

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 OF IMPERIAL TOBACCO CANADA LIMITED AND
IMPERIAL TOBACCO COMPANY LIMITED
(Motion for Stay Extension returnable January 29-31, 2025)**

January 15, 2025

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Court File No. 19-CV-615862-00CL
 Court File No. 19-CV-616077-00CL
 Court File No. 19-CV-616779-00CL

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 **JTI-MACDONALD CORP.**

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

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

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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

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TAB 1

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

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

B E T W E E N:

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 MOTION
(Motion for Stay Extension returnable January 29-31, 2025)**

The Applicants will make a motion before the Honourable Chief Justice Morawetz of the Ontario Superior Court of Justice (Commercial List) on Wednesday, January 29, 2025, at 9:00 a.m., or as soon after that time as the Motion can be heard.

PROPOSED METHOD OF HEARING: The Motion is to be heard

- In writing under subrule 37.12.1(1);
- In writing as an opposed motion under subrule 37.12.1(4);
- In person;
- By telephone conference;
- By video conference

at the following location:

Please refer to the Virtual Hearing Protocol attached as Schedule "A" for details on attending the motion.

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THE MOTION IS FOR

1. An Order providing the following relief:
 - (a) if necessary, abridging the time for service of this Notice of Motion and the Motion Record and dispensing with service on any person other than those served;
 - (b) extending the Stay Period (defined below) until and including the Effective Time (as defined in the First Amended and Restated Court-Appointed Mediator's and Monitor's CCAA Plan dated December 5, 2024 (the "**Plan**"));
 - (c) if necessary, an interim order extending the Stay Period, pending the release of the Order requested in subparagraph (b), above; and
2. Such further and other relief as this Court may deem just.

THE GROUNDS FOR THE MOTION ARE

1. The Applicants face an existential threat from tobacco-related litigation across Canada, including multiple class actions, government claims seeking to recover health care costs, and other ongoing proceedings (collectively, the "**Tobacco Litigation**");
2. On March 1, 2019, the Court of Appeal for Quebec issued a judgment affirming a lower court decision that held Imperial Tobacco Canada Limited, JTI-Macdonald Corp., and Rothmans Benson & Hedges Inc. jointly and severally liable for a maximum of \$13.6 billion;
3. In addition, the plaintiffs in the Tobacco Litigation collectively seek hundreds of billions of dollars in damages, which exceeds the Applicants' total assets by many orders of magnitude;

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4. The Applicants were granted protection from their creditors under the *Companies' Creditors Arrangement Act*, RSC 1985, c C-36, as amended (the "CCAA"), pursuant to the Initial Order of the Ontario Superior Court of Justice (Commercial List) dated March 12, 2019 (as amended from time to time, the "**Initial Order**");
5. FTI Consulting Canada Inc. was appointed to act as the Monitor in the Initial Order;
6. Justice Winkler was appointed as the Court-Appointed Mediator in the Initial Order;
7. The Initial Order granted a stay of proceedings until April 11, 2019, or such later date as this Court may order (as extended by further court orders, the "**Stay Period**");
8. The Court has previously extended the Stay Period until and including January 31, 2025;
9. The requested extension of the Stay Period is necessary and appropriate in the circumstances to allow for the continued operation of the Applicants' business while they work towards implementing the Plan, in the event that it is approved by this Court;
10. The Applicants have been acting in and continue to act in good faith and with due diligence in these CCAA proceedings;
11. It is just and convenient and in the interests of the Applicants and their respective stakeholders that the Stay Period be extended;
12. The Applicants have sufficient liquidity to continue operations through the requested Stay Period;

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13. The provisions of the CCAA, including section 11.02, and the inherent and equitable jurisdiction of this Honourable Court;
14. Paragraphs 14 and 63 of the Initial Order, permitting the Applicants to apply to the Court to supplement the Initial Order;
15. Rules 1.04 and 37 of the Ontario *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194, as amended, and section 106 of the Ontario *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended; and
16. 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 Eric Thauvette, sworn January 15, 2025;
2. The Twenty-Fifth Report of the Monitor (to be filed); and
3. Such further and other evidence as counsel may advise and this Court may permit.

