



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

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE) WEDNESDAY, THE 18TH
)
CHIEF JUSTICE MORAWETZ) DAY OF JUNE, 2025
)

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

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

APPLICANTS

**ORDER
(Genstar Settlement Approval)**

THIS MOTION, made by the Applicants, for an order, *inter alia*, approving and giving effect to the settlement agreement attached as Exhibit "D" to the Affidavit of Eric Thauvette sworn June 13, 2025 (the "**Thauvette Affidavit**") was heard by videoconference on June 18, 2025.

ON READING the Motion Record of the Applicants, the Thauvette Affidavit, the affidavit of Vivian Brennan-Dolezar sworn June 11, 2025 (the "**Dolezar Affidavit**"), and on hearing the submissions of counsel for the Applicants, counsel for the Monitor, counsel for Representative Counsel, and those other parties present, no one else appearing although duly served as appears from the Affidavit of Service of Marleigh Dick affirmed June 16, 2025,

SERVICE

1. **THIS COURT ORDERS** that the time for service of the Notice of Motion and the Motion Record herein is hereby abridged and validated so that this Motion is properly returnable today and hereby dispenses with further service thereof.

DEFINITIONS

2. **THIS COURT ORDERS** that for purposes of this Order:

- (a) **“2019 Approval Order”** means the Order made by this Court on June 26, 2019;
- (b) **“2019 Settlement”** means the settlement agreement between the Applicants and the Representatives dated May 10, 2019;
- (c) **“Affected Members”** means the beneficiaries of the Genstar Plans, namely all persons with entitlements under the Genstar Plans, including survivors and beneficiaries of such persons and any other person claiming an interest under or on behalf of a Genstar Beneficiary;
- (d) **“Applicants”** means Imperial Tobacco Canada Limited and Imperial Tobacco Company Limited;
- (e) **“Committee”** means the Former Genstar U.S. Retiree Group Committee, the surviving member of which is Richard D. Paterson, which previously also included Angus A. MacNaughton, Ross J. Turner, and J. Ernest Hartz before they deceased;
- (f) **“Distribution Formula”** has the meaning ascribed in paragraph 3 of this Order;
- (g) **“Genstar Plans”** means the Genstar Corporation deferred income plan, supplemental executive retirement plan, and supplementary pension plan;
- (h) **“ITCAN Subsidiaries”** means the direct and indirect subsidiaries of the Applicants listed in Schedule “B” of the Second Amended and Restated Initial Order dated March 12, 2019;
- (i) **“Monitor”** means FTI Consulting Canada Inc. in its capacity as the court-appointed Monitor in these CCAA proceedings;
- (j) **“Plan Implementation Date”** has the meaning ascribed to it in the third amended and restated CCAA Plan dated February 27, 2025 attached as Appendix B to the Twenty-Eighth Report of the Monitor dated February 27, 2025 filed in these CCAA proceedings;

- (k) “**Representative Counsel**” means Ari Kaplan and Kaplan Law in their capacity as representative counsel under the Representation Order;
- (l) “**Representation Order**” means the Representation Order made by this Court on April 25, 2019;
- (m) “**Representatives**” means Robert M. Brown, George A. Foster, and Vivian Brennan-Dolezar in their capacity as representatives under the Representation Order;
- (n) “**Settlement Agreement**” means the Settlement Agreement between the Applicants and the Representatives, dated as of January 17, 2025 and amended as of May 7, 2025. The settlement described therein is defined herein as the “**Settlement**”;
- (a) “**Unsecured Claim**” means the claim retained by the Affected Members pursuant to paragraph 2 of the 2019 Settlement and paragraph 5 of the 2019 Approval Order for all remaining unpaid amounts under the Genstar Plans (less the payment contemplated by the 2019 Settlement and made pursuant to the 2019 Approval Order) in the event of a plan of compromise or arrangement in these CCAA proceedings.

SETTLEMENT

3. **THIS COURT ORDERS** that the Applicants shall pay, or cause to be paid, USD \$850,000 on or prior to the Plan Implementation Date as follows:

- (a) USD \$700,000 shall be allocated and paid by ITCAN to each Affected Member as a lump sum payment according to a fair and equitable distribution formula (the “**Distribution Formula**”), as determined by Representative Counsel and as instructed by the Representatives in consultation with the Committee, specifically, on a proportional basis to the amount which each Affected Member received under the 2019 Settlement (which allocation was based on the Affected Members’ historical pension entitlements), which distribution will include a payment of USD \$1,000 to each of the three Representatives as a stipend for their labours and efforts

(which will be paid out of the USD \$700,000 referred to above), subject to any necessary or reasonable adjustments; and

(b) USD \$150,000 to Kaplan Law in Trust, on account of legal fees, third party professional fees, and disbursements.

