit with respect to the DB Plans, the DC Plan (as such terms are defined in the Thauvette Affidavit) and any of the Applicants' other pension plans, but only to the extent that any such

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DATED AT TORONTO THIS 13 DAY OF March 20 19
 EN TÀ TORONTO LE 13 JOUR DE Mars 20 19

Registrar: *[Signature]*
 Greffier: *[Signature]*

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deemed trusts and liens are statutory super-priority deemed trusts and liens afforded priority by statute over all pre-existing Encumbrances granted or created by contract; and

liens for unpaid municipal property taxes or utilities that are given first priority over other liens by statute.

48. THIS COURT ORDERS that except as otherwise expressly provided for herein, or as may be approved by this Court, the Applicants shall not grant any Encumbrances over any Property that rank in priority to, or *pari passu* with, any of the Charges unless the Applicants also obtain the prior written consent of the Monitor and the beneficiaries of the Charges affected thereby (collectively, the “Charges”), or further Order of this Court.

49. THIS COURT ORDERS that each of the Charges shall not be rendered invalid or unenforceable and the rights and remedies of the Chargees thereunder shall not otherwise be limited or impaired in any way by (a) the pendency of these proceedings and the declarations of insolvency made herein; (b) any application(s) for bankruptcy order(s) issued pursuant to the *Bankruptcy and Insolvency Act* (“BIA”), or any bankruptcy order made pursuant to such applications; (c) the filing of any assignments for the general benefit of creditors made pursuant to the BIA; (d) the provisions of any federal or provincial statutes; or (e) any negative covenants, prohibitions or other similar provisions with respect to borrowings, incurring debt or the creation of Encumbrances, contained in any existing loan documents, lease, sublease, offer to lease or other agreement (collectively, an “Agreement”) which binds the Applicants, and notwithstanding any provision to the contrary in any Agreement:

- (a) the creation of the Charges shall not create or be deemed to constitute a breach by the Applicants of any Agreement to which it is a party;
- (b) none of the Chargees shall have any liability to any Person whatsoever as a result of any breach of any Agreement caused by or resulting from the creation of the Charges; and

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(c) the payments made by the Applicants pursuant to this Order and the granting of the Charges do not and will not constitute preferences, fraudulent conveyances, transfers at undervalue, oppressive conduct, or other challengeable or voidable transactions under any applicable law.

THIS COURT ORDERS that any Charge created by this Order over leases of real property in Canada shall only be a Charge in the Applicants' interest in such real property leases.

SERVICE AND NOTICE

51. THIS COURT ORDERS that the Monitor shall (i) without delay, publish in The Globe and Mail (National Edition) and La Presse a notice containing the information prescribed under the CCAA as well as the date of the Comeback Motion (as defined below) and advising of the appointment of the Interim Tobacco Claimant Coordinator, (ii) within five days after the date of this Order or as soon as reasonably practicable thereafter, (A) make this Order publicly available in the manner prescribed under the CCAA, (B) send, in the prescribed manner, a notice (which shall include the date of the Comeback Motion) to every known creditor who has a claim (contingent, disputed or otherwise) against the Applicants of more than \$5,000, except with respect to (I) Tobacco Claimants, in which cases the Monitor shall only send a notice to the Interim Tobacco Claimant Coordinator and to counsel of record in the applicable Pending Litigation (if any) and (II) in the case of beneficiaries of the DB Plans, the DC Plan (as such terms are defined in the Thauvette Affidavit) and any of the Applicants' other pension plans, in which case the Monitor shall only send a notice to the trustees of each of the DB Plans, the DC Plan and the Applicants' other pension plans, and the Retraite Québec, and (C) prepare a list showing the names and addresses of those creditors and the estimated amounts of those claims, and make it publicly available in the prescribed manner, all in accordance with Section 23(1)(a) of the CCAA and the regulations made thereunder. The list referenced in subparagraph (C) above shall not include the names, addresses or estimated amounts of the claims of those creditors who are individuals or any personal information in respect of an individual.

52. THIS COURT ORDERS that notice of the appointment of the Interim Tobacco Claimant Coordinator shall be provided to the Tobacco Claimants by:

- (a) notice on the Case Website (as defined herein) posted by the Monitor;

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 REGISTRAR

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advertisements published without delay by the Monitor in The Globe and Mail (National Edition) and La Presse, which advertisements shall be in addition to the advertisement required under paragraph 51 hereof, and which shall be run on two non-consecutive days following the day on which the advertisement set out in paragraph 51 is run; and

delivery by the Applicants of a copy of this Order to counsel of record in the applicable Pending Litigation, who shall thereafter (i) post notice of the appointment of the Interim Tobacco Claimant Coordinator on their respective websites and (ii) deliver notice of the appointment of the Interim Tobacco Claimant Coordinator to each representative plaintiff;

53. THIS COURT ORDERS that notice of any motions or other proceedings to which the Tobacco Claimants are entitled or required to receive in these CCAA proceedings and in respect of which the Interim Tobacco Claimant Coordinator has the authority to represent the Tobacco Claimants may be served on the Interim Tobacco Claimant Coordinator and, unless the Court has ordered some other form of service, such service will constitute sufficient service and any further service on Tobacco Claimants is dispensed with.

54. THIS COURT ORDERS that the E-Service Guide of the Commercial List (the "Guide") is approved and adopted by reference herein and, in this proceeding, the service of documents made in accordance with the Guide (which can be found on the Commercial List website at <http://www.ontariocourts.ca/scj/practice/practice-directions/toronto/eservice-commercial/>) shall be valid and effective service. Subject to Rule 17.05 this Order shall constitute an order for substituted service pursuant to Rule 16.04 of the Rules of Civil Procedure. Subject to Rule 3.01(d) of the Rules of Civil Procedure and paragraph 13 of the Guide, service of documents in accordance with the Guide will be effective on transmission. This Court further orders that a Case Website shall be established by the Monitor in accordance with the Guide with the following URL: <http://cfcanada.fticonsulting.com/imperialtobacco> ("Case Website").

55. THIS COURT ORDERS that if the service or distribution of documents in accordance with the Guide is not practicable, the Applicants and the Monitor are at liberty to serve or distribute this Order, any other materials and orders in these proceedings, and any notices or other correspondence, by forwarding true copies thereof by prepaid ordinary mail, courier,

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Exhibit A

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FAIT A TORONTO LE 13 JOUR DE March 20 19

Roy Wilkie
REGISTRAR

personal delivery, facsimile or other electronic transmission to the Applicants' creditors or other interested parties at their respective addresses as last shown on the records of the Applicants and that any such service or distribution by courier, personal delivery, facsimile or other electronic transmission shall be deemed to be received on the date of forwarding thereof, or if sent by ordinary mail, on the third business day after mailing.

56. THIS COURT ORDERS that the Applicants are authorized to rely on the notice provided in paragraph 51 to provide notice of the comeback motion to be heard on a date to be set by this Court upon the granting of this Order (the "Comeback Motion") and shall only be required to serve motion materials relating to the Comeback Motion, in accordance with the Guide, upon those parties who serve a Notice of Appearance in this proceeding prior to the date of the Comeback Motion.

57. THIS COURT ORDERS that the Monitor shall create, maintain and update as necessary a list of all Persons appearing in person or by counsel in this proceeding (the "Service List"). The Monitor shall post the Service List, as may be updated from time to time, on the Case Website as part of the public materials to be recorded thereon in relation to this proceeding. Notwithstanding the foregoing, the Monitor shall have no liability in respect of the accuracy of or the timeliness of making any changes to the Service List. The Monitor shall manage the scheduling of all motions that are brought in these proceedings.

58. THIS COURT ORDERS that the Applicants and the Monitor and their counsel are at liberty to serve or distribute this Order, any other materials and orders as may be reasonably required in these proceedings, including any notices, or other correspondence, by forwarding true copies thereof by electronic message to the Applicants' creditors or other interested parties and their advisors. For greater certainty, any such distribution or service shall be deemed to be in satisfaction of a legal or juridical obligation, and notice requirements within the meaning of clause 3(c) of the Electronic Commerce Protection Regulations, Reg. 8100 2-175 (SOR/DORS).

GENERAL

59. THIS COURT ORDERS that the Applicants or the Monitor may from time to time apply to this Court to amend, vary, supplement or replace this Order or for advice and directions

DATED AT TORONTO THIS 13 DAY OF March 20 19
FAIT A TORONTO LE JOUR DE

Key Williams
REGISTRAR

concerning the discharge of their respective powers and duties under this Order or the interpretation or application of this Order.

60. THIS COURT ORDERS that nothing in this Order shall prevent the Monitor from acting as an interim receiver, a receiver, a receiver and manager, or a trustee in bankruptcy of the Applicants, the Business or the Property.

61. THIS COURT HEREBY REQUESTS the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada, in the United States or any other country, 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.

62. THIS COURT ORDERS that each of the Applicants and the Monitor be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order, and that the Monitor is authorized and empowered to act as a representative in respect of the within proceedings for the purpose of having these proceedings recognized in a jurisdiction outside Canada.

63. THIS COURT ORDERS that any interested party (including the Applicants, BAT, BATIF, and the Monitor) may apply to this Court to vary or amend this Order on not less than seven (7) days' notice to any other party or parties likely to be affected by the order sought or upon such other notice, if any, as this Court may order.

64. THIS COURT ORDERS that this Order and all of its provisions are effective as of 12:01 a.m. Eastern Standard/Daylight Time on the date of this Order (the "Effective Time") and that from the Effective Time to the time of the granting of this Order any action taken or notice given by any creditor of the Applicants or by any other Person to commence or continue any enforcement, realization, execution or other remedy of any kind whatsoever against the Applicant,

the Property, the Business or the funds deposited pursuant to the Deposit Posting Order shall be deemed not to have been taken or given, as the case may be.



SUPERIOR COURT OF JUSTICE
 ENTERED

MAR 12 2019
 JP

COUR SUPÉRIEURE DE JUSTICE
 ENTRÉ

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Kay Williams
 REGISTRAR

[Signature]
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**SCHEDULE "A"
PENDING LITIGATION**

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DATED AT TORONTO THIS 13 DAY OF March 20 19
FAIT À TORONTO LE _____ JOUR DE _____

Russ Mullins
REGISTRAR GREFFIER

A. Medicaid Claim Litigation

	Jurisdiction	File Date & Court File No.	Plaintiff(s)	Defendant(s)
1.	Alberta	June 8, 2012; 1201-07314 (Calgary)	Her Majesty in Right of Alberta	Altria Group, Inc.; B.A.T Industries p.l.c.; British American Tobacco (Investments) Limited; British American Tobacco p.l.c.; Canadian Tobacco Manufacturers Council; Carreras Rothmans Limited; Imperial Tobacco Canada Limited; JTI-MacDonald Corp.; Philip Morris International, Inc.; Philip Morris USA, Inc.; R.J. Reynolds Tobacco Company; R.J. Reynolds Tobacco International, Inc.; Rothmans, Benson & Hedges Inc.; and Rothmans Inc.
2.	British Columbia	January 24, 2001, further amended February 17, 2011; S010421 (Vancouver)	Her Majesty the Queen in right of British Columbia	Imperial Tobacco Canada Limited, Rothmans, Benson & Hedges Inc., Rothmans Inc., JTI-Macdonald Corp., Canadian Tobacco Manufacturers' Council, B.A.T Industries p.l.c., British American Tobacco (Investments) Limited, Carreras Rothmans Limited, Philip Morris Incorporated, Philip Morris International, Inc., R. J. Reynolds Tobacco Company, R. J. Reynolds Tobacco International, Inc., Rothmans International Research Division and Ryesekks p.l.c.
3.	Manitoba	May 31, 2012, amended October 16, 2012; CI 12-01-78127 (Winnipeg)	Her Majesty the Queen in right of the Province of Manitoba	Rothmans, Benson & Hedges Inc., Rothmans, Inc., Altria Group, Inc., Philip Morris U.S.A. Inc., Philip Morris International, Inc., JTI-MacDonald Corp., R.J. Reynolds Tobacco Company, R.J. Reynolds Tobacco International Inc., Imperial Tobacco Canada Limited, British American Tobacco p.l.c., B.A.T Industries p.l.c., British American Tobacco (Investments) Limited, Carreras Rothmans Limited, and Canadian Tobacco Manufacturers' Council
4.	New Brunswick	March 13, 2008; F/C/88/08 (Fredericton)	Her Majesty the Queen in right of the Province of New Brunswick	Rothmans Inc., Rothmans, Benson & Hedges Inc., Carreras Rothmans Limited, Altria Group, Inc., Phillip Morris U.S.A. Inc., Phillip Morris International Inc., JTI-MacDonald Corp., R.J. Reynolds Tobacco Company, R.J. Reynolds Tobacco International Inc., Imperial Tobacco Canada Limited, British American Tobacco p.l.c., B.A.T Industries p.l.c., British American Tobacco (Investments) Limited and Canadian Tobacco Manufacturers' Council

	Jurisdiction	File Date & Court File No.	Plaintiff(s)	Defendant(s)
5.	Newfoundland and Labrador	February 8, 2011, amended June 4, 2014; 01G. No. 0826 (St. John's)	Attorney General of Newfoundland and Labrador	Rothmans Inc., Rothmans, Benson & Hedges Inc., Carreras Rothmans Limited, Altria Group, Inc., Philip Morris USA Inc, Philip Morris International Inc., JTI-MacDonald Corp., RJ Reynolds Tobacco Company, RJ Reynolds Tobacco International Inc., Imperial Tobacco Canada Limited, British American Tobacco p.l.c., B.A.T Industries p.l.c, British America Tobacco (Investments) Limited and Canadian Tobacco Manufacturers' Council
6.	Nova Scotia	January 2, 2015; 434868/737868 (Halifax)	Her Majesty The Queen in Right of the Province of Nova Scotia	Rothmans, Benson & Hedges Inc., Rothmans Inc., Altria Group, Inc., Philip Morris U.S.A. Inc, Philip Morris International Inc., JTI-MacDonald Corp., R.J. Reynolds Tobacco Company, R.J. Reynolds Tobacco International Inc., Imperial Tobacco Canada Limited, British American Tobacco p.l.c., B.A.T Industries p.l.c., British American Tobacco (Investments) Limited, Carreras Rothmans Limited and Canadian Tobacco Manufacturers' Council.
7.	Ontario	Amended December 11, 2009, amended as amended August 25, 2010, fresh as amended March 28, 2014, amended fresh as amended, April 20, 2016; CV-09-387984 (Toronto)	Her Majesty the Queen in right of Ontario	Rothmans Inc., Rothmans, Benson & Hedges Inc., Carreras Rothmans Limited, Altria Group, Inc., Phillip Morris U.S.A. Inc., Phillip Morris International Inc., JTI-MacDonald Corp., R.J. Reynolds Tobacco Company, R.J. Reynolds Tobacco International Inc., Imperial Tobacco Canada Limited, British American Tobacco p.l.c., B.A.T Industries p.l.c., British American Tobacco (Investments) Limited and Canadian Tobacco Manufacturers' Council
8.	Prince Edward Island	September 10, 2012, amended October 17, 2012; SI GS-25019 (Charlottetown)	Her Majesty the Queen in right of the Province of Prince Edward Island	Rothmans, Benson & Hedges Inc., Rothmans Inc., Altria Group, Inc., Philip Morris U.S.A. Inc., Philip Morris International, Inc., JTI-MacDonald Corp., R.J. Reynolds Tobacco Company, R.J. Reynolds Tobacco International Inc., Imperial Tobacco Canada Limited, British American Tobacco p.l.c., B.A.T Industries p.l.c., British American Tobacco (Investments) Limited, Carreras Rothmans Limited, and Canadian Tobacco Manufacturers' Council
9.	Québec	June 8, 2012; 500-17-	Procureur général du Québec	Impérial Tobacco Canada Limitée, B.A.T Industries p.l.c., British American Tobacco (Investments) Limited, Carreras Rothmans Limited, Rothmans, Benson & Hedges, Philip Morris USA Inc., Philip Morris International