- 5 -

January 15, 2025

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Lawyers for the Applicants

PROTOCOL FOR HYBRID MOTION

Scheduling and Specific Requirements

1. Any person on the Service List that wishes to appear **virtually** on the motion(s) ("**Virtual Participants**") must register by 4:00 p.m. two (2) business days in advance of the hearing (Monday, January 27th, 2025 for the motion(s) scheduled for Wednesday, January 29th, 2025), by emailing each Monitor's counsel (aperley@dpvp.com, sfernandes@cassels.com, nancy.thompson@blakes.com). In their email, Virtual Participants should provide contact information, including their name, the party they are acting for, their email address and phone number for the Participant Information Form, along with a statement regarding whether they intend to make submissions and the position they intend to take with respect to the motion(s).
2. Any person on the Service List that wishes to appear **in person** on the motion(s) ("**In Person Participants**" and collectively with Virtual Participants, "**Participants**") must register by 4:00 p.m. two (2) business days in advance of the hearing (Monday, January 27th, 2025 for the motion(s) scheduled for Wednesday, January 29th, 2025), by emailing each Monitor's counsel (aperley@dpvp.com, sfernandes@cassels.com, nancy.thompson@blakes.com). In their email, In Person Participants should provide contact information, including their name, the party they are acting for, their email address and phone number for the Participant Information Form, along with a statement regarding whether they intend to make submissions and the position they intend to take with respect to the motion(s).
3. Subject to the Court's overriding discretion over all matters, Monitors' counsel will coordinate with Participants and the Court to develop an agenda for the hearing.
4. All material for use on the motion(s) is to be posted on Case Center, as more fully described in Appendix "B".
5. Zoom links will be distributed to registered Virtual Participants only. Virtual Participants are not permitted to forward or share the Zoom link. No person should have access to the hearing on Zoom other than Virtual Participants. If a Virtual Participant is unable to attend by video, they should contact Monitors' counsel. Virtual Participants should carefully review the technical requirements below.
6. Counsel are required to gown for the hearing.
7. For access by the general public, a YouTube link will be posted on each of the Monitors' websites by 10:00 a.m. not less than two (2) business days prior to the hearing. The YouTube

link will allow the general public to view a livestream of the hearing, but not participate in the hearing. For greater clarity, individuals viewing the livestream via YouTube will not be heard or seen by the Court, Judge or Participants.

8. No recording of any part of the hearing (including audio) may be made unless authorized in advance by the Court.

9. For greater certainty, notice and service requirements are set out in the Rules of Civil Procedure and the various orders and endorsements in the proceedings. For ease of reference, we have included paragraphs 58-63 of the Second Amended and Restated Initial Order dated March 8, 2019 in the JTIM proceedings, attached as Appendix "A". It should be noted that similar notice and service requirements have been set out in various orders and endorsements in the parallel proceedings of Imperial and RBH. Nothing in this protocol modifies or amends Orders of the Court related to service requirements, the Rules of Civil Procedure, any Commercial List Practice Direction or other applicable rules.

10. Virtual Participants will be placed into a virtual waiting room upon entering the Zoom meeting.

Technical Requirements for Zoom Participants

11. Virtual Participants will require a device with a working microphone and camera. The device can be a computer (desktop or laptop), tablet or smartphone. The device must be connected to an internet connection that is sufficient to send and receive video and audio.

12. Each Virtual Participant is responsible for ensuring that they have suitable equipment to participate in the hearing and that such equipment works properly. Virtual Participants must test such equipment well in advance of the scheduled hearing to ensure:

- (a) that they are familiar with how to use such equipment;
- (b) the compatibility and functioning of such equipment; and
- (c) that the remote location has adequate internet bandwidth to support the use of Zoom without interruption.

13. Each Virtual Participant is also responsible for ensuring that they are familiar with the features and operation of Zoom. Virtual Participants must ensure that they have downloaded any necessary software, and practiced using Zoom, well in advance of the scheduled hearing.

14. Counsel on Zoom should identify their display name in the following format: [First Name] [Last name], for [Client].

15. Virtual Participants should log on using the Zoom link provided approximately 30 minutes before the hearing is scheduled to begin. During this time, Virtual Participants should speak to each other to determine if there are any audio/visual/connection issues.
16. It is suggested that Virtual Participants use the “gallery view” mode, rather than the “active speaker” mode, available on Zoom.
17. It is suggested that only counsel who are making submissions turn on their cameras during the hearing.
18. Should a Virtual Participant become disconnected from Zoom or experience technical difficulties during the hearing, they should immediately inform the Court by sending an email to each Monitor’s counsel (aperley@dwpv.com, sfernandes@cassels.com, nancy.thompson@blakes.com).
18. Further Virtual Participant information is included in Appendix “B.”