4. **THIS COURT ORDERS** that, in the absence of proof satisfactory to the Applicants to the contrary, the Applicants may rely on the most recent records in their possession for purposes of calculating entitlements and making the payments to the Affected Members under the Settlement Agreement, and for purposes of providing notice as detailed in paragraph 6 of this Order. The Representatives and Representative Counsel shall also be entitled, without independent investigation, to rely on the books and records of the Applicants and any information provided by the Applicants for the purposes of determining the Distribution Formula, and shall not be liable for any claims or damages resulting from any errors or omissions in the Applicants' books, records or information.

5. **THIS COURT ORDERS** that the Settlement shall be binding on all Affected Members.

6. **THIS COURT ORDERS** that the Applicants shall transmit, or cause to be communicated, to each Affected Member, based on the most recent contact information in their possession, (a) a copy of this Order, and (b) the letter from Representative Counsel attached as Exhibit "D" to the Dolezar Affidavit, which communication and transmission as set out herein shall constitute good and sufficient notice to the Affected Members of the within Settlement and no other form of service or notice need be made by any of the Applicants or Representative Counsel to any person, and no other documents or materials need be served on any person in respect of the process detailed herein.

RELEASES

7. **THIS COURT ORDERS** that no person or entity, including without limitation, the Representatives, the Committee, and the Affected Members, shall directly or indirectly assert, advance, re-assert or re-file any claim or initiate any legal proceedings or actions of any nature or kind in these proceedings or in any subsequent receivership or bankruptcy proceedings, or in any other proceedings, or in any other forum whatsoever concerning their entitlements under the Genstar Plans (including any motion or other proceeding seeking to recommence payments under

the Genstar Plans), and shall not assert or advance any claim, directly or indirectly, that their entitlements related to the Genstar Plans (including in respect of the Unsecured Claim), or any part thereof, are secured or rank as a priority or preferential claim over the claims of ordinary unsecured creditors, including, without limitation, that it is the subject of a trust (whether deemed or otherwise) or a lien or charge, or under other legal or equitable theory, and all such secured, priority, trust, lien or charge claims are hereby forever barred, enjoined, released and extinguished as against the Applicants, the ITCAN subsidiaries, and their respective officers, directors, subsidiaries and affiliates, as well as the employees, agents, members, legal counsel, financial advisors, administrators, legal representatives, successors and assigns of each of the foregoing.

8. **THIS COURT ORDERS** that the Monitor, the Applicants, the ITCAN Subsidiaries, and their respective officers, directors, subsidiaries and affiliates, as well as the employees, agents, members, legal counsel, financial advisors, administrators, legal representatives, successors and assigns of each of the foregoing, are hereby released, discharged and remised from any and all direct and indirect claims (contingent, liquidated or unliquidated, proven or unproven, known or unknown, in the nature of damages or otherwise, whether or not asserted and whether arising by contract, agreement (whether written or oral), under statute, civil law, common law, or in equity, or otherwise in any jurisdiction) related to the Genstar Plans (including in respect of the Unsecured Claim) or the Settlement Agreement.

9. **THIS COURT ORDERS** that the Settlement Agreement is fair, reasonable and in the overall best interests of the Affected Members, and the Representatives, Representative Counsel, and the members of the Committee, and their respective successors, assigns and representatives (including, without limitation, their estates, heirs and beneficiaries), are hereby released, discharged and remised from any and all direct and indirect claims in respect of the Unsecured Claim, these CCAA proceedings, and the Settlement, including the manner or method of determining or making any distributions pursuant to paragraph 3 of this Order, and shall have no liability as a result of entering into the Settlement Agreement, performing any of their obligations set forth in the Settlement Agreement or taking any actions contemplated by the Settlement Agreement or this Order, except for any claims, demands, or proceedings due to wilful misconduct, gross negligence or fraud arising from any act or omission in the performance of such obligations or in the taking of any such action.

10. **THIS COURT ORDERS** that no person or entity, including without limitation, the Representatives, the Committee, and the Affected Members, shall assert, advance or make any claims of any nature whatsoever against any person or entity whatsoever that could reasonably be expected to result in a claim over (including, without limitation, a claim for contribution or indemnity) being made against any of the Applicants or the ITCAN Subsidiaries with respect to the subject matter of the release provisions hereof.

GENERAL

11. **THIS COURT ORDERS** that this Order shall have full force and effect in all provinces and territories in Canada.

12. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body, having jurisdiction in Canada or in the United States of America, to give effect to this Order and to assist the Applicants, the Monitor and their respective agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Applicants and to the Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Order, to grant representative status to the Monitor in any foreign proceeding, or to assist the Applicants and the Monitor and their respective agents in carrying out the terms of this Order.

13. **THIS COURT ORDERS** that each of the Applicants and the Monitor be at liberty and are 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.

14. **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 without the need for entry or filing.



Chief Justice Geoffrey B. Morawetz

as amended
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

ORDER
(Genstar Settlement Approval)

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