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[Signature]
 REGISTRAR

GREFFIER

	Jurisdiction	File Date & Court File No.	Plaintiff(s)	Defendant(s)
				Inc., JTI-MacDonald Corp., R.J. Reynolds Tobacco Company, R.J. Reynolds Tobacco International, Inc., et Conseil Canadien de Fabricants des Produits du Tabac
10.	Saskatchewan	Amended October 5, 2012; Q.B. 8712012 (Saskatoon)	The Government of Saskatchewan	Rothmans, Benson & Hedges Inc., Rothmans Inc., Altria Group, Inc., Philip Morris International, Inc., JTI-Macdonald Corp., R.J. Reynolds Tobacco Company, R.J. Reynolds Tobacco International Inc., Imperial Tobacco Canada Limited, British American Tobacco p.l.c., B.A.T Industries p.l.c., British American Tobacco (Investments) Limited, Carreras Rothmans Limited, and Canadian Tobacco Manufacturers' Council

B. Tobacco Claim Litigation – Certified and Proposed Class Actions

	Jurisdiction	Date Filed; Court File No.	(Representative) Plaintiff	Defendant(s)
1.	Alberta	June 15, 2009; 0901-08964 (Calgary)	Linda Dorion	Canadian Tobacco Manufacturers' Council, B.A.T Industries p.l.c., British American Tobacco (Investments) Limited, British American Tobacco p.l.c., Imperial Tobacco Canada Limited, Altria Group, Inc., Phillip Morris Incorporated, Phillip Morris International, Inc., Phillip Morris U.S.A. Inc., R.J. Reynolds Tobacco Company, R.J. Reynolds Tobacco, International, Inc., Carreras Rothmans Limited, JTI-MacDonald Corp., Rothmans, Benson & Hedges Inc., Rothmans Inc., Ryesekks p.l.c.
2.	British Columbia	May 8, 2003; L 031300 (Vancouver)	John Smith (a.k.a., Kenneth Knight)	Imperial Tobacco Canada Ltd.
3.	British Columbia	June 25, 2010; 10-2780 (Victoria)	Barbara Bourassa on behalf of the Estate of Mitchell David Bourassa	Imperial Tobacco Canada Limited, B.A.T Industries p.l.c., British American Tobacco (Investments) Limited, British American Tobacco p.l.c., Altria Group, Inc. Phillip Morris International, Inc., Phillip Morris U.S.A. Inc., R.J. Reynolds Tobacco Company, R.J. Reynolds Tobacco International, Inc., Carreras Rothmans Limited, JTI-MacDonald Corp., Rothmans, Benson & Hedges Inc., Rothmans Inc., Ryesekks p.l.c. and Canadian Tobacco Manufacturers' Council ¹

¹ British American Tobacco p.l.c. and Carreras Rothmans Limited have been released from

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Kary Williams
 REGISTRAR
Paul Williams
 GREFFIER

	Jurisdiction	Date Filed; Court File No.	(Representative) Plaintiff	Defendant(s)
4.	British Columbia	June 25, 2010; 10-2769 (Victoria)	Roderick Dennis McDermid	Imperial Tobacco Canada Limited, B.A.T Industries p.l.c., British American Tobacco (Investments) Limited, British American Tobacco p.l.c., Altria Group, Inc., Phillip Morris International, Inc., Phillip Morris U.S.A. Inc., R.J. Reynolds Tobacco Company, R.J. Reynolds Tobacco International, Inc., Carreras Rothmans Limited, JTI-MacDonald Corp., Rothmans, Benson & Hedges Inc., Rothmans Inc., Ryeseckks p.l.c. and Canadian Tobacco Manufacturers' Council ²
5.	Manitoba	June 2009; CI09-01-61479 (Winnipeg)	Deborah Kunta	Canadian Tobacco Manufacturers' Council, B.A.T Industries p.l.c., British American Tobacco (Investments) Limited, British American Tobacco p.l.c., Imperial Tobacco Canada Limited, Altria Group, Inc., Phillip Morris Incorporated, Phillip Morris International Inc., Phillip Morris U.S.A. Inc., R.J. Reynolds Tobacco Company, R.J. Reynolds Tobacco, International, Inc., Carreras Rothmans Limited, JTI-MacDonald Corp., Rothmans, Benson & Hedges Inc., Rothmans Inc and Ryeseckks p.l.c.
6.	Nova Scotia	June 18, 2009; 312869 2009 (Halifax)	Ben Semple	Canadian Tobacco Manufacturers' Council, B.A.T Industries p.l.c., British American Tobacco (Investments) Limited, British American Tobacco p.l.c., Imperial Tobacco Canada Limited, Altria Group, Inc., Phillip Morris Incorporated, Phillip Morris International, Inc., Phillip Morris U.S.A. Inc., R.J. Reynolds Tobacco Company, R.J. Reynolds Tobacco, International, Inc., Carreras Rothmans Limited, JTI-MacDonald Corp., Rothmans, Benson & Hedges Inc., Rothmans Inc., Ryeseckks p.l.c.
7.	Ontario	December 2, 2009; 64757 (London)	The Ontario Flue-Cured Tobacco Growers' Marketing Board, Andy J. Jacko, Brian Baswick, Ron Kichler and Arpad Dobrentey	Imperial Tobacco Canada Limited, which is to be heard together with similar actions against Rothmans, Benson & Hedges Inc., and JTI-MacDonald Corp.
8.	Ontario	June 27, 2012; 53794/12 (St. Catharines)	Suzanne Jacklin	Canadian Tobacco Manufacturers' Council, B.A.T Industries p.l.c., British American Tobacco (Investments) Limited, British American Tobacco p.l.c., Imperial Tobacco Canada Limited, Altria Group, Inc., Phillip Morris Incorporated, Phillip Morris International Inc., Phillip Morris U.S.A. Inc.,

² British American Tobacco p.l.c. and Carreras Rothmans Limited have been released

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PAR À TORONTO LE 13 JOUR DE Mars 20 19

Kay Williams
REGISTRAR
GREFFIER

		183165-CP00 (Toronto)		
4.	Ontario	June 30, 2003; 1442/03 (London)	Scott Landry	Imperial Tobacco Canada Limited
5.	Ontario	June 12, 1997; 21513/97 (North York)	Joseph Battaglia	Imperial Tobacco Canada Limited
6.	Quebec	December 8, 2016; 750-32- 700014-163 (Saint- Hyacinthe)	Roland Bergeron	Imperial Tobacco Canada Limited

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Ray Williams
 REGISTRAR
 GREFFIER

SCHEDULE "B"
ITCAN SUBSIDIARIES

Imperial Tobacco Services Inc.
Imperial Tobacco Products Limited
Marlboro Canada Limited
Cameo Inc.
Medallion Inc.
Allan Ramsay and Company Limited
John Player & Sons Ltd.
Imperial Brands Ltd.
2004969 Ontario Inc.
Construction Romir Inc.
Genstar Corporation
Imasco Holdings Group, Inc.
ITL (USA) limited
Genstar Pacific Corporation
Imasco Holdings Inc.
Southward Insurance Ltd.
Liggett & Myers Tobacco Company of Canada Limited

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[Signature]
REGISTRAR GREFFIER

**SCHEDULE "C"
HEALTH CARE COSTS RECOVERY LEGISLATION**

Jurisdiction	Statute
Alberta	<i>Crown's Right of Recovery Act, SA 2009, c C-35</i>
British Columbia	<i>Tobacco Damages and Health Care Costs Recovery Act, SBC 2000, c 30</i>
Manitoba	<i>The Tobacco Damages Health Care Costs Recovery Act, SM 2006, c 18</i>
New Brunswick	<i>Tobacco Damages and Health Care Costs Recovery Act, SNB 2006, c T-7.5</i>
Newfoundland and Labrador	<i>Tobacco Health Care Costs Recovery Act, SNL 2001, c T-4.2</i>
Nova Scotia	<i>Tobacco Health-Care Costs Recovery Act, SNS 2005, c 46</i>
Northwest Territories	Proclaimed but not yet in force: <i>Tobacco Damages and Health Care Costs Recovery Act, SNWT 2011, c 33</i>
Nunavut	Proclaimed but not yet in force: <i>Tobacco Damages and Health Care Costs Recovery Act, SNu 2010, c 31</i>
Ontario	<i>Tobacco Damages and Health Care Costs Recovery Act, 2009, SO 2009, c 13</i>
Prince Edward Island	<i>Tobacco Damages and Health Care Costs Recovery Act, SPEI 2009, c 22</i>
Québec	<i>Tobacco-related Damages and Health Care Costs Recovery Act, 2009, CQLR c R-2.2.0.0.1</i>
Saskatchewan	<i>The Tobacco Damages and Health Care Costs Recovery Act, SS 2007, c T-14.2</i>
Yukon	N/A

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[Signature]
 REGISTER

GREFFIER

IN THE MATTER OF the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended Court File No:

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

APPLICANTS

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

Proceeding commenced at Toronto

INITIAL ORDER

OSLER, HOSKIN & HARCOURT LLP
1 First Canadian Place, P.O. Box 50
Toronto, ON M5X 1B8

Deborah Glendinning (LSO# 31070N)
Marc Wasserman (LSO# 44066M)
John A. MacDonald (LSO# 25884R)
Michael De Lellis (LSO# 48038U)

Tel: (416) 362-2111
Fax: (416) 862-6666

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

Matter No: 1144377

EXHIBIT B

**STATEMENT IDENTIFYING FOREIGN
PROCEEDINGS PURSUANT TO 11 U.S.C. § 1515(c)**

Bracewell LLP

1251 Avenue of the Americas
New York, NY 10020-1100
Telephone: (212) 508-6100
Facsimile: (212) 508-6101
Jennifer Feldsher
Mark E. Dendinger

*Attorneys for FTI Consulting Canada Inc.
In its Capacity as Monitor and 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.

Chapter 15

Case No. 19-10771 (___)

**STATEMENT IDENTIFYING FOREIGN
PROCEEDINGS PURSUANT TO 11 U.S.C. § 1515(c)**

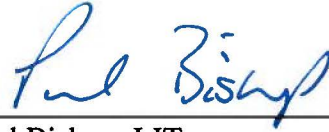
FTI Consulting Canada Inc. (the “Monitor”) is the Canadian Court-appointed monitor for Imperial Tobacco Canada Limited (“Debtor”) in a proceeding under Canada’s *Companies’ Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended, pending before the Ontario Superior Court of Justice (Commercial List) at Toronto (the “Canadian Proceeding”). The Monitor is the duly authorized foreign representative of the Debtor as defined by section 101(24) of title 11 of the United States Code (the “Bankruptcy Code”). On March 13, 2019, the Monitor commenced this Chapter 15 case (the “Chapter 15 Case”) by filing, on behalf of the Debtor and pursuant to sections 1504 and 1515 of the Bankruptcy Code, the *Verified Chapter 15 Petition for Recognition of Foreign Main Proceeding and Related Relief* along with the Official Form 401 (*Chapter 15 Petition for Recognition of a Foreign Proceeding*).

Pursuant to 11 U.S.C. § 1515(c), the Monitor respectfully represents that the Canadian Proceeding is the only foreign proceeding (as such term is defined in section 101(23) of the Bankruptcy Code) pending with respect to the Debtor that is known to the Monitor.

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

Date: March 13, 2019
Toronto, Canada



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

EXHIBIT C

Bracewell LLP

1251 Avenue of the Americas
New York, NY 10020-1100
Telephone: (212) 508-6100
Facsimile: (212) 508-6101
Jennifer Feldsher
Mark E. Dendinger

*Attorneys for FTI Consulting Canada Inc.
In its Capacity as Monitor and 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.

Chapter 15

Case No. 19-10771 (___)

LIST PURSUANT TO BANKRUPTCY RULE 1007(a)(4)

FTI Consulting Canada Inc. (the “Monitor”) is the Court-appointed monitor for Imperial Tobacco Canada Limited (the “Debtor”) 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) at Toronto (the “Canadian Proceeding”). The Monitor is the duly authorized foreign representative of the Debtor as defined by section 101(24) of title 11 of the United States Code (the “Bankruptcy Code”). On March 13, 2019, the Monitor commenced this Chapter 15 case (the “Chapter 15 Case”) by filing, on behalf of the Debtor and pursuant to sections 1504 and 1515 of the Bankruptcy Code, the *Verified Chapter 15 Petition for Recognition of Foreign Main Proceeding and Related Relief* along with Official Form 401 (*Chapter 15 Petition for Recognition of a Foreign Proceeding*).

The Monitor hereby files this list pursuant to Rule 1007(a)(4) of the Federal Rules of Bankruptcy Procedure and respectfully states as follows:

Administrators in Foreign Proceeding Concerning the Debtor

1. The Monitor is the foreign representative, as that term is defined in section 101(24) of the Bankruptcy Code, because it has been authorized by court order in the Canadian Proceeding to act as the foreign representative for the Debtor and to prosecute this Chapter 15 Case. Canadian Order for Relief ¶ 63.

2. The Monitor believes that, other than the Canadian Proceeding and this Chapter 15 Case, there are no foreign proceedings pending with respect to the Debtor.

3. The Monitor's address is:

TD South Tower
79 Wellington Street West
Suite 2010, P.O. Box 104
Toronto ON M5K 1G8
Canada

Parties to Litigation Pending in the United States in Which the Debtor is a Party

4. There are currently no cases in the United States to which the Debtor is a Party, however, the Debtor's subsidiary, Imperial Tobacco Company Limited, is a party to *Ashlynn Mktg. Grp., Inc. v. Imperial Tobacco Ltd. et al.*, Docket No. 3:16-cv-01001 (S.D. Cal. Apr. 25, 2016).

Entities Against Which Provisional Relief Is Sought Pursuant to 11 U.S.C. § 1519

5. The Monitor seeks provisional relief on behalf of the Debtor to stay the execution of assets of the Debtor and the application of section 362 of the Bankruptcy Code in the Debtor's Chapter 15 Case on a provisional basis, against all known creditors of the Debtor and other interested parties, including without limitation, the following persons:

- Celadon Trucking Services, Inc.
One Celadon Drive

9503 East 33rd Street
Indianapolis, IN 46235
Attn: Chase Welsh, Executive Vice President, General Counsel and Secretary
Attn: Kenneth L. Core, Registered Agent

- DIAMOND CENTER ONE, LLC
4832 Richmond Road Suite 100
Cleveland, OH 44128
Attn: General Counsel

With copy to:

1932 Service Corp.
1301 E. Ninth Street, Suite 3500
Cleveland, OH 44114

- D S D PROPERTIES, LLC
300 Main Street
Shelby, MT 59474
Attn: Stuart Howell, Registered Agent

With copy to:

Cleveland FTZ
30339 Diamond Parkway
Glenwillow, Ohio
44139

And to:

Shelby FTZ
400 North Industrial Park Rd
Shelby, MT 59474

- Ryder Dedicated
30 Pedigree Court, Unit 1
Brampton, ON L6T 5T8
Canada
Attn: Legal Counsel
- Ryder Integrated Logistics, a division of Ryder Truck Rental Canada Ltd.