APPENDIX "A"

58. **THIS COURT ORDERS** that, subject to paragraph 59, all motions in this proceeding are to be brought on not less than seven (7) calendar days' notice to all persons on the Service List. Each Notice of Motion shall specify a date (the "**Return Date**") and time for the hearing.

59. **THIS COURT ORDERS** that motions for relief on an urgent basis need not comply with the notice protocol described herein.

60. **THIS COURT ORDERS** that any interested Person wishing to object to the relief sought in a motion must serve responding motion material or, if they do not intend to file material, a notice in all cases stating the objection to the motion and the grounds for such objection in writing (the "**Responding Material**") to the moving party, the Applicant and the Monitor, with a copy to all Persons on the Service List, no later than 5 p.m. on the date that is four (4) calendar days prior to the Return Date (the "**Objection Deadline**").

61. **THIS COURT ORDERS** that, if no Responding Materials are served by the Objection Deadline, the judge having carriage of the motion (the "**Presiding Judge**") may determine:

- (a) whether a hearing is necessary;
- (b) whether such hearing will be in person, by telephone or by written submissions only; and
- (c) the parties from whom submissions are required

(collectively, the "**Hearing Details**"). In the absence of any such determination, a hearing will be held in the ordinary course.

62. **THIS COURT ORDERS** that, if no Responding Materials are served by the Objection Deadline, the Monitor shall communicate with the Presiding Judge regarding whether a determination has been made by the Presiding Judge concerning the Hearing Details. The Monitor shall thereafter advise the Service List of the Hearing Details and the Monitor shall report upon its dissemination of the Hearing Details to the Court in a timely manner, which may be contained in the Monitor's next report in the proceeding.

63. **THIS COURT ORDERS** that if any party objects to the motion proceeding on the Return Date or believes that the Objection Deadline does not provide sufficient time to respond to the motion, such objecting party shall, promptly upon receipt of the Notice of Motion and in any event prior to the Objection Deadline, contact the moving party and the Monitor (together with the objecting party and any other party who has served Responding Materials, the "**Interested Parties**") to advise of such objection and the reasons therefor. If the Interested Parties are unable to resolve the objection to the timing and schedule for the motion following good faith consultations, the Interested Parties may seek a scheduling appointment before the Presiding Judge to be held prior to the Return Date or on such other date as may be mutually agreed by the Interested Parties or as directed by the Presiding Judge to establish a schedule for the motion. At the scheduling appointment, the Presiding Judge may provide directions including a schedule for the delivery of any further materials and the hearing of the contested motion, and may address such other matters, including interim relief, as the Court may see fit. Notwithstanding the foregoing, the Presiding Judge may require the Interested Parties to proceed with the contested motion on the Return Date or on any other date as may be directed by the Presiding Judge or as may be mutually agreed by the Interested Parties, if otherwise satisfactory to the Presiding Judge.

APPENDIX “B”

1. All Virtual Participants will have their microphones muted and may only unmute their own microphones when they are addressing the Court. When parties are not muted, they must avoid making extraneous noise (including for example, typing and shuffling papers) as these noises may interfere with the hearing.
2. Virtual Participants must ensure that they participate in the Zoom hearing from a well-lit room so that they are easily visible. Virtual Participants must also ensure that no filters are active that may distort or otherwise conceal their appearance.
3. Virtual Participants must ensure that they participate in the Zoom hearing from a quiet location where they (and the Court) will not be interrupted or disturbed during the hearing.
4. All mobile devices must be turned off or put on silent mode during the hearing.
5. Participants must refrain from speaking over other Participants.
6. Participants should make submissions in accordance with the order set out in the agenda. If there is a need to make submissions out of sequence, Participants should make a request in a manner directed by the Court. The Court may ask Participants to signal when they intend to address the Court by raising their hand (either by physically raising their hand or by using the virtual “raise hand” feature in Zoom).
7. Participants must state their name and who they represent before addressing the Court.
8. Upon entry into the virtual waiting room, each Virtual Participant joining by video should identify themselves, including any person off camera that may be viewing the video feed. This also allows any audio or visual issues to be identified. Each Virtual Participant is obligated to immediately notify the presiding judge if any additional person joins them in viewing the video feed.
9. If a Participant intends to rely on any documents, the materials you intend to rely on must be served and shared on the relevant Case Center bundle and all references during the hearing should reference the Case Center page numbering associated with such Case Center bundle.
10. If a party wishes to share certain documents during the hearing, the documents should be provided to the Monitors in advance so that it can be added to the agenda and a method for sharing can be set up.