Notice to:

Ryder Truck Rental Canada Ltd.
2233 Argentia Road

Suite 302
Mississauga, Ontario
L5N 2X7
Attention: Vice-President and General Manager

With a copy to:

Ryder Truck Rental Canada Ltd.
2233 Argentia Road
Suite 300
Mississauga, Ontario
L5N 2X7
Attention: General Counsel

And to:

Ryder System, Inc.
11690 NW 105 Street
Miami, FL
33178-1103
Attention: General Counsel

- UPS-SCS
1221 32nd Avenue
Bureau 401
Lachine, QC H8T 3H2
Canada
Attn: Legal Counsel

With copy to:

UPS Supply Chain Solutions
12380 Morris Road
Alpharetta, GA 30005
Attn: Legal Counsel

And to:

Corporation Service Company
40 Technology Parkway South, Suite 300
Norcross, GA 30092
Attn: Registered Agent for UPS-SCS

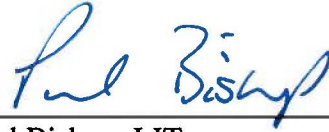
- New York State Department of Environmental Conservation
c/o Commissioner
625 Broadway

Albany, New York 12233-0001

- BKK Working Group
c/o Douglas Gravelle
Hinson Gravelle & Adair LLP
28470 Avenue Stanford
Suite 350
Valencia, CA 91355
Counsel for BKK Working Group: Douglas Gravelle
- PointTrade Services, Inc.
Corporate Office
1518 Jenks Avenue
Panama City, FL 32405
- Trudel Johnston & Lespérance
750, Côte de la Place d'Armes
Bureau 90, Montréal QC H2Y 2X8
- Kugler Kandestin
1 Place Ville-Marie
Suite 1170
Montréal, Québec
Canada H3B 2A7
- Fishman Flanz Meland Paquin LLP
1250 boul. René-Lévesque Ouest
Suite 4100
Montreal, QC H3B 4W8
Avram Fishman
- Chaitons LLP
5000 Yonge Street, 10th Floor Toronto, ON M2N 7E9
Attention: Harvey Chaiton
Tel: (416) 218-1129
- The Individual Provisional Relief List, *filed separately*

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

Date: March 13, 2019
Toronto, Canada



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

EXHIBIT D

Bracewell LLP

1251 Avenue of the Americas
New York, NY 10020-1100
Telephone: (212) 508-6100
Facsimile: (212) 508-6101
Jennifer Feldsher
Mark E. Dendinger

*Attorneys for FTI Consulting Canada Inc.
In its Capacity as Monitor and 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.

Chapter 15

Case No. 19-10771(____)

**CORPORATE OWNERSHIP STATEMENT
PURSUANT TO BANKRUPTCY RULES 1007(a)(4) and 7007.1**

FTI Consulting Canada Inc., (the “Monitor”) is the Court-appointed monitor for Imperial Tobacco Canada Limited (the “Debtor”) 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) at Toronto (the “Canadian Proceeding”). The Monitor is the duly authorized foreign representative of the Debtor as defined by section 101(24) of title 11 of the United States Code (the “Bankruptcy Code”). On March 13, 2019, the Monitor commenced this Chapter 15 case (the “Chapter 15 Case”) by filing, on behalf of the Debtor and pursuant to sections 1504 and 1515 of the Bankruptcy Code, the *Verified Chapter 15 Petition for Recognition of Foreign Main Proceeding and Related Relief* and Official Form 401 (*Chapter 15 Petition for Recognition of a Foreign Proceeding*).

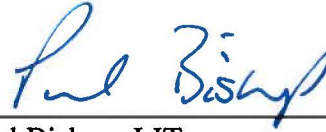
The Monitor hereby files this Corporate Ownership Statement pursuant to Rules 1007(a)(4) and 7007.1 of the Federal Rules of Bankruptcy Procedure and states that the following “corporations,” as such term is defined in the Bankruptcy Code, are known to the Monitor to directly or indirectly own 10% or more of any class of the Debtor’s equity interests:

- British American Tobacco International (Holdings) B.V. *(100% owner of Debtor)*
- Weston Investment Co. Ltd. *(100% owner of British American Tobacco International (Holdings) B.V.)*
- Weston (2009) Ltd. *(100% owner of Weston Investment Co. Ltd.)*
- British American Tobacco (2009) Ltd. *(100% owner of Weston (2009) Ltd.)*
- British American Tobacco (2012) Ltd. *(100% owner of British American Tobacco (2009) Ltd.)*
- British American Tobacco (1998) Ltd. *(100% owner of British American Tobacco (2012) Ltd.)*
- British American Tobacco, p.l.c. *(100% owner of British American Tobacco (1998) Ltd.)*

[Remainder of Page Intentionally Left Blank]

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

Date: March 13, 2019
Toronto, Canada

A handwritten signature in blue ink that reads "Paul Bishop". The signature is written in a cursive style with a horizontal line underneath it.

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

EXHIBIT E

Bracewell LLP

1251 Avenue of the Americas
New York NY 10020-1100
Telephone: (212) 508-6100
Facsimile: (212) 508-6101
Jennifer Feldsher
Mark E. Dendinger

*Attorney for FTI Consulting Canada Inc.
In its Capacity as Monitor and 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.

Chapter 15

Case No. 19-10771()

**ORDER RECOGNIZING FOREIGN MAIN
PROCEEDING AND GRANTING RELATED RELIEF**

This matter was brought by FTI Consulting Canada Inc., in its capacity as the Court-appointed monitor¹ (the “Monitor”) and duly authorized foreign representative for Imperial Tobacco Canada Limited (the “Debtor”), upon its filing, on behalf of the Debtor, of the *Verified Chapter 15 Petition for Recognition of Foreign Main Proceeding* (the “Verified Petition”)² pursuant to sections 1504 and 1515 of title 11 of the United States Code (the “Bankruptcy Code”), commencing the above-captioned Chapter 15 case (the “Chapter 15 Case”).

¹ FTI was appointed as Monitor pursuant to Canada’s *Companies’ Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended, by order dated March 12, 2019.

² Capitalized terms used but not otherwise defined herein have the meaning ascribed to them in the Verified Petition.

The Court has reviewed the Verified Petition along with the other papers, pleadings and exhibits submitted by the Monitor in support of the Verified Petition (collectively, the “Supporting Papers,”) including, among other things, (a) the Declaration of Paul Bishop in Support of (I) Verified Chapter 15 Petition for Recognition of Foreign Main Proceeding and Related Relief, (II) Application for an Order Scheduling Recognition Hearing, Specifying Deadline for Filing Objections and Specifying Form and Manner of Notice (the “Notice Application”) and, (III) *Ex Parte* Application for Temporary Restraining Order and Relief Pursuant to Sections 1519 and 105(a) of the Bankruptcy Code (the “Bishop Declaration”) and the (b) Memorandum of Law in support of the Verified Petition.

For good cause shown, including the record created at the March [], 2019 Recognition Hearing, the Court finds and concludes as follows:

- A. This Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334.
- B. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(P).
- C. Venue is proper before this Court pursuant to 28 U.S.C. § 1410.
- D. Good, sufficient, appropriate and timely notice of the filing of the Verified Petition and the hearing on the Verified Petition has been given pursuant to Local Rules 2002-4 and 9078-1 and Rule 2002(q)(1) of the Federal Rules of Bankruptcy Procedure.
- E. The Chapter 15 Case was properly commenced pursuant to sections 1504 and 1515 of the Bankruptcy Code.
- F. Pursuant to section 1517(a)(2) of the Bankruptcy Code, the Monitor is a “person” within the meaning of section 101(41) of the Bankruptcy Code, and the Monitor is the duly appointed foreign representative of the Debtor within the meaning of section 101(24) of the Bankruptcy Code.

G. The Canadian Proceeding currently pending before the Canadian Court is a “foreign proceeding” within the meaning of section 101(23) of the Bankruptcy Code.

H. The Canadian Proceeding is pending in Canada, where the Debtor’s “center of main interests,” as that term is used in section 1517(b)(1) of the Bankruptcy Code, is located, and, accordingly, the Canadian Proceeding is a “foreign main proceeding” pursuant to section 1502(4) of the Bankruptcy Code and is entitled to recognition pursuant to sections 1517(a) and 1517(b)(1) of the Bankruptcy Code.

I. The Debtor is entitled to all of the relief provided under sections 1520 and 1521(a)(1) and (2) of the Bankruptcy Code, without limitation, because those protections are necessary to effectuate the purposes of Chapter 15 of the Bankruptcy Code and to protect the assets of the Debtor and the interests of the Debtor’s creditors and stakeholders.

Therefore, it is hereby ordered that:

1. The Verified Petition is **GRANTED**.
2. The Verified Petition meets the requirements of section 1515 of the Bankruptcy Code and Bankruptcy Rule 1007(a)(4).
3. The Canadian Proceeding is recognized as a “foreign main proceeding” (as defined in section 1502(a)(4) of the Bankruptcy Code) pursuant to sections 1517(a) and 1517(b)(1) of the Bankruptcy Code.
4. The Monitor is recognized, on a final basis, as the “foreign representative” as defined in section 101(24) of the Bankruptcy Code.
5. The Debtor is entitled to all of the relief provided under sections 1520 and 1521 of the Bankruptcy Code, without limitation.

6. Pursuant to sections 1520 and 1521 of the Bankruptcy Code, and, as necessary, sections 105(a) and 1507 of the Bankruptcy Code, the Canadian Order for Relief is hereby given full force and effect in the United States.

7. The Debtor is authorized to maintain its U.S. assets, business operations, supply chain, inventory management and distribution processes in the ordinary course of the Debtor's business, pursuant to section 1520(a) of the Bankruptcy Code.

8. The relief granted hereby is necessary and appropriate, in the interests of the public and of international comity, not inconsistent with any public policy of the United States, warranted pursuant to sections 1507(a), 1509(b)(2)-(3), 1520, 1521(a), and 1522 of the Bankruptcy Code, and will not cause hardship to creditors of the Debtor, or to any other parties in interest, in each case that is not outweighed by the benefits of granting such relief.

9. Pursuant to section 1521(a)(6), any additional relief granted under section 1519(a) is hereby extended.

10. Any action to interfere with the Debtor's assets, business, operations, or its supply chain, inventory management or distribution processes are hereby barred, enjoined, and stayed, pursuant to sections 362, 1520(a), and 1521(a)(1) and (2) of the Bankruptcy Code.

11. This Court shall retain jurisdiction with respect to the enforcement, amendment or modification of this Order, any requests for additional relief, any adversary proceeding in and through this Chapter 15 Case, and any request by an entity for relief from the provisions of this Order, for cause shown, that is properly commenced within the jurisdiction of this Court.

12. The Monitor shall provide service and notice of this Order by first class mail, postage prepaid, upon the Chapter 15 Notice Parties as defined in the Notice Application.

Dated: _____, 2019
New York, New York

UNITED STATES BANKRUPTCY JUDGE

Bracewell LLP

1251 Avenue of the Americas
New York, NY 10020-1100
Telephone: (212) 508-6100
Facsimile: (212) 508-6101
Jennifer Feldsher
Mark E. Dendinger

*Attorneys for FTI Consulting Canada Inc.
In its Capacity as Monitor and 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.

Chapter 15

Case No. 19-10771(____)

**APPLICATION FOR AN ORDER (I) SCHEDULING
RECOGNITION HEARING, (II) SPECIFYING DEADLINE FOR FILING
OBJECTIONS AND (III) SPECIFYING FORM AND MANNER OF NOTICE**

FTI Consulting Canada Inc., in its capacity as court-appointed monitor (“Monitor”) and authorized foreign representative of Imperial Tobacco Canada Limited (the “Debtor”) in proceedings (the “Canadian Proceedings”) 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) at Toronto, by its undersigned counsel, hereby submits this application (the “Application”) for entry of an order (i) scheduling a hearing on the relief requested in the *Verified Chapter 15 Petition for Recognition of Foreign Main Proceeding and Related Relief* and all exhibits appended thereto (the “Verified Petition”) filed contemporaneously herewith, (ii) setting a deadline by which all objections to the Verified Petition must be filed and (iii) approving the



form of notice of the Recognition Hearing (defined below) and the manner of service described herein. In support of this Application, the Monitor respectfully represents as follows:

BACKGROUND

1. The Monitor filed the Official Form 401 (the "Petition") and the Verified Petition on March 13, 2019. Further background information is set forth in the Verified Petition.

JURISDICTION AND VENUE

2. This Court has jurisdiction to consider this matter pursuant to 28 U.S.C. §§ 157(a) and 1334.

3. Venue is proper before this court pursuant to section 28 U.S.C. § 1410.

RELIEF REQUESTED

4. The Monitor seeks entry of an order substantially in the form attached hereto as **Exhibit A** (i) setting April 15, 2019 10:00 a.m. prevailing Eastern Time, or as soon thereafter as the Court's calendar permits, as the date for a hearing (the "Recognition Hearing") on the relief sought in the Verified Petition; (ii) setting the seventh day before the date of the Recognition Hearing as the date by which any responses or objections to such relief must be received (the "Objection Deadline"); (iii) approving the form of notice of the Recognition Hearing substantially in the form attached hereto as **Exhibit B** (the "Notice"); (iv) approving the manner of service of the Notice described herein; and (v) granting related relief.

BASIS FOR RELIEF

5. Rule 2002(q)(1) of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules") provides that "the clerk, or some other person as the court may direct" shall provide 21 days' notice by mail of the Recognition Hearing to the following parties: (i) the debtor, (ii) persons or bodies authorized to administer foreign proceedings of the debtor, (iii) entities against whom

the debtor is seeking provisional relief pursuant to section 1519 of the Bankruptcy Code, including such parties as set forth in the List Pursuant to Bankruptcy Rule 1007(a)(4) filed concurrently herewith, (iv) all parties to litigation in the United States in which the debtor is a party at the time of filing the petition, and (v) any other entity as the court may direct (together, the “Chapter 15 Notice Parties”). Fed. R. Bankr. P. 2002(q)(1). Local Bankruptcy Rule 2002-4 directs the foreign representative to provide the notice required by Bankruptcy Rule 2002(q)(1) and to file proof of service in accordance with Local Bankruptcy Rule 9078-1.

6. Bankruptcy Rule 2002(q)(1) does not specify the form and manner in which notice of the Recognition Hearing must be given. Instead, Bankruptcy Rules 2002(m) and 9007 allow the court to designate an appropriate form and manner of notice. Fed. R. Bankr. P. 2002(m), 9007. Accordingly, the Monitor requests that this Court approve the Notice and the form and manner of service of the Notice described herein as consistent with Bankruptcy Rules 2002(m), 2002(q) and 9007, and Local Bankruptcy Rule 2002-4.

7. The Monitor respectfully submits that service of the (i) Notice, (ii) the Verified Petition, and (iii) Memorandum of Law in Support of the Verified Petition (collectively, the “Notice Documents”) by United States mail, first class postage prepaid, upon the Chapter 15 Notice Parties constitutes adequate and sufficient notice of this Chapter 15 case, the relief sought in the Verified Petition, the time fixed for filing objections to the relief sought in the Verified Petition, and the time, date, and place of the Recognition Hearing. The Monitor shall then file proof of service in accordance with Local Bankruptcy Rule 9078-1 by the earlier of (i) three (3) days following the date of service, and (ii) the hearing date.

8. Bankruptcy Rule 1011(b) provides that a party objecting to the petition filed to commence an ancillary proceeding under Chapter 15 of the Bankruptcy Code has 21 days from

the date of service of the petition to respond thereto (except that if service is made by publication on a party not residing within the state in which the court sits, the court shall prescribe the time for filing and serving the response). Fed. R. Bankr. P. 1011(b). Similarly, Rule 2002(q)(1) requires 21 days' notice of the Recognition Hearing. The Monitor submits that (i) scheduling the Recognition Hearing to be held on April 15, 2019 at 10:00 a.m. prevailing Eastern Time, or as soon thereafter as the Court's calendar permits, and (ii) setting the seventh day before the date of the Recognition Hearing as the Objection Deadline will comply with both applicable Bankruptcy Rules.

9. The Monitor further respectfully requests that the Court waive the requirements set forth in section 1514(c) of the Bankruptcy Code that notification of the commencement of a case to foreign creditors include, among other things, the time period for filing proofs of claim, specify the place for filing such proofs of claim, and indicate whether secured creditors need to file proofs of claim. 11 U.S.C. § 1514(c). As a practical matter, it is not clear that section 1514 applies in the context of ancillary cases under Chapter 15. As explained in a leading treatise on bankruptcy law, section 1514(c) is the "last in a series of sections dealing with the international aspects of cases under *chapters other than chapter 15* that began with section 1511" 8 COLLIER ON BANKRUPTCY ¶ 1514.01 (A. Resnick & H. Sommer, eds., 16th ed. 2013) (emphasis added), and the Monitor has not sought to commence a case under any other chapter of the Bankruptcy Code. While a claims process will undoubtedly be established in the Canadian Proceeding in due course, it has not been established yet. Once established, however, appropriate notice will be provided to creditors of the Debtor pursuant to Canadian law at the direction of the Canadian Court. Therefore, out of an abundance of caution, the Monitor respectfully requests that the requirements of Section 1514(c) be waived in this instance.

NOTICE

10. Notice of this Application will be provided to the Chapter 15 Notice Parties.

NO PRIOR REQUEST

11. The Monitor has not previously sought the relief requested herein from this or any other court.

WHEREFORE, the Monitor respectfully requests (i) entry of an order in the form of the Proposed Order attached hereto, (a) setting a hearing date for the Recognition Hearing, (b) setting a deadline for filing objections to the relief requested in the Verified Petition and (c) approving the form of Notice and manner of service of the Notice and (ii) such other and further relief as may be just and proper.

Dated: March 13, 2019
New York, New York

By: /s/ Jennifer Feldsher
Jennifer Feldsher
Mark E. Dendinger
BRACEWELL LLP
1251 Avenue of Americas
New York, New York 10020-1104
Telephone: (212) 508-6100
Facsimile: (212) 938-3837
Jennifer.Feldsher@bracewell.com
Mark.Dendinger@bracewell.com

*Attorneys for FTI Consulting Canada Inc.
In its Capacity as Monitor and Foreign
Representative for the Debtor*

Exhibit A

Bracewell LLP

1251 Avenue of the Americas
New York, NY 10020-1100
Telephone: (212) 508-6100
Facsimile: (212) 508-6101
Jennifer Feldsher
Mark E. Dendinger

*Attorneys for FTI Consulting Canada Inc.
In its Capacity as Monitor and 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.

Chapter 15

Case No. 19-10771(____)

**ORDER (I) SCHEDULING RECOGNITION HEARING,
(II) SPECIFYING DEADLINE FOR FILING OBJECTIONS
AND (III) SPECIFYING FORM AND MANNER OF NOTICE**

Upon the application (the “Application”)¹ of FTI Consulting Canada Inc., in its capacity as the court-appointed monitor (“Monitor”) and authorized foreign representative of Imperial Tobacco Canada Limited (“Debtor”) for an order (i) scheduling a hearing (the “Recognition Hearing”) on the relief requested in the *Verified Chapter 15 Petition for Recognition of Foreign Main Proceeding and Related Relief* and all exhibits appended thereto (the “Verified Petition”), (ii) setting the seventh day before the date of the Recognition Hearing as the deadline by which all objections to the Verified Petition must be filed and (iii) approving the form of notice of the Recognition Hearing, it is hereby

¹ Any capitalized term not otherwise defined herein shall have the meaning ascribed to such term in the Application.

ORDERED, that the Recognition Hearing shall be held before this Court in the United States Bankruptcy Court for the Southern District of New York, One Bowling Green, New York, New York, on [_____] at [_____]; and it is further

ORDERED, that the form of notice of the Recognition Hearing annexed to this Order as **Exhibit A** (the “Notice”) is hereby approved; and it is further

ORDERED, that the notice requirements set forth in section 1514(c) of the Bankruptcy Code are inapplicable in the context of this Chapter 15 case or are hereby waived; and it is further

ORDERED, that copies of the Notice Documents shall be served by United States mail, first class postage prepaid, upon the Chapter 15 Notice Parties within three days of entry of this Order; and it is further

ORDERED, that any party in interest wishing to submit a response or objection to the Verified Petition or the relief requested therein must do so in writing, and in accordance with the Bankruptcy Code, the Federal Rules of Bankruptcy Procedure, and the Local Rules for the Bankruptcy Court for the Southern District of New York, setting forth the basis therefor, which response or objection must be filed electronically with the Court on the Court’s electronic case filing system in accordance with General Order M-399 and the Court’s Procedures for the Filing, Signing and Verification of Documents by Electronic Means (copies of which may be viewed on the Court’s website at www.nysb.uscourts.gov), and by all other parties in interest on a compact disc (CD), preferably in Portable Document Format (PDF), Word Perfect, or any other Windows-based word processing format, which CD shall be sent to the Office of the Clerk of the Court, One Bowling Green, New York, New York. A hard copy of such response or objection shall be sent to (i) the chambers of [_____] , United States Bankruptcy Judge, and (ii) served upon Bracewell LLP, Attn: Jennifer Feldsher and Mark E. Dendinger, 1251 Avenue of the Americas, New York,

NY 10020-1100, counsel to the Monitor, **so as to be received no later than [_____]** (New York time), on [_____]; and it is further

ORDERED, that service pursuant to this Order shall be deemed good and sufficient service and adequate notice of the Recognition Hearing.

Dated: _____, 2019
New York, New York

UNITED STATES BANKRUPTCY JUDGE

EXHIBIT A

**Notice of Filing and Hearing on Petition for Recognition
Under Chapter 15 of the Bankruptcy Code and Motion for Related Relief**

Bracewell LLP

1251 Avenue of the Americas
New York, NY 10020-1100
Telephone: (212) 508-6100
Facsimile: (212) 508-6101
Jennifer Feldsher
Mark E. Dendinger

*Attorneys for FTI Consulting Canada Inc.
In its Capacity as Monitor and Foreign Representative for the Debtor*

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

<p>In re:</p> <p>IMPERIAL TOBACCO CANADA LIMITED,</p> <p>Debtor in a Foreign Proceeding.</p>	<p>Chapter 15</p> <p>Case No. 19-____ (____)</p>
--	--

**NOTICE OF FILING OF AND HEARING ON
PETITION FOR RECOGNITION UNDER CHAPTER 15 OF THE
UNITED STATES BANKRUPTCY CODE AND MOTION FOR RELATED RELIEF**

PLEASE TAKE NOTICE that on March 13, 2019, FTI Consulting Canada Inc., in its capacity as the court-appointed monitor (“Monitor”) and authorized foreign representative of Imperial Tobacco Canada Limited (the “Debtor”) in a proceeding (the “Canadian 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) at Toronto, commenced a Chapter 15 case ancillary to the Canadian Proceeding, seeking recognition of such foreign proceeding as a “foreign main proceeding” and relief in aid of the Canadian Proceeding in the United States Bankruptcy Court for the Southern District of New York (the “Bankruptcy Court”) with respect to the Debtor.

PLEASE TAKE FURTHER NOTICE that the Monitor seeks entry of an order (i) recognizing the Canadian Proceeding as a “foreign main proceeding” pursuant to section 1517 of Title 11 of the United States Code (the “Bankruptcy Code”), (ii) granting all relief automatically available pursuant to section 1520 of the Bankruptcy Code, including a stay of execution against the Debtor’s assets in the United States and express authorization from the Court for the Debtor to maintain its supply chain, inventory management and distribution processes and otherwise continue its business operations in the United States in the ordinary course, and barring, enjoining, and staying, pursuant to section 362 of the Bankruptcy Code, any action to interfere with these assets, business operations and processes, (iii) the extension of any provisional relief granted under

section 1519(a) on a permanent basis in accordance with section 1521(a)(6) of the Bankruptcy Code; and (iv) such other and further relief as is appropriate under the circumstances pursuant to sections 105(a) and 1507 of the Bankruptcy Code.

PLEASE TAKE FURTHER NOTICE that the Bankruptcy Court has scheduled a hearing to consider the relief requested by the Monitor for [_____] on [_____] (the “Recognition Hearing”). Copies of the Monitor’s Verified Petition for Recognition of Foreign Main Proceeding and Related Relief (the “Verified Petition”) and all other accompanying documentation are available to parties-in-interest on the Bankruptcy Court’s Electronic Case Filing System, which can be accessed at the Bankruptcy Court’s website at <http://nysb.uscourts.gov> (a PACER login and password is required to retrieve a document) or upon written request to the Monitor’s counsel (including facsimile or email) addressed to:

Bracewell LLP
Attn: Mark E. Dendinger
1251 Avenue of Americas
New York, New York 10020-1104
Facsimile: (212) 508-6101
Email: Mark.Dendinger@bracewell.com

PLEASE TAKE FURTHER NOTICE that, at the hearing, the Court may order the scheduling of a case management conference to consider the efficient administration of the case.

PLEASE TAKE FURTHER NOTICE that any party in interest wishing to submit a response or objection to the Verified Petition or the relief requested therein must do so in writing, and in accordance with the Bankruptcy Code, the Federal Rules of Bankruptcy Procedure, and the Local Rules for the Bankruptcy Court for the Southern District of New York, setting forth the basis therefor, which response or objection must be filed electronically with the Court on the Court’s electronic case filing system in accordance with General Order M-399 and the Court’s Procedures for the Filing, Signing and Verification of Documents by Electronic Means (copies of which may be viewed on the Court’s website at www.nysb.uscourts.gov), and by all other parties in interest on a compact disc (CD), preferably in Portable Document Format (PDF), Word Perfect, or any other Windows-based word processing format, which CD shall be sent to the Office of the Clerk of the Court, One Bowling Green, New York, New York. A hard copy of such response or objection shall be sent to (i) the chambers of [_____] , United States Bankruptcy Judge and (ii) served upon Bracewell LLP, Attn: Jennifer Feldsher and Mark E. Dendinger, 1251 Avenue of the Americas, New York, NY 10020-1100, counsel to the Monitor, **so as to be received no later than [_____] (New York time), on [_____]**.

PLEASE TAKE FURTHER NOTICE that all parties in interest opposed to the Verified Petition or the relief requested therein must appear at the Recognition Hearing at the time and place set forth above.

PLEASE TAKE FURTHER NOTICE that if no response or objection is timely served as provided herein, the Court may grant the relief requested in the Verified Petition without further notice.

PLEASE TAKE FURTHER NOTICE that the Recognition Hearing may be adjourned from time to time without further notice other than an announcement in open court, or a notice of adjournment filed with the Court, of the adjourned date or dates at the hearing or any other further adjourned hearing.

Dated: March 13, 2019
New York, New York

By: /s/_____
Jennifer Feldsher
Mark E. Dendinger
BRACEWELL LLP
1251 Avenue of Americas
New York, New York 10020-1104
Telephone: (212) 508-6100
Facsimile: (212) 398-3837
Jennifer.Feldsher@bracewell.com
Mark.Dendinger@bracewell.com

*Attorneys for FTI Consulting Canada Inc.
In its Capacity as Monitor and Foreign
Representative for the Debtor*

EXHIBIT B

Bracewell LLP

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New York, NY 10020-1100
Telephone: (212) 508-6100
Facsimile: (212) 508-6101
Jennifer Feldsher
Mark E. Dendinger

*Attorneys for FTI Consulting Canada Inc.
In its Capacity as Monitor and 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.

Chapter 15

Case No. 19-10771 (___)

**NOTICE OF FILING OF AND HEARING ON
PETITION FOR RECOGNITION UNDER CHAPTER 15 OF THE
UNITED STATES BANKRUPTCY CODE AND MOTION FOR RELATED RELIEF**

PLEASE TAKE NOTICE that on March 13, 2019, FTI Consulting Canada Inc., in its capacity as the court-appointed monitor (“Monitor”) and authorized foreign representative of Imperial Tobacco Canada Limited (the “Debtor”) in a proceeding (the “Canadian 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) at Toronto, commenced a Chapter 15 case ancillary to the Canadian Proceeding, seeking recognition of such foreign proceeding as a “foreign main proceeding” and relief in aid of the Canadian Proceeding in the United States Bankruptcy Court for the Southern District of New York (the “Bankruptcy Court”) with respect to the Debtor.

PLEASE TAKE FURTHER NOTICE that the Monitor seeks entry of an order (i) recognizing the Canadian Proceeding as a “foreign main proceeding” pursuant to section 1517 of Title 11 of the United States Code (the “Bankruptcy Code”), (ii) granting all relief automatically available pursuant to section 1520 of the Bankruptcy Code, including a stay of execution against the Debtor’s assets in the United States and express authorization from the Court for the Debtor to maintain its supply chain, inventory management and distribution processes and otherwise continue its business operations in the United States in the ordinary course, and barring, enjoining, and staying, pursuant to section 362 of the Bankruptcy Code, any action to interfere with these assets, business operations and processes, (iii) the extension of any provisional relief granted under

section 1519(a) on a permanent basis in accordance with section 1521(a)(6) of the Bankruptcy Code; and (iv) such other and further relief as is appropriate under the circumstances pursuant to sections 105(a) and 1507 of the Bankruptcy Code.

PLEASE TAKE FURTHER NOTICE that the Bankruptcy Court has scheduled a hearing to consider the relief requested by the Monitor for [_____] on [_____] (the “Recognition Hearing”). Copies of the Monitor’s Verified Petition for Recognition of Foreign Main Proceeding and Related Relief (the “Verified Petition”) and all other accompanying documentation are available to parties-in-interest on the Bankruptcy Court’s Electronic Case Filing System, which can be accessed at the Bankruptcy Court’s website at <http://nysb.uscourts.gov> (a PACER login and password is required to retrieve a document) or upon written request to the Monitor’s counsel (including facsimile or email) addressed to:

Bracewell LLP
Attn: Mark E. Dendinger
1251 Avenue of Americas
New York, New York 10020-1104
Facsimile: (212) 508-6101
Email: Mark.Dendinger@bracewell.com

PLEASE TAKE FURTHER NOTICE that, at the hearing, the Court may order the scheduling of a case management conference to consider the efficient administration of the case.