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

Proceeding Commenced at Toronto

NOTICE OF MOTION
(Motion for Stay Extension
returnable January 29-31, 2025)

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TAB 2

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

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

B E T W E E N:

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 ERIC THAUVETTE
(sworn January 15, 2025)**

I, Eric Thauvette, of the City of Montreal, in the Province of Quebec, the Vice President and Chief Financial Officer of Imperial Tobacco Canada Limited (“**ITCAN**”), MAKE OATH AND SAY:

1. I am the Chief Financial Officer of ITCAN and, in that role, I am responsible for all financial-related aspects of ITCAN’s business operations. I am also an officer and director of ITCAN’s subsidiary and the other applicant, Imperial Tobacco Company Limited (“**ITCO**”, and collectively with ITCAN, the “**Applicants**”). As such, I have personal knowledge of the matters deposited to herein. Where I have relied on other sources for information, I have stated the sources of my information and believe them to be true.

2. In preparing this affidavit, I have consulted with other members of the Applicants’ senior management team, legal, financial and other advisors of the Applicants, and representatives of FTI Consulting Canada Inc. (“**FTI**” or the “**Monitor**”). In addition, I receive frequent updates from the Applicants’ counsel regarding these proceedings.

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3. This affidavit is made in support of a motion by the Applicants for an order under the *Companies' Creditors Arrangement Act*, RSC 1985, c C-36, as amended (the “**CCAA**”), extending the Stay Period (defined below) up to and including the Effective Time (as defined in the First Amended and Restated Court-Appointed Mediator’s and Monitor’s CCAA Plan dated December 5, 2024 (the “**Plan**”)).

PART I - BACKGROUND

4. The Applicants were granted CCAA protection by an order of the Ontario Superior Court of Justice (Commercial List) dated March 12, 2019 (as amended from time to time, the “**Initial Order**”). The Initial Order appointed FTI as the Monitor and granted a stay of proceedings (the “**Stay**”) in favour of the Applicants and certain related parties until and including April 11, 2019 or such later date as the Court may order (as extended by further court orders, the “**Stay Period**”). At the most recent stay extension hearing, held on October 31, 2024, this Court extended the Stay Period until and including January 31, 2025.

5. The Applicants sought CCAA protection following the judgment (the “**Quebec Judgment**”) of the Quebec Court of Appeal on March 1, 2019, affirming a lower court decision in favour of the Quebec Class Action Plaintiffs (the “**QCAPs**”) that held ITCAN, JTI-Macdonald Corp. (“**JTIM**”), and Rothmans Benson & Hedges Inc. (“**RBH**” and, with the Applicants and JTIM, the “**Tobacco Companies**”) jointly and severally liable for a maximum of \$13.6 billion. This class proceeding, together with the various consumer and government claims across the country (the “**Tobacco Litigation**”), collectively seek notional recovery of hundreds of billions of dollars from the Applicants and the other legal Canadian tobacco manufacturers.

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6. Although the Applicants dispute both the legal and factual foundation of the claims asserted in the Tobacco Litigation, as well as the corresponding quantification of damages, they ultimately determined that it is in the best interests of the Applicants' stakeholders to engage in a restructuring process with the overriding objective of preserving the value of their business and resolving all Tobacco Claims (as defined in the Initial Order) in an orderly process under Court supervision.

7. ITCAN, JTIM, and RBH are the three major Canadian manufacturers and distributors of tobacco products. JTIM and RBH have also been granted CCAA protection under orders made on March 8, 2019 and March 22, 2019, respectively (as extended by further orders of the Court). Counsel for the Tobacco Companies have consulted on common issues in order to coordinate the three CCAA proceedings to the maximum extent possible.