PLEASE TAKE FURTHER NOTICE that any party in interest wishing to submit a response or objection to the Verified Petition or the relief requested therein must do so in writing, and in accordance with the Bankruptcy Code, the Federal Rules of Bankruptcy Procedure, and the Local Rules for the Bankruptcy Court for the Southern District of New York, setting forth the basis therefor, which response or objection must be filed electronically with the Court on the Court’s electronic case filing system in accordance with General Order M-399 and the Court’s Procedures for the Filing, Signing and Verification of Documents by Electronic Means (copies of which may be viewed on the Court’s website at www.nysb.uscourts.gov), and by all other parties in interest on a compact disc (CD), preferably in Portable Document Format (PDF), Word Perfect, or any other Windows-based word processing format, which CD shall be sent to the Office of the Clerk of the Court, One Bowling Green, New York, New York. A hard copy of such response or objection shall be sent to (i) the chambers of [_____] , United States Bankruptcy Judge and (ii) served upon Bracewell LLP, Attn: Jennifer Feldsher and Mark E. Dendinger, 1251 Avenue of the Americas, New York, NY 10020-1100, counsel to the Monitor, **so as to be received no later than [_____] (New York time), on [_____].**

PLEASE TAKE FURTHER NOTICE that all parties in interest opposed to the Verified Petition or the relief requested therein must appear at the Recognition Hearing at the time and place set forth above.

PLEASE TAKE FURTHER NOTICE that if no response or objection is timely served as provided herein, the Court may grant the relief requested in the Verified Petition without further notice.

PLEASE TAKE FURTHER NOTICE that the Recognition Hearing may be adjourned from time to time without further notice other than an announcement in open court, or a notice of adjournment filed with the Court, of the adjourned date or dates at the hearing or any other further adjourned hearing.

Dated: March 13, 2019
New York, New York

By: /s/_____
Jennifer Feldsher
Mark E. Dendinger
BRACEWELL LLP
1251 Avenue of Americas
New York, New York 10020-1104
Telephone: (212) 508-6100
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Representative for the Debtor*

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*Attorneys for FTI Consulting Canada Inc.
In its Capacity as Monitor and Foreign Representative for the Debtor*

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

<p>In re:</p> <p>IMPERIAL TOBACCO CANADA LIMITED,</p> <p>Debtor in a Foreign Proceeding.</p>	<p>Chapter 15</p> <p>Case No. 19-10771(SCC)</p>
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**ORDER (I) SCHEDULING RECOGNITION HEARING,
(II) SPECIFYING DEADLINE FOR FILING OBJECTIONS
AND (III) SPECIFYING FORM AND MANNER OF NOTICE**

Upon the application (the “Application”)¹ of FTI Consulting Canada Inc., in its capacity as the court-appointed monitor (“Monitor”) and authorized foreign representative of Imperial Tobacco Canada Limited (“Debtor”) for an order (i) scheduling a hearing (the “Recognition Hearing”) on the relief requested in the *Verified Chapter 15 Petition for Recognition of Foreign Main Proceeding and Related Relief* and all exhibits appended thereto (the “Verified Petition”), (ii) setting the seventh day before the date of the Recognition Hearing as the deadline by which all objections to the Verified Petition must be filed and (iii) approving the form of notice of the Recognition Hearing, it is hereby

¹ Any capitalized term not otherwise defined herein shall have the meaning ascribed to such term in the Application.



ORDERED, that the Recognition Hearing shall be held before this Court in the United States Bankruptcy Court for the Southern District of New York, One Bowling Green, New York, New York, on April 15, 2019 at 2:00 p.m. (prevailing Eastern Time); and it is further

ORDERED, that the form of notice of the Recognition Hearing annexed to this Order as **Exhibit A** (the “Notice”) is hereby approved; and it is further

ORDERED, that the notice requirements set forth in section 1514(c) of the Bankruptcy Code are inapplicable in the context of this Chapter 15 case or are hereby waived; and it is further

ORDERED, that copies of the Notice Documents shall be served by United States mail, first class postage prepaid, upon the Chapter 15 Notice Parties within three days of entry of this Order; and it is further

ORDERED, that any party in interest wishing to submit a response or objection to the Verified Petition or the relief requested therein must do so in writing, and in accordance with the Bankruptcy Code, the Federal Rules of Bankruptcy Procedure, and the Local Rules for the Bankruptcy Court for the Southern District of New York, setting forth the basis therefor, which response or objection must be filed electronically with the Court on the Court’s electronic case filing system in accordance with General Order M-399 and the Court’s Procedures for the Filing, Signing and Verification of Documents by Electronic Means (copies of which may be viewed on the Court’s website at www.nysb.uscourts.gov), and by all other parties in interest on a compact disc (CD), preferably in Portable Document Format (PDF), Word Perfect, or any other Windows-based word processing format, which CD shall be sent to the Office of the Clerk of the Court, One Bowling Green, New York, New York. A hard copy of such response or objection shall be sent to (i) the chambers of Shelley C. Chapman, United States Bankruptcy Judge, and (ii) served upon Bracewell LLP, Attn: Jennifer Feldsher and Mark E. Dendinger, 1251 Avenue of the Americas,

New York, NY 10020-1100, counsel to the Monitor, **so as to be received no later than 4:00 p.m. (New York time), on April 8, 2019**; and it is further

ORDERED, that service pursuant to this Order shall be deemed good and sufficient service and adequate notice of the Recognition Hearing.

Dated: March 14, 2019
New York, New York

/S/ Shelley C. Chapman
UNITED STATES BANKRUPTCY JUDGE

EXHIBIT A

**Notice of Filing and Hearing on Petition for Recognition
Under Chapter 15 of the Bankruptcy Code and Motion for Related Relief**

Bracewell LLP

1251 Avenue of the Americas
New York, NY 10020-1100
Telephone: (212) 508-6100
Facsimile: (212) 508-6101
Jennifer Feldsher
Mark E. Dendinger

*Attorneys for FTI Consulting Canada Inc.
In its Capacity as Monitor and 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.

Chapter 15

Case No. 19-10771 (SCC)

**NOTICE OF FILING OF AND HEARING ON
PETITION FOR RECOGNITION UNDER CHAPTER 15 OF THE
UNITED STATES BANKRUPTCY CODE AND MOTION FOR RELATED RELIEF**

PLEASE TAKE NOTICE that on March 13, 2019, FTI Consulting Canada Inc., in its capacity as the court-appointed monitor (“Monitor”) and authorized foreign representative of Imperial Tobacco Canada Limited (the “Debtor”) in a proceeding (the “Canadian 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) at Toronto, commenced a Chapter 15 case ancillary to the Canadian Proceeding, seeking recognition of such foreign proceeding as a “foreign main proceeding” and relief in aid of the Canadian Proceeding in the United States Bankruptcy Court for the Southern District of New York (the “Bankruptcy Court”) with respect to the Debtor.

PLEASE TAKE FURTHER NOTICE that the Monitor seeks entry of an order (i) recognizing the Canadian Proceeding as a “foreign main proceeding” pursuant to section 1517 of Title 11 of the United States Code (the “Bankruptcy Code”), (ii) granting all relief automatically available pursuant to section 1520 of the Bankruptcy Code, including a stay of execution against the Debtor’s assets in the United States and express authorization from the Court for the Debtor to maintain its supply chain, inventory management and distribution processes and otherwise continue its business operations in the United States in the ordinary course, and barring, enjoining, and staying, pursuant to section 362 of the Bankruptcy Code, any action to interfere with these assets, business operations and processes, (iii) the extension of any provisional relief granted under

section 1519(a) on a permanent basis in accordance with section 1521(a)(6) of the Bankruptcy Code; and (iv) such other and further relief as is appropriate under the circumstances pursuant to sections 105(a) and 1507 of the Bankruptcy Code.

PLEASE TAKE FURTHER NOTICE that the Bankruptcy Court has scheduled a hearing to consider the relief requested by the Monitor for 2:00 p.m. (prevailing Eastern Time) on April 15, 2019 (the “Recognition Hearing”). Copies of the Monitor’s Verified Petition for Recognition of Foreign Main Proceeding and Related Relief (the “Verified Petition”) and all other accompanying documentation are available to parties-in-interest on the Bankruptcy Court’s Electronic Case Filing System, which can be accessed at the Bankruptcy Court’s website at <http://nysb.uscourts.gov> (a PACER login and password is required to retrieve a document) or upon written request to the Monitor’s counsel (including facsimile or email) addressed to:

Bracewell LLP
Attn: Mark E. Dendinger
1251 Avenue of Americas
New York, New York 10020-1104
Facsimile: (212) 508-6101
Email: Mark.Dendinger@bracewell.com

PLEASE TAKE FURTHER NOTICE that, at the hearing, the Court may order the scheduling of a case management conference to consider the efficient administration of the case.

PLEASE TAKE FURTHER NOTICE that any party in interest wishing to submit a response or objection to the Verified Petition or the relief requested therein must do so in writing, and in accordance with the Bankruptcy Code, the Federal Rules of Bankruptcy Procedure, and the Local Rules for the Bankruptcy Court for the Southern District of New York, setting forth the basis therefor, which response or objection must be filed electronically with the Court on the Court’s electronic case filing system in accordance with General Order M-399 and the Court’s Procedures for the Filing, Signing and Verification of Documents by Electronic Means (copies of which may be viewed on the Court’s website at www.nysb.uscourts.gov), and by all other parties in interest on a compact disc (CD), preferably in Portable Document Format (PDF), Word Perfect, or any other Windows-based word processing format, which CD shall be sent to the Office of the Clerk of the Court, One Bowling Green, New York, New York. A hard copy of such response or objection shall be sent to (i) the chambers of Shelley C. Chapman, United States Bankruptcy Judge and (ii) served upon Bracewell LLP, Attn: Jennifer Feldsher and Mark E. Dendinger, 1251 Avenue of the Americas, New York, NY 10020-1100, counsel to the Monitor, **so as to be received no later than 4:00 p.m. (New York time), on April 8, 2019.**

PLEASE TAKE FURTHER NOTICE that all parties in interest opposed to the Verified Petition or the relief requested therein must appear at the Recognition Hearing at the time and place set forth above.

PLEASE TAKE FURTHER NOTICE that if no response or objection is timely served as provided herein, the Court may grant the relief requested in the Verified Petition without further notice.

PLEASE TAKE FURTHER NOTICE that the Recognition Hearing may be adjourned from time to time without further notice other than an announcement in open court, or a notice of adjournment filed with the Court, of the adjourned date or dates at the hearing or any other further adjourned hearing.

Dated: March 14, 2019
New York, New York

By: /s/_____
Jennifer Feldsher
Mark E. Dendinger
BRACEWELL LLP
1251 Avenue of Americas
New York, New York 10020-1104
Telephone: (212) 508-6100
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*Attorneys for FTI Consulting Canada Inc.
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*Attorneys for FTI Consulting Canada Inc.
In its Capacity as Monitor and 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.

Chapter 15

Case No. 19-10771(SCC)

ORDER TO SHOW CAUSE WITH TEMPORARY RESTRAINING ORDER

FTI Consulting Canada Inc. (“FTI,” or the “Monitor”) is the Court-appointed monitor for Imperial Tobacco Canada Limited (“ITCAN” or the “Debtor”) 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) at Toronto (the “Canadian Proceeding”). The Monitor is authorized to serve as the foreign representative of the Debtor as defined by section 101(24) of title 11 of the United States Code (the “Bankruptcy Code”).

On March 13, 2019, the Monitor commenced this Chapter 15 case (the “Chapter 15 Case”) by filing, on behalf of the Debtor and pursuant to sections 1504 and 1515 of the Bankruptcy Code, the Verified Chapter 15 Petition for Recognition of Foreign Main Proceeding and Related Relief (the “Verified Petition”) along with the Official Form 401 (*Chapter 15 Petition for Recognition of a Foreign Proceeding*); the Application for an Order (I) Scheduling



Recognition Hearing, (II) Specifying Deadline for Filing Objections and (III) Specifying Form and Manner of Notice (the “Notice Application”); and an Ex Parte Application for Temporary Restraining Order and Relief Pursuant to Sections 1519 and 105(a) of the Bankruptcy Code (the “Application for Provisional Relief” and, collectively with the Verified Petition and Notice Application, the “First Day Motions”).

The Monitor has also filed a memorandum of law (the “Memorandum of Law”) and a Declaration of the Monitor (the “Bishop Declaration”) in support of the First Day Motions.

By its Application for Provisional Relief, the Monitor requested entry, on an *ex parte* basis, of a temporary restraining order staying execution against the assets, business operations and supply chain, inventory management and distribution processes of the Debtor, and applying section 362 of the Bankruptcy Code in this Chapter 15 case on a provisional basis pending the earlier of (i) adjudication of the Monitor’s request for Recognition of the Canadian Proceeding or (ii) after notice and a hearing, entry of an order granting a preliminary injunction extending the provisional relief in the temporary restraining order until disposition of the Verified Petition.

The Court has considered and reviewed the Application for Provisional Relief, the Verified Petition, and the Bishop Declaration and all related documents filed contemporaneously therewith. Based on the foregoing,

THE COURT FINDS AND CONCLUDES AS FOLLOWS:

a) The Monitor has demonstrated a substantial likelihood of success on the merits that the Debtor is the subject of a pending foreign main proceeding and the Monitor is the foreign representative of the Debtor;

b) The Monitor has demonstrated that, without a stay of execution against the Debtor’s assets, business operations and processes and the protections of section 362 of the Bankruptcy

Code, there is a material risk that the Debtor will suffer irreparable harm to the value of its business, assets, and property as a result of potential enforcement and collection efforts of claimants pending the disposition of the Verified Petition;

c) No injury will result to any party that is greater than the harm to the Debtor in the absence of the requested relief;

d) The interests of the public will be served by this Court's granting of the relief requested by the Monitor;

e) Due to the nature of the relief requested, the Court finds that no security is required under Rule 65(c) of the Federal Rules of Civil Procedure to the extent applicable in these cases by Rule 7065 of the Federal Rules of Bankruptcy Procedure;

f) It would not be feasible, prior to entry of this Order, for the Monitor to serve prior notice of the Application for Provisional Relief on parties in interest, and giving such prior notice would create the risk that creditors would rush to take actions that would undermine or defeat the purposes of the relief that the Monitor seeks.

g) This Court has jurisdiction over this matter pursuant to 28 U.S.C §§ 157 and 1334 and Section 1501 of the Bankruptcy Code;

h) This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(P); and

i) Venue is proper in this District pursuant to 28 U.S.C. § 1410.

NOW, THEREFORE, IT IS HEREBY ORDERED AS FOLLOWS:

1. The Monitor's application is **GRANTED** as of 1:30 p.m. on March 14, 2019;
2. All parties in interest shall show cause before the Honorable Shelley C. Chapman, United States Bankruptcy Judge for the Southern District of New York, at a hearing at 2:00 p.m. (prevailing Eastern Time) on March 25, 2019 (the "Hearing"), at the United States Bankruptcy

Court, One Bowling Green, New York, New York 10004, Courtroom 623 as to why an order should not be entered:

- i. establishing the Monitor as the “foreign representative” of the Debtor as defined in section 101(24) of the Bankruptcy Code;
 - ii. enjoining all persons and entities subject to this Court’s jurisdiction from taking or continuing to take any act to seize, attach, possess, execute upon, exercise control over and/or enforce liens against any assets of the Debtor located in the territorial jurisdiction of the United States, its business operations and supply chain, inventory management and distribution processes; and
 - iii. directing that the automatic stay set forth in Section 362 of the Bankruptcy Code shall be applicable, within the territorial boundaries of the United States, to the Debtor and its assets, business operations and processes.
3. Subject to paragraph 4 below, pending the Hearing:
 - i. the Monitor is established, on an interim basis, as the “foreign representative” of the Debtor as defined in section 101(24) of the Bankruptcy Code;
 - ii. Pursuant to sections 1519(a)(1) and 105(a) of the Bankruptcy Code, all persons and entities are enjoined from seizing, attaching, possessing, executing, and/or enforcing liens against the assets, business operations and processes of the Debtor; and
 - iii. Pursuant to sections 1519(a)(3) and 105(a) of the Bankruptcy Code, the automatic stay pursuant to section 362 of the Bankruptcy Code is applicable

in this Chapter 15 case within the territorial jurisdiction of the United States; *provided, however*, that the automatic stay shall not enjoin a police or regulatory act of a governmental unit to the extent provided in Section 362(b)(4) of the Bankruptcy Code.

4. Pursuant to Federal Rule 65(b)(4), any party in interest may make a motion seeking relief from or modifying this Order on no less than two (2) business days' notice to the Monitor's United States counsel, by filing a motion seeking an order of this Court dissolving or modifying the injunction entered in this proceeding.

5. Pursuant to Rule 7065 of the Federal Rules of Bankruptcy Procedure, the security provisions of Rule 65(c) of the Federal Rules of Civil Procedure are waived.

6. Notice of entry of this Order and of the Hearing shall be served within two business days of its entry by United States mail first-class postage prepaid, by electronic mail or by fax on all parties against whom relief is sought, or their counsel, if applicable, including such parties as set forth in the List Pursuant to Bankruptcy Rule 1007(a)(4) filed concurrently herewith.

7. Service in accordance with this Order shall constitute adequate and sufficient service and notice.

8. Responses or objections to the Monitor's request for a preliminary injunction shall be (i) made in writing and shall set forth the basis therefor, and such responses or objections, if filed by an attorney, must be filed in accordance with General Order M-399 and the Court's Current Guidelines for Electronic Filing (copies of which may be viewed on the Court's website at www.nysb.uscourts.gov), and by all other parties in interest in hard copy filed with the Office of the Clerk of the Court, One Bowling Green, New York, New York, with a hard copy to be sent to the chambers of the Honorable Shelley C. Chapman, United States Bankruptcy Judge and (ii)

served by electronic mail and United States mail upon Bracewell LLP, Attn: Jennifer Feldsher and Mark E. Dendinger, 1251 Avenue of the Americas, New York, NY 10020-1100, counsel to the Monitor, so as to be received on or before March 22, 2019 at 12:00 noon, prevailing Eastern Time.

9. This Court shall retain jurisdiction with respect to all matters relating to the interpretation or implementation of this Order.

Dated: March 14, 2019
New York, New York

/S/ Shelley C. Chapman
UNITED STATES BANKRUPTCY JUDGE

**THIS IS EXHIBIT “E” REFERRED TO IN THE
AFFIDAVIT OF RICHARD D. PATERSON
SWORN BEFORE ME ON APRIL ____, 2019**

A COMMISSIONER FOR TAKING OATHS, ETC.

Bracewell LLP

1251 Avenue of the Americas
New York, NY 10020-1100
Telephone: (212) 508-6100
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Jennifer Feldsher
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*Attorneys for FTI Consulting Canada Inc.
In its Capacity as Monitor and 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.¹

Chapter 15

Case No. 19-10771 (SCC)

**MONITOR’S OMNIBUS REPLY IN SUPPORT OF
VERIFIED CHAPTER 15 PETITION FOR RECOGNITION
OF FOREIGN MAIN PROCEEDING AND RELATED RELIEF**

FTI Consulting Canada Inc. (“FTI”), in its capacity as the court-appointed monitor (“Monitor”) and foreign representative of Imperial Tobacco Canada Limited (“ITCAN” or the “Debtor”) in a proceeding (the “Canadian Proceeding”) under Canada’s *Companies’ Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the “CCAA”), pending before the Ontario Superior Court of Justice (Commercial List) at Toronto (the “Canadian Court”), by its undersigned counsel, hereby submits this omnibus reply (a) to the letter objections received from four *pro se* participants in the Debtor’s Top-Hat Plans (as defined below) (Dkt. Nos. 26, 27, 28, 29, and 32) (the “Objections”) and (b) in further support of the *Verified Chapter 15 Petition for Recognition*

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



of Foreign Main Proceeding and Related Relief (Dkt. No. 2, the “Verified Petition”)² seeking recognition of ITCAN’s Canadian Proceeding under chapter 15 of title 11 of the United States Code (the “Bankruptcy Code”).

OMNIBUS REPLY

1. The Monitor filed the Verified Petition seeking recognition of the Canadian Proceeding and related relief to protect the Debtor and its supply-chain in the United States while the Debtor pursues a comprehensive restructuring in Canada. As part of that restructuring, the Debtor is seeking to resolve an estimated \$600 billion in alleged liabilities already pending in Canada as well as potential and unknown claims, so that it can continue as a going concern. The fact that a streamlined resolution of claims is absolutely necessary for the Debtors’ survival as a going concern and the best option for maximizing the value of the Debtor’s assets for all stakeholders has not been challenged. Nor is there any dispute that the Debtor’s “center of main interests” is in Canada.

2. Courts in this district have routinely found recognition to be mandatory upon compliance with the requirements of section 1517(a)(1), (2) and (3) of the Bankruptcy Code. *See In re Millard*, 501 B.R. 644, 651 (Bankr. S.D.N.Y. 2013) (holding section 1517 is a “statutory mandate”); *see also In re Ocean Rig UDW Inc.*, 570 B.R. 687, 699 (Bankr. S.D.N.Y. 2017) (citing *Millard*, 501 B.R. at 651 and *In re ABC Learning Ctrs. Ltd.*, 728 F.3d 301, 306 (3d Cir. 2013)). The Objections do not challenge that the Monitor has satisfied the requirements of section 1517 of the Bankruptcy Code. Indeed, most expressly provide that they do not oppose recognition. *See generally* Dkt. Nos. 26-29, and 32.

² Capitalized terms used but not otherwise defined herein shall have the meaning ascribed to them in the Verified Petition.

3. Instead, the Objections, lodged by a few participants in legacy “top hat” executive retirement plans previously funded by the Debtor on behalf of its U.S. subsidiaries (the “Top-Hat Plans”), ask the Court for a leg up on Canadian creditors. They ask the Court to condition recognition on the resumption of payments under the Top-Hat Plans. *See* Dkt. No. 26 at 2; Dkt. No. 29 at 4. Contributions on account of the Top-Hat Plans, however, are approximately \$6 million per year, are not secured by insurance policies or reserves, and cannot be justified in the Canadian Proceeding as “necessary” to the Debtor’s ongoing business. Therefore, their continued funding could not be supported by the Debtor under the CCAA.³ The objectors do not proffer any principled reason in the Objections for why they should be entitled to special treatment that is unavailable to other similarly situated creditors. Nevertheless, recognition of the Canadian Proceeding will not impair their ability to seek such relief in the Canadian Court if appropriate, or to participate in the claims allowance process once one is established by the Canadian Court. For further comfort, as requested in the Objections, the Monitor will include the following language in the Recognition Order:

Nothing contained herein shall be deemed or construed to impair or otherwise adversely affect any rights of any group representative of the beneficiaries of the Top-Hat Plans appointed by the Canadian Court, if any, or any individual participant of the Top-Hat Plans from pursuing any rights, claims and remedies, collectively or individually, in the Canadian Proceeding or the Debtor’s or Monitor’s rights, claims, defenses and remedies in connection therewith..⁴

³ At least one of the objections questions the Debtor’s determination to continue making ordinary course payments in respect of the Imasco Holdings Group’s Inc. defined benefit pension plan which covers over 2500 participants (the “IHGI Plan”). The IHGI Plan, however, is a defined benefit plan subject to Title IV of the *U.S. Employee Retirement Income Security Act of 1974* and has different rights and regulations than the Top-Hat Plans. As contributions under the IHGI Plan are a fraction of the annual contributions required under the Top-Hat Plans and cover more than 50 times the number of participants, the Debtor determined, in its business judgment, that continued payment of that plan was warranted to avoid the significant penalties and legal costs associated with termination. *See* Ex. C of the ITCAN Affidavit attached as Ex. A to the Bishop Declaration (Dkt. No. 5).

⁴ While they have not formally appeared in this Case, several Top-Hat Plan participants (the “Retiree Group”) have retained counsel in connection with the Canadian Proceeding and this Case. Counsel for the Monitor has consulted U.S. counsel for the Retiree Group on inclusion of this language. *See Supplemental*

4. The Objections fail to set forth any valid basis to deny recognition and, while they do not reference section 1506 of the Bankruptcy Code or U.S. public policy, fall woefully short of the heavy burden required under that section. Section 1506 of the Bankruptcy Code allows a Court to deny recognition only “if the action would be *manifestly* contrary to the public policy of the United States.” 11 U.S.C. § 1506 (emphasis added). That exception, however, “should be interpreted restrictively and . . . [the exception] is only intended to be invoked under exceptional circumstances concerning matters of fundamental importance for the [United States].” *In re OAS S.A.*, 533 B.R. 83, 103 (Bankr. S.D.N.Y. 2015) (“federal courts in the United States have uniformly adopted the narrow application of the public policy exception.”); *see also In re Irish Bank Resolution Corp. (In re Special Liquidation)*, No. 13-12159 (CSS), 2014 Bankr. LEXIS 1990, at *57 (Bankr. D. Del. Apr. 30, 2014) (section 1506 is to be invoked only in exceptional circumstances); *In re Ashapura Minechem*, 480 B.R. 129, 139 (Bankr. S.D.N.Y. 2012) (“only one published decision has found recognition to violate U.S. public policy since Chapter 15 was enacted at the time the Bankruptcy Court made its decision – and only two since [November 22, 2011].”).

5. In the instant case, it is axiomatic that granting recognition of the Canadian Proceeding and related relief is consistent with the goals of Chapter 15 and not contrary to them. The Recognition Order and the related relief will aid the Canadian Proceeding by preventing disruption of the Debtor’s business operations and will help the Debtor conduct an orderly reorganization of its financial affairs in Canada where it is headquartered and its center of main interests lies. These goals are aligned with the objectives of Chapter 15 (*see* 11 U.S.C. § 1501(a))

Declaration of Paul Bishop in Support of Verified Chapter 15 Petition for Recognition of Foreign Main Proceeding, at ¶¶ 5 and 7, n.4.

and promote the U.S. public policy of respecting foreign proceedings. Indeed, since the passage of Chapter 15, Canadian proceedings under the CCAA have routinely been recognized as foreign proceedings entitled to recognition and comity in the United States. *See generally In re Ephedra Prods. Liab. Litig.*, 349 B.R. 333, 336-7 (finding proceedings in accordance with the CCAA do not offend the “public policy of the United States.”); *see also In re Sino-Forest Corp.*, 501 B.R. 655, 666 (Bankr. S.D.N.Y. 2013); *In re Metcalf & Mansfield Alt. Invs.*, 421 B.R. 685, 688 (Bankr. S.D.N.Y. 2010); *In re Quebecor World, Inc.*, No. 08-13814 (Bankr. S.D.N.Y. July 1, 2009); *In re Canwest Global Commc’ns Corp.*, No. 09-15994 (Bankr. S.D.N.Y. Nov. 3, 2009); *In re Baronet U.S.A. Inc.*, No. 07-13821 (Bankr. S.D.N.Y. Jan. 10, 2008).

CONCLUSION

In sum, granting recognition will promote the U.S. public policy of respecting foreign proceedings as articulated in, *inter alia*, Bankruptcy Code sections 1501(a) and 1508 and does not violate section 1506. The Monitor has satisfied the requirements for recognition of the Canadian Proceeding as a foreign main proceeding and related relief under Bankruptcy Code sections 1517, 1520 and 1521 and none of the Objections contend otherwise. Accordingly, the Monitor respectfully requests that the Court deny the Objections and enter an order substantially in the form annexed hereto as Exhibit A (containing a clean and a marked version reflecting changes between the initial proposed Recognition Order and the amended proposed Recognition Order), granting the relief requested therein and any such other and further relief as may be just and proper.

[Remainder of page intentionally left blank.]

Dated: April 12, 2019
New York, New York

By: /s/ Jennifer Feldsher
Jennifer Feldsher
Mark E. Dendinger
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1251 Avenue of Americas
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*Attorneys for FTI Consulting Canada Inc.
In its Capacity as Monitor and Foreign
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Exhibit "A"

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*Attorney for FTI Consulting Canada Inc.
In its Capacity as Monitor and 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.

Chapter 15

Case No. 19-10771 (SCC)

**ORDER RECOGNIZING FOREIGN MAIN
PROCEEDING AND GRANTING RELATED RELIEF**

This matter was brought by FTI Consulting Canada Inc., in its capacity as the Court-appointed monitor¹ (the “Monitor”) and duly authorized foreign representative for Imperial Tobacco Canada Limited (the “Debtor”), upon its filing, on behalf of the Debtor, of the *Verified Chapter 15 Petition for Recognition of Foreign Main Proceeding* (the “Verified Petition”)² pursuant to sections 1504 and 1515 of title 11 of the United States Code (the “Bankruptcy Code”), commencing the above-captioned Chapter 15 case (the “Chapter 15 Case”).

¹ FTI was appointed as Monitor pursuant to Canada’s *Companies’ Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended, by order dated March 12, 2019.

² Capitalized terms used but not otherwise defined herein have the meaning ascribed to them in the *Verified Petition and the Monitor’s Omnibus Reply In Support of Verified Chapter 15 Petition for Recognition of Foreign Main Proceeding and Related Relief*, as applicable.

The Court has reviewed the Verified Petition along with the other papers, pleadings and exhibits submitted by the Monitor in support of the Verified Petition (collectively, the “Supporting Papers,”) including, among other things, (a) the Declaration of Paul Bishop in Support of (I) Verified Chapter 15 Petition for Recognition of Foreign Main Proceeding and Related Relief, (II) Application for an Order Scheduling Recognition Hearing, Specifying Deadline for Filing Objections and Specifying Form and Manner of Notice (the “Notice Application”) and, (III) *Ex Parte* Application for Temporary Restraining Order and Relief Pursuant to Sections 1519 and 105(a) of the Bankruptcy Code (the “Bishop Declaration”) and the (b) Memorandum of Law in support of the Verified Petition.

For good cause shown, including the record created at the April 15, 2019 Recognition Hearing, the Court finds and concludes as follows:

- A. This Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334.
- B. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(P).
- C. Venue is proper before this Court pursuant to 28 U.S.C. § 1410.
- D. Good, sufficient, appropriate and timely notice of the filing of the Verified Petition and the hearing on the Verified Petition has been given pursuant to Local Rules 2002-4 and 9078-1 and Rule 2002(q)(1) of the Federal Rules of Bankruptcy Procedure.
- E. The Chapter 15 Case was properly commenced pursuant to sections 1504 and 1515 of the Bankruptcy Code.
- F. Pursuant to section 1517(a)(2) of the Bankruptcy Code, the Monitor is a “person” within the meaning of section 101(41) of the Bankruptcy Code, and the Monitor is the duly appointed foreign representative of the Debtor within the meaning of section 101(24) of the Bankruptcy Code.

G. The Canadian Proceeding currently pending before the Canadian Court is a “foreign proceeding” within the meaning of section 101(23) of the Bankruptcy Code.

H. The Canadian Proceeding is pending in Canada, where the Debtor’s “center of main interests,” as that term is used in section 1517(b)(1) of the Bankruptcy Code, is located, and, accordingly, the Canadian Proceeding is a “foreign main proceeding” pursuant to section 1502(4) of the Bankruptcy Code and is entitled to recognition pursuant to sections 1517(a) and 1517(b)(1) of the Bankruptcy Code.