PART II - THE MEDIATION AND CURRENT STATUS OF THE CCAA PROCEEDINGS

8. At the joint comeback hearing for the ITCAN, JTIM, and RBH CCAA proceedings on April 4 – 5, 2019 (the “**Comeback Hearing**”), Hon. Warren K. Winkler, K.C. was appointed the “Court-Appointed Mediator” in all three CCAA proceedings with a mandate to, among other things, adopt any process he considered appropriate for facilitating a global settlement of the Tobacco Claims.

9. Pursuant to an endorsement dated May 24, 2019, the mediation conducted by the Court-Appointed Mediator (the “**Mediation**”) is confidential and all steps taken or information produced by any of the parties in the Mediation shall not be disclosed.

10. On October 31, 2024, in addition to extending the Stay Period to January 31, 2025, this Court heard the Monitor's motions for and granted (i) an order (the “**Meeting Order**”), among

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other things, accepting the filing of the Plan and authorizing and directing the Monitor to hold and conduct a meeting of Affected Creditors (as defined in the Plan) to vote on the resolution to approve the Plan and the transactions contemplated thereby (the “**Meeting**”); and (ii) an order (the “**Claims Procedure Order**”), among other things, establishing a claims procedure for the identification of Affected Claims (as defined in the Claims Procedure Order) against the Applicants. The Honourable Chief Justice Morawetz released his related Endorsement on November 4, 2024.

11. On December 12, 2024, the Monitor held the Meeting of Affected Creditors for the purpose of voting on the Plan, in accordance with the terms of the Meeting Order. On December 13, 2024, the Monitor reported that the Plan was approved by the Required Majority (as defined in the Plan). The Monitor also reported the steps undertaken in accordance with the terms of the Claims Procedure Order.

12. During the most recent Stay Period, the Applicants have continued to engage with the Mediation parties, including participating in numerous meetings with the Court-Appointed Mediator and others to address the outstanding issues related to the Plan, in advance of the Sanction Hearing (as defined in the Plan).

13. ITCAN has also engaged with various other third parties in an effort to resolve outstanding issues within the framework of the CCAA process. In this regard, ITCAN has reached the following agreements in principle:

- (a) ITCAN has been in negotiations with the Representative Counsel appointed by this Court (pursuant to an order dated April 25, 2019) on behalf of the beneficiaries of

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the Deferred Income Plan, Supplemental Executive Retirement Plan and Supplementary Pension Plan of Genstar Corporation (collectively, the “**Genstar Plans**”) with respect to their unsecured claims in these CCAA proceedings, which CCAA claims were preserved by the settlement approval order dated June 26, 2019 in relation to unpaid amounts under the Genstar Plans. Subject to approval of this Court, the parties have agreed in principle to a one-time payment of USD \$850,000 to Representative Counsel (on behalf of the beneficiaries of the Genstar Plans) in consideration for the withdrawal of the Miscellaneous Claim previously filed on behalf of the beneficiaries; and

- (b) The CRA, Revenu Quebec and ITCAN have been engaged in negotiations relating to various tax matters, including the settlement of a tax dispute relating to the Flintkote litigation, as well as certain other federal and Quebec tax issues that ITCAN disputes. If and when a settlement in this regard is formalized, ITCAN will seek approval thereof from this Court.

14. Once finalized, these settlements will be submitted for approval by this Court as part of the Sanction Hearing, at which time full particulars will be provided.

PART III - OTHER MATTERS

15. As an update to matters addressed in my prior affidavits, it is noted that:

- In March 2024, ITCAN received permission from the Court, if determined to be in the interest of the Company after consultation with the Monitor and provided that the total termination costs do not exceed USD \$6 million (excluding amounts required to fund the

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financial-year 2024 contribution), to take the appropriate steps to complete a termination of the Imasco Holdings Group Inc. and Participating Affiliates Retirement Plan (“**IHGI**”) in order to save money on future pension funding costs. The IHGI pension plan is a US-tax qualified, registered defined benefit pension plan covering former US employees of certain of ITCAN’s predecessor companies. In the first half of 2025, IHGI will contract with one or multiple insurers to acquire annuities for the beneficiaries of the IHGI pension plan. ITCAN expects that the wind-up of the IHGI pension plan will be completed as soon as possible thereafter;