I. The Debtor is entitled to all of the relief provided under sections 1520 and 1521(a)(1) and (2) of the Bankruptcy Code, without limitation, because those protections are necessary to effectuate the purposes of Chapter 15 of the Bankruptcy Code and to protect the assets of the Debtor and the interests of the Debtor’s creditors and stakeholders.

Therefore, it is hereby ordered that:

1. The Verified Petition is **GRANTED**.
2. The Verified Petition meets the requirements of section 1515 of the Bankruptcy Code and Bankruptcy Rule 1007(a)(4).
3. The Canadian Proceeding is recognized as a “foreign main proceeding” (as defined in section 1502(a)(4) of the Bankruptcy Code) pursuant to sections 1517(a) and 1517(b)(1) of the Bankruptcy Code.
4. The Monitor is recognized, on a final basis, as the “foreign representative” as defined in section 101(24) of the Bankruptcy Code.
5. Other than as expressly set forth herein, the Debtor is entitled to all of the relief provided under sections 1520 and 1521 of the Bankruptcy Code, without limitation.

6. Pursuant to sections 1520 and 1521 of the Bankruptcy Code, and, as necessary, sections 105(a) and 1507 of the Bankruptcy Code, the Canadian Order for Relief is hereby given full force and effect in the United States.

7. The Debtor is authorized to maintain its U.S. assets, business operations, supply chain, inventory management and distribution processes in the ordinary course of the Debtor's business, pursuant to section 1520(a) of the Bankruptcy Code. For the avoidance of doubt, the Debtor is continuing to operate its business and is not requesting that the Monitor be provided with the rights set forth under section 1521(a)(5) at this time and, accordingly, relief is not being granted under section 1521(a)(5) to the Debtors under this Order.

8. The relief granted hereby is necessary and appropriate, in the interests of the public and of international comity, not inconsistent with any public policy of the United States, and warranted pursuant to sections 1507(a), 1509(b)(2)-(3), 1520, 1521(a), and 1522 of the Bankruptcy Code.

9. Pursuant to section 1521(a)(6), any additional relief granted under section 1519(a) is hereby extended.

10. Any action to interfere with the Debtor's assets, business, operations, or its supply chain, inventory management or distribution processes are hereby barred, enjoined, and stayed, pursuant to sections 362, 1520(a), and 1521(a)(1) and (2) of the Bankruptcy Code.

11. Nothing contained herein shall be deemed or construed to impair or otherwise adversely affect any rights of any group representative of the beneficiaries of the Top-Hat Plans appointed by the Canadian Court, if any, or any individual participant of the Top-Hat Plans from pursuing any rights, claims and remedies, collectively or individually, in the Canadian Proceeding or the Debtor's or Monitor's rights, claims, defenses and remedies in connection therewith.

12. This Court shall retain jurisdiction with respect to the enforcement, amendment or modification of this Order, any requests for additional relief, any adversary proceeding in and through this Chapter 15 Case, and any request by an entity for relief from the provisions of this Order, for cause shown, that is properly commenced within the jurisdiction of this Court.

13. The Monitor shall provide service and notice of this Order by first class mail, postage prepaid, upon the Chapter 15 Notice Parties as defined in the Notice Application.

Dated: _____, 2019
New York, New York

UNITED STATES BANKRUPTCY JUDGE

Blackline

Bracewell LLP

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Facsimile: (212) 508-6101
Jennifer Feldsher
Mark E. Dendinger

*Attorney for FTI Consulting Canada Inc.
In its Capacity as Monitor and 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.

Chapter 15

Case No. 19-10771 (~~—~~SCC)

**ORDER RECOGNIZING FOREIGN MAIN
PROCEEDING AND GRANTING RELATED RELIEF**

This matter was brought by FTI Consulting Canada Inc., in its capacity as the Court-appointed monitor¹ (the “Monitor”) and duly authorized foreign representative for Imperial Tobacco Canada Limited (the “Debtor”), upon its filing, on behalf of the Debtor, of the *Verified Chapter 15 Petition for Recognition of Foreign Main Proceeding* (the “Verified Petition”) ² pursuant to sections 1504 and 1515 of title 11 of the United States Code (the “Bankruptcy Code”), commencing the above-captioned Chapter 15 case (the “Chapter 15 Case”).

¹ FTI was appointed as Monitor pursuant to Canada’s *Companies’ Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended, by order dated March 12, 2019.

² Capitalized terms used but not otherwise defined herein have the meaning ascribed to them in the *Verified Petition and the Monitor’s Omnibus Reply In Support of Verified Chapter 15 Petition for Recognition of Foreign Main Proceeding and Related Relief*, as applicable.

The Court has reviewed the Verified Petition along with the other papers, pleadings and exhibits submitted by the Monitor in support of the Verified Petition (collectively, the “Supporting Papers,”) including, among other things, (a) the Declaration of Paul Bishop in Support of (I) Verified Chapter 15 Petition for Recognition of Foreign Main Proceeding and Related Relief, (II) Application for an Order Scheduling Recognition Hearing, Specifying Deadline for Filing Objections and Specifying Form and Manner of Notice (the “Notice Application”) and, (III) *Ex Parte* Application for Temporary Restraining Order and Relief Pursuant to Sections 1519 and 105(a) of the Bankruptcy Code (the “Bishop Declaration”) and the (b) Memorandum of Law in support of the Verified Petition.

For good cause shown, including the record created at the ~~March []~~ April 15, 2019 Recognition Hearing, the Court finds and concludes as follows:

A. This Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334.

B. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(P).

C. Venue is proper before this Court pursuant to 28 U.S.C. § 1410.

D. Good, sufficient, appropriate and timely notice of the filing of the Verified Petition and the hearing on the Verified Petition has been given pursuant to Local Rules 2002-4 and 9078-1 and Rule 2002(q)(1) of the Federal Rules of Bankruptcy Procedure.

E. The Chapter 15 Case was properly commenced pursuant to sections 1504 and 1515 of the Bankruptcy Code.

F. Pursuant to section 1517(a)(2) of the Bankruptcy Code, the Monitor is a “person” within the meaning of section 101(41) of the Bankruptcy Code, and the Monitor is the duly

appointed foreign representative of the Debtor within the meaning of section 101(24) of the Bankruptcy Code.

G. The Canadian Proceeding currently pending before the Canadian Court is a “foreign proceeding” within the meaning of section 101(23) of the Bankruptcy Code.

H. The Canadian Proceeding is pending in Canada, where the Debtor’s “center of main interests,” as that term is used in section 1517(b)(1) of the Bankruptcy Code, is located, and, accordingly, the Canadian Proceeding is a “foreign main proceeding” pursuant to section 1502(4) of the Bankruptcy Code and is entitled to recognition pursuant to sections 1517(a) and 1517(b)(1) of the Bankruptcy Code.

I. The Debtor is entitled to all of the relief provided under sections 1520 and 1521(a)(1) and (2) of the Bankruptcy Code, without limitation, because those protections are necessary to effectuate the purposes of Chapter 15 of the Bankruptcy Code and to protect the assets of the Debtor and the interests of the Debtor’s creditors and stakeholders.

Therefore, it is hereby ordered that:

1. The Verified Petition is **GRANTED**.
2. The Verified Petition meets the requirements of section 1515 of the Bankruptcy Code and Bankruptcy Rule 1007(a)(4).
3. The Canadian Proceeding is recognized as a “foreign main proceeding” (as defined in section 1502(a)(4) of the Bankruptcy Code) pursuant to sections 1517(a) and 1517(b)(1) of the Bankruptcy Code.
4. The Monitor is recognized, on a final basis, as the “foreign representative” as defined in section 101(24) of the Bankruptcy Code.

5. ~~The~~Other than as expressly set forth herein, the Debtor is entitled to all of the relief provided under sections 1520 and 1521 of the Bankruptcy Code, without limitation.

6. Pursuant to sections 1520 and 1521 of the Bankruptcy Code, and, as necessary, sections 105(a) and 1507 of the Bankruptcy Code, the Canadian Order for Relief is hereby given full force and effect in the United States.

7. The Debtor is authorized to maintain its U.S. assets, business operations, supply chain, inventory management and distribution processes in the ordinary course of the Debtor's business, pursuant to section 1520(a) of the Bankruptcy Code. For the avoidance of doubt, the Debtor is continuing to operate its business and is not requesting that the Monitor be provided with the rights set forth under section 1521(a)(5) at this time and, accordingly, relief is not being granted under section 1521(a)(5) to the Debtors under this Order.

8. The relief granted hereby is necessary and appropriate, in the interests of the public and of international comity, not inconsistent with any public policy of the United States, and warranted pursuant to sections 1507(a), 1509(b)(2)-(3), 1520, 1521(a), and 1522 of the Bankruptcy Code, ~~and will not cause hardship to creditors of the Debtor, or to any other parties in interest, in each case that is not outweighed by the benefits of granting such relief.~~

9. Pursuant to section 1521(a)(6), any additional relief granted under section 1519(a) is hereby extended.

10. Any action to interfere with the Debtor's assets, business, operations, or its supply chain, inventory management or distribution processes are hereby barred, enjoined, and stayed, pursuant to sections 362, 1520(a), and 1521(a)(1) and (2) of the Bankruptcy Code.

11. Nothing contained herein shall be deemed or construed to impair or otherwise adversely affect any rights of any group representative of the beneficiaries of the Top-Hat Plans

appointed by the Canadian Court, if any, or any individual participant of the Top-Hat Plans from pursuing any rights, claims and remedies, collectively or individually, in the Canadian Proceeding or the Debtor's or Monitor's rights, claims, defenses and remedies in connection therewith.

12. ~~11.~~ This Court shall retain jurisdiction with respect to the enforcement, amendment or modification of this Order, any requests for additional relief, any adversary proceeding in and through this Chapter 15 Case, and any request by an entity for relief from the provisions of this Order, for cause shown, that is properly commenced within the jurisdiction of this Court.

13. ~~12.~~ The Monitor shall provide service and notice of this Order by first class mail, postage prepaid, upon the Chapter 15 Notice Parties as defined in the Notice Application.

Dated: _____, 2019
New York, New York

UNITED STATES BANKRUPTCY JUDGE

Summary report:	
Litera® Change-Pro for Word 10.5.0.0 Document comparison done on 4/12/2019 2:43:30 PM	
Style name: Bracewell Style	
Intelligent Table Comparison: Active	
Original DMS: dm://DM/5898797/3	
Modified DMS: dm://DM/5917647/5	
Changes:	
Add	10
Delete	8
Move From	0
Move To	0
Table Insert	0
Table Delete	0
Table moves to	0
Table moves from	0
Embedded Graphics (Visio, ChemDraw, Images etc.)	0
Embedded Excel	0
Format changes	0
Total Changes:	18

**THIS IS EXHIBIT “F” REFERRED TO IN THE
AFFIDAVIT OF RICHARD D. PATERSON
SWORN BEFORE ME ON APRIL ____, 2019**

A COMMISSIONER FOR TAKING OATHS, ETC.

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Mark E. Dendinger

*Attorneys for FTI Consulting Canada Inc.
In its Capacity as Monitor and 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.¹

Chapter 15
Case No. 19-10771(SCC)

**SUPPLEMENTAL DECLARATION OF PAUL BISHOP IN SUPPORT OF VERIFIED
CHAPTER 15 PETITION FOR RECOGNITION OF FOREIGN MAIN PROCEEDING**

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

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

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



Ontario (the “Canadian Court”), in further support of the *Verified Chapter 15 Petition for Recognition of Foreign Main Proceeding and Related Relief* (the “Verified Petition,” Dkt. No. 2).²

2. I previously submitted a declaration (the “First Declaration,” Dkt. No. 5) in support of (a) the Verified Petition; (b) the application for entry of an order (i) scheduling a hearing on the relief requested in the Verified Petition (the “Recognition Hearing”), (ii) setting a deadline by which all objections to the Chapter 15 petition must be filed and (iii) approving the form of notice of the Recognition Hearing and the manner of service (the “Notice Application,” Dkt. No. 3); and (c) pursuant to Rule 65 of the Federal Rules of Civil Procedure, as made applicable by Rule 7065 of the Federal Rules of Bankruptcy Procedure and Rule 9077-1(a) of the Local Bankruptcy Rules of the United States District Court for the Southern District of New York, the Ex Parte Application for Temporary Restraining Order and Relief Pursuant to Sections 1519 and 105(a) of Title 11 of the United States Code (the “TRO Application,” Dkt. No. 4). The First Declaration is expressly incorporated herein by reference.

UPDATE ON CANADIAN PROCEEDING

3. As described more fully in the First Declaration, on March 12, 2019, the Canadian Court issued the Initial Order (the “Canadian Order for Relief”) attached as Exhibit A to the Verified Petition, commencing the Canadian Proceeding and, among other things, appointing FTI as the Monitor and authorizing the filing of the Debtor’s Chapter 15 case (the “Chapter 15 Case”). As is customary, the Canadian Order of Relief was entered on an *ex parte* basis and a comeback hearing was scheduled for April 4 and 5, 2019 for parties to be heard after receiving notice of the Canadian Proceeding.

² Capitalized terms used but not otherwise defined herein shall have the meaning ascribed to them in the Verified Petition and the *Monitor’s Omnibus Reply In Support of Verified Chapter 15 Petition for Recognition of Foreign Main Proceeding and Related Relief*, as applicable.

4. On April 4 and 5, 2019, the Canadian Court held the comeback hearing in the Canadian Proceeding. At the hearing, the Canadian Court entered various orders including: (i) an order extending the stay of proceedings until June 28, 2019 (the “Stay”); (ii) an order amending the Canadian Relief Order to address matters that were on consent of the stakeholders, including appointing and prescribing the mandate of the Hon. Warren K. Winkler Q.C. to act as mediator in respect of certain issues, including the Tobacco Claims; and (iii) an order partially lifting the Stay to allow the Quebec Class Action plaintiffs to seek the approval of settlement agreements in respect of insurance policies issued by Kansa General International Insurance Company Ltd. and Northumberland General Insurance Company to ITCAN and/or its predecessor entities.

5. Prior to the comeback hearing, counsel for the Debtor and Monitor were contacted by counsel representing several of the beneficiaries (the “Retiree Group”) of the Top-Hat Plans that the Debtor has discontinued funding. The Retiree Group filed a notice of objection in the Canadian Proceeding seeking: (i) relief from the Canadian Order for Relief to compel continued funding of the Top-Hat Plans (the “Retiree Objection”); and (ii) an order of the Canadian Court (a) appointing members of the Retiree Group as representatives of the beneficiaries of the Top-Hat Plans and (b) appointing Kaplan Law as representative counsel. The Retiree Group also filed a notice of a Canadian constitutional question under the Charter of Rights and Freedoms challenging the validity of the provisions of the Canadian Relief Order that operate to suspend payments under the Top-Hat Plans.

6. Counsel appeared on behalf of the Retiree Group at the comeback hearing and made limited submissions to the Canadian Court. The Canadian Court noted on the record that the Stay was without prejudice to the rights of the Retiree Group to seek relief and be heard concerning the Top-Hat Plans at a second comeback hearing scheduled to commence on April 25, 2019.

CONCLUSION

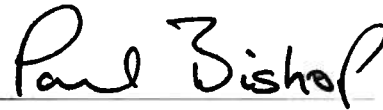
7. The Monitor has been advised and submits that the Verified Petition complies with sections 1517, 1520 and 1521 of the Bankruptcy Code, will aid the Canadian Proceeding and the Debtor's restructuring efforts in Canada, and is not manifestly contrary to U.S. public policy. Accordingly, the Monitor respectfully requests that the Verified Petition be approved and the Recognition Order, as amended to address the outstanding objections to the Verified Petition, be granted.³

[Remainder of page intentionally left blank.]