- ITCAN’s cigarette volumes declined by -11% in the last reporting period versus the same period last year. As noted in my prior affidavit, volume decline is mainly driven by high illicit trade levels, general consumer affordability concerns due to inflation and macro-economic conditions, a large increase in Federal Excise in April 2024 reflected into the consumer prices, combined with a volume loss driven by early compliance to newly introduced Plain Pack regulations versus the competition. High illicit trade levels in Canada continue to have a significant impact on industry volumes and cash flow, both in cigarettes where illicit volume is estimated at ~30-35% nationwide; and in the vapour category, especially in Quebec after the flavor ban, where illicit volume is estimated at ~60% in Quebec due to lack of enforcement of the flavor ban regulation; and
- A review of the cash flow actuals versus forecast for the period from October 7, 2024, until January 5, 2025, shows a net positive operating cash flow of approximately CAD \$275 million versus the forecasted operating cash inflow of approximately CAD \$275 million in the same period.

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16. ITCAN has also continued, alone or in concert with BAT, with certain initiatives to improve or streamline business operations and expand its product offering including the following:

- ITCAN contracts the manufacture and packaging of its Marlboro cigarette brand to Bastos of Canada Ltd. (“**Bastos**”). Bastos’ factory is located in Louiseville (Quebec). As described in my prior affidavit, on August 9, 2024, torrential rains caused major flooding at the Bastos factory which severely damaged the production facility, including some of ITCAN’s manufacturing and packing machines (which had been leased to Bastos). After conducting a thorough review and assessment of the damaged machines, and proceeding to replace and repair those components that could be replaced or repaired, ITCAN, with support from the BAT Group and some OEMs, was able to restore most of the manufacturing and packaging machinery that was leased to Bastos. In the upcoming weeks, the repaired machines will undergo dry-run, testing and ramp-up. One machine that could not be repaired will have to be replaced by a second-hand machine that ITCAN will purchase from Tabacalera Hondureña, S.A., another member of the BAT Group. This machine will be delivered from Honduras and is expected to arrive at Bastos’ facility in March 2025. Production at Bastos is expected to resume gradually, reaching full capacity by July 2025. In the meantime, ITCAN, with the support of the BAT Group, activated a contingency manufacturing arrangement which allows to minimize out of stocks. ITCAN is claiming compensation from its insurers for the financial losses associated with this event.

17. Overall, there has been negligible disruption of the Applicants’ business operations. The stay of proceedings has therefore achieved its objective of providing operational stability and fostering an environment that encourages stakeholder discussions.

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PART IV - STAY EXTENSION

18. As noted above, the Applicants are seeking to extend the Stay Period up to and including the Effective Time in order to allow for the successful implementation of the Plan, in the event that it is approved at the Sanction Hearing.

19. The Applicants have acted in good faith, without delay and in accordance with the applicable timelines, throughout the Mediation process, and have continued to do so in their negotiations with the Mediation parties related to the Plan since the Meeting Order was granted. Due to the confidential nature of the Mediation process, the Applicants cannot comment further on the nature or extent of the progress to date or what issues remain to be resolved by the parties.

20. The Applicants, with the assistance of the Monitor, have prepared an updated Cash Flow Forecast for the 30-week period commencing the week of January 6, 2025, through the week ending on August 1, 2025, which reflects that the Applicants are projected to have sufficient funding to continue to operate in the normal course during this extended period. I understand that the Monitor will be attaching the updated Cash Flow Forecast with its report that will be filed with the Court.

21. The Monitor has expressed its support for the extension of the Stay Period to the Effective Time.

SWORN BEFORE ME over videoconference this 15th day of January, 2025 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely. The affiant is located in the City of Montreal, in the Province of Quebec and the commissioner is located in the City of Toronto, in the Province of Ontario.



Commissioner for Taking Affidavits
(or as may be)

MARLEIGH DICK (LSO# 79390S)

ERIC THAUVETTE

**IN THE MATTER OF the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36,
as amended**

Court File No: CV-19-65677-00CL **55**

**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

AFFIDAVIT OF ERIC THAUVETTE
(sworn January 15, 2025)

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Ontario
**SUPERIOR COURT OF JUSTICE
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Proceeding commenced at Toronto

**MOTION RECORD OF IMPERIAL TOBACCO
CANADA LIMITED AND IMPERIAL TOBACCO
COMPANY LIMITED**
(Motion for Stay Extension returnable January 29-31, 2025)

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