³ Although the Retiree Group has not yet formally appeared in the Chapter 15 Case, I have been advised that they retained U.S. counsel and that counsel was consulted and approved the amended Recognition Order.

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.

Date: April 12, 2019
Toronto, Canada

A handwritten signature in black ink that reads "Paul Bishop". The signature is written in a cursive style with a horizontal line underneath it.

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

**THIS IS EXHIBIT “G” REFERRED TO IN THE
AFFIDAVIT OF RICHARD D. PATERSON
SWORN BEFORE ME ON APRIL ____, 2019**

A COMMISSIONER FOR TAKING OATHS, ETC.

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

In re:

IMPERIAL TOBACCO CANADA
LIMITED,

Debtor in a Foreign Proceeding.

Chapter 15

Case No. 19-10771 (SCC)

**ORDER RECOGNIZING FOREIGN MAIN
PROCEEDING AND GRANTING RELATED RELIEF**

This matter was brought by FTI Consulting Canada Inc., in its capacity as the Court-appointed monitor¹ (the “Monitor”) and duly authorized foreign representative for Imperial Tobacco Canada Limited (the “Debtor”), upon its filing, on behalf of the Debtor, of the *Verified Chapter 15 Petition for Recognition of Foreign Main Proceeding* (the “Verified Petition”)² pursuant to sections 1504 and 1515 of title 11 of the United States Code (the “Bankruptcy Code”), commencing the above-captioned Chapter 15 case (the “Chapter 15 Case”).

The Court has reviewed the Verified Petition along with the other papers, pleadings and exhibits submitted by the Monitor in support of the Verified Petition (collectively, the “Supporting Papers,”) including, among other things, (a) the Declaration of Paul Bishop in Support of (I) Verified Chapter 15 Petition for Recognition of Foreign Main Proceeding and Related Relief, (II) Application for an Order Scheduling Recognition Hearing, Specifying Deadline for Filing Objections and Specifying Form and Manner of Notice (the “Notice Application”) and, (III) *Ex*

¹ FTI was appointed as Monitor pursuant to Canada’s *Companies’ Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended, by order dated March 12, 2019.

² Capitalized terms used but not otherwise defined herein have the meaning ascribed to them in the Verified Petition and the *Monitor’s Omnibus Reply In Support of Verified Chapter 15 Petition for Recognition of Foreign Main Proceeding and Related Relief*, as applicable.

Parte Application for Temporary Restraining Order and Relief Pursuant to Sections 1519 and 105(a) of the Bankruptcy Code (the “Bishop Declaration”) and (b) the Memorandum of Law in support of the Verified Petition. The Court has also reviewed the various letters filed on the docket of this case in response to the Verified Petition.

For good cause shown, including the record created at the April 15, 2019 Recognition Hearing, the Court finds and concludes as follows:

- A. This Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334.
- B. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(P).
- C. Venue is proper before this Court pursuant to 28 U.S.C. § 1410.
- D. Good, sufficient, appropriate and timely notice of the filing of the Verified Petition and the hearing on the Verified Petition has been given pursuant to Local Rules 2002-4 and 9078-1 and Rule 2002(q)(1) of the Federal Rules of Bankruptcy Procedure.
- E. The Chapter 15 Case was properly commenced pursuant to sections 1504 and 1515 of the Bankruptcy Code.
- F. Pursuant to section 1517(a)(2) of the Bankruptcy Code, the Monitor is a “person” within the meaning of section 101(41) of the Bankruptcy Code, and the Monitor is the duly appointed foreign representative of the Debtor within the meaning of section 101(24) of the Bankruptcy Code.
- G. The Canadian Proceeding currently pending before the Canadian Court is a “foreign proceeding” within the meaning of section 101(23) of the Bankruptcy Code.
- H. The Canadian Proceeding is pending in Canada, where the Debtor’s “center of main interests,” as that term is used in section 1517(b)(1) of the Bankruptcy Code, is located, and, accordingly, the Canadian Proceeding is a “foreign main proceeding” pursuant to section 1502(4)

of the Bankruptcy Code and is entitled to recognition pursuant to sections 1517(a) and 1517(b)(1) of the Bankruptcy Code.

I. The Debtor is entitled to all of the relief provided under sections 1520 and 1521(a)(1) and (2) of the Bankruptcy Code, without limitation, because those protections are necessary to effectuate the purposes of Chapter 15 of the Bankruptcy Code and to protect the assets of the Debtor and the interests of the Debtor's creditors and stakeholders.

Therefore, it is hereby ordered that:

1. The Verified Petition is **GRANTED**.
2. The Verified Petition meets the requirements of section 1515 of the Bankruptcy Code and Bankruptcy Rule 1007(a)(4).
3. The Canadian Proceeding is recognized as a "foreign main proceeding" (as defined in section 1502(a)(4) of the Bankruptcy Code) pursuant to sections 1517(a) and 1517(b)(1) of the Bankruptcy Code.
4. The Monitor is recognized, on a final basis, as the "foreign representative" as defined in section 101(24) of the Bankruptcy Code.
5. Other than as expressly set forth herein, the Debtor is entitled to all of the relief provided under sections 1520 and 1521 of the Bankruptcy Code, without limitation.
6. Pursuant to sections 1520 and 1521 of the Bankruptcy Code, and, as necessary, sections 105(a) and 1507 of the Bankruptcy Code, the Canadian Order for Relief is hereby given full force and effect in the United States.
7. The Debtor is authorized to maintain its U.S. assets, business operations, supply chain, inventory management and distribution processes in the ordinary course of the Debtor's business, pursuant to section 1520(a) of the Bankruptcy Code. For the avoidance of doubt, the

Debtor is continuing to operate its business and is not requesting that the Monitor be provided with the rights set forth under section 1521(a)(5) at this time and, accordingly, relief is not being granted under section 1521(a)(5) to the Debtor under this Order.

8. The relief granted hereby is necessary and appropriate, in the interests of the public and of international comity, not inconsistent with any public policy of the United States, and warranted pursuant to sections 1507(a), 1509(b)(2)-(3), 1520, 1521(a), and 1522 of the Bankruptcy Code.

9. Pursuant to section 1521(a)(6), any additional relief granted under section 1519(a) is hereby extended.

10. Any action to interfere with the Debtor's assets, business, operations, or its supply chain, inventory management or distribution processes are hereby barred, enjoined, and stayed, pursuant to sections 362, 1520(a), and 1521(a)(1) and (2) of the Bankruptcy Code.

11. Nothing contained herein shall be deemed or construed to impair or otherwise adversely affect any rights of any group representative of the beneficiaries of the Top-Hat Plans appointed by the Canadian Court, if any, or any individual participant of the Top-Hat Plans from pursuing any rights, claims and remedies, collectively or individually, in the Canadian Proceeding or the Debtor's or Monitor's rights, claims, defenses and remedies in connection therewith.

12. This Court shall retain jurisdiction with respect to the enforcement, amendment or modification of this Order, any requests for additional relief, any adversary proceeding in and through this Chapter 15 Case, and any request by an entity for relief from the provisions of this Order, for cause shown, that is properly commenced within the jurisdiction of this Court.

13. The Monitor shall provide service and notice of this Order by first class mail, postage prepaid, upon the Chapter 15 Notice Parties as defined in the Notice Application.

Dated: April 17, 2019
New York, New York

/s/Shelley C. Chapman
UNITED STATES BANKRUPTCY JUDGE

THIS IS **EXHIBIT “H”** REFERRED TO IN THE
AFFIDAVIT OF RICHARD D. PATERSON
SWORN BEFORE ME ON APRIL ____, 2019

A COMMISSIONER FOR TAKING OATHS, ETC.

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About: Ari Kaplan

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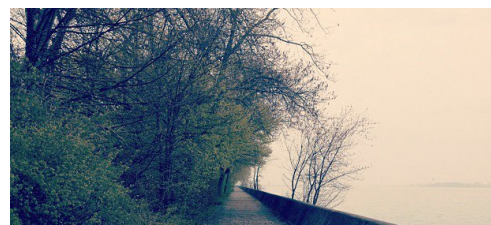
Ari Kaplan is principal of **KAPLAN • LAW**. He is renowned for his expertise in pensions and benefits law and clear way of explaining legal issues. He wrote Canada's first book in Pension Law and has top rankings in Chambers® (Band 1), Lexpert® (Most Frequently Recommended) and Best Lawyers® (2005-2019).

Ari has 20 years experience representing clients before the superior courts of Ontario, British Columbia, Alberta, Saskatchewan, Quebec and New Brunswick. He has appeared before the Ontario Court of Appeal, Quebec Court of Appeal, New Brunswick Court of Appeal, Federal Court of Appeal and Supreme Court of Canada.

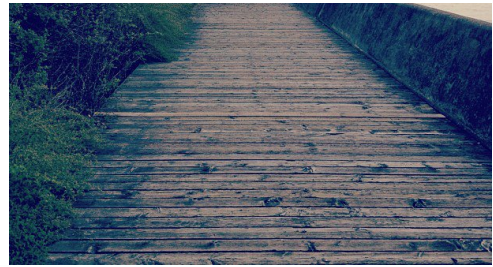
Ari's clients are stakeholders with interest in a pension plan or benefit plan, private and public sector, boards and associations, individuals, and groups of employees, employers and pensioners. For more, see [Clients](#).

Ari advises on all pensions and benefits law matters involving administration and governance, benefits and funding, deficits and surplus, regulatory compliance, family and marriage breakdown, spousal and survivor rights, reorganization and restructuring, termination and wind-up, employment and labour relations, constitutional and jurisdictional law, in court or tribunal proceedings, including those involving group representation and class actions. For more, see [Legal Services](#).

Ari is also an **alternative dispute resolution** (ADR) professional and Canada's first Qualified Mediator (Q.Med) with expertise in pension and benefits law. He is a member of the ADR Institute of Canada and founding member of the Family Dispute Resolution Institute of Ontario. He leads [commercial](#), [family](#)



and workplace law mediations with Mediation Benefits, part of Kaplan Law. For more, see **MEDIATION • BENEFITS**.



Ari teaches on the adjunct faculty of law at the University of Toronto. Ari was appointed by the Attorney General to the board of trustees of the Law Foundation of Ontario and served two terms on the board of directors of the Ontario Justice Education Network. Ari is fiercely committed to access to justice.

CTV Power Play @CTV_PowerPlay Following

When a company (like Sears) liquidates, pensions take a back seat says @arimap. Watch the full interview on ctvnews.ca

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Ari is a member of the bar of Ontario (1999). He is active in the legal and benefits communities, appears as commentator on media and in interviews and enjoys speaking and networking. Twitter: [@arimap](https://twitter.com/arimap).

For more on Ari Kaplan’s professional experience, please see his CV and LinkedIn page.

See Ari on CTV News here: ctvnews.ca/videoclip=1241799



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Legal Services

Advisor and Negotiator

KAPLAN • LAW provides advice, litigation support and settlement counsel for clients involved in pensions and benefits law claims and disputes. **Ari Kaplan** has 20 years experience as a solicitor, litigator, and negotiator representing pension funds, plaintiffs and defendants, applicants and respondents in courts and tribunals across the country.



Expert and Mediator

Ari Kaplan has dedicated over 1,000 professional hours since 2016 as an independent investigator, mediator and facilitator to help parties resolve legal matters. See e.g. [Case Study](#). Ari Kaplan is Canada's first Qualified Mediator (Q.Med) with expertise in pensions and benefits law. Ari has been an expert witness on Canadian law in Delaware court proceedings. For more about Ari Kaplan's alternative dispute resolution (ADR) practice at Kaplan Law, please see [MEDIATION • BENEFITS](#).

[7] Over 6 days, a mediation hearing was held before Ari Kaplan a well-known and very recognized expert in pension law and litigation. The mediation resulted in the settlement reached by the parties. Mr. Kaplan fully endorses this settlement and has provided a lengthy mediator's report explaining why, in his opinion, the settlement is reasonable and for the benefit of the class members.

Group and Class Actions

KAPLAN • LAW acts in representative proceedings. Ari Kaplan was appointed class action mediator in [Lacroix v. CMHC](#) and [TEAM v. MTS](#) and has career-spanning experience negotiating class action settlements, e.g.: [Waterston v. CBC](#), [TTC v. Signorile](#), [Dhillon v. City of Hamilton](#), [Sunnybrook Health Sciences Centre v. Lorenz](#), [National Trust Company v. Smallhorn](#), [CBS Pictures Canada Inc. v. Dillon](#).

“... achieved a result that is significantly more beneficial to the class than the original offer.”

“... negotiations at arm's length with the benefit of expert advice. The parties have

Restructuring and Insolvency

KAPLAN • LAW advises clients on pension and benefit interests in commercial proceedings and helps parties negotiate funding solutions and compromises during restructuring and transition. Ari Kaplan's book *Pension Law* was cited as an authority in *Re Indalex*, the Supreme Court of Canada's leading decision on company insolvency and pensions. In *Re Nortel Networks*, Ari Kaplan was on the litigation team for the successful Canadian Creditors' Committee during the cross-border trials in Delaware and Ontario. In 2015, these judgments allocated \$7.3 billion to estates for distribution to claimants in North America and Europe (see "[Top 10 Business Decisions of 2016](#)"). Ari has appeared for pension funds and benefit interests also in British Columbia (*Re Catalyst Paper Corporation*) and Quebec (*Re Bloom Lake, g.p.l.*).



Regulatory and Administrative Law

KAPLAN • LAW acts for clients involved with regulators and tribunals. Ari Kaplan negotiates and facilitates conversions to new pension plan models such as jointly-trusted, target benefit and multi-employer plans. He has appeared twice at the Supreme Court of Canada on matters of pension regulation (*Monsanto Canada Inc. v. Ontario* and *Nolan v. Kerry (Canada) Inc.*). Kaplan Law advises on all pensions and benefits regulatory and compliance matters: funding, indexation, expenses, communication, enrolment, claims adjudication, termination, investment, administration, transfers, and beneficiary entitlements.

“The complex statutory and regulatory framework to which pension plans are subject cannot be overlooked (see A. N. Kaplan, Pension Law)”

— Buschau v. Rogers Co., 2006 SCC 28

Families and Benefits

KAPLAN • LAW is retained by family lawyers, professionals and individuals for advice on pension and benefit issues and helps negotiate family settlements. Ari Kaplan wrote Canada's first book in Pension Law and is an authority on how family law and spousal rights intersect with pensions and benefits. Ari mediates and arbitrates family disputes and is trained in conflict reduction and screening. He is a founding member of the Family Dispute Resolution Institute of Ontario and helps resolve questions around Family Law Value Statements, support/equalization, parenting and retirement issues, and generation and succession transfers: for more, see [Family Mediation](#).

“Provisions protecting a spouse’s entitlement to benefits exist in pension legislation across the country, a helpful overview of which is provided by Ari Kaplan”

— Justice Pamela A. Kirkpatrick, B.C. Court of Appeal

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, *et al.*

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

PROCEEDING COMMENCED AT
TORONTO

**AFFIDAVIT OF RICHARD D.
PATERSON**

(Sworn April __, 2019)

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Counsel to the Former Genstar U.S.
Retiree Group Committee and Proposed
Representatives

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AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF IMPERIAL TOBACCO CANADA LIMITED, *et al.*

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

PROCEEDING COMMENCED AT
TORONTO

MOTION RECORD VOL. 2
(Motion returnable April 25, 2019)

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