

**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 PROPOSED PLAN OF COMPROMISE OR
ARRANGEMENT OF ROTHMANS, BENSON & HEDGES INC.**

Applicant

**MOTION RECORD
(Stay Extension)
Returnable January 29, 2025**

January 15, 2025

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Tab 1

**ONTARIO
SUPERIOR COURT OF JUSTICE
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Applicant

**NOTICE OF MOTION
(Stay Extension)
(Returnable January 29, 2025)**

Rothmans, Benson & Hedges Inc. (the “**Applicant**” or “**RBH**”) will make a motion before the Honourable Chief Justice Morawetz of the Ontario Superior Court of Justice (Commercial List) on January 29, 2025 at 10:00 a.m., or as soon after that time as the motion can be heard, by judicial videoconference via Zoom at Toronto, Ontario. Please refer to Virtual Hearing Protocol to be served by Ernst & Young Inc. as Monitor of RBH (the “**Monitor**”).

THE MOTION IS FOR:

- (a) an order extending the Stay Period (defined below) until and including February 28, 2025 (the “**Requested Stay Extension Period**”); and,
- (b) such other relief as this Honourable Court may allow.

THE GROUNDS FOR THE MOTION ARE:

1. The facts in support of this motion are set out in the affidavit of Milena Trentadue sworn January 15, 2025 (the “**Trentadue Affidavit**”). Capitalized terms used and not otherwise defined herein have the meanings ascribed to them in the Trentadue Affidavit.

2. On March 22, 2019, the Court granted an initial order (as amended from time to time, the “**Initial Order**”) pursuant to the *Companies’ Creditors Arrangement Act* (Canada) (the “**CCAA**”). The Initial Order, among other things, (i) granted a stay of proceedings in favour of RBH with a stay period until and including April 19, 2019 (as extended from time to time, the “**Stay Period**”); and (ii) appointed Ernst & Young Inc. as Monitor of RBH.

3. On April 5, 2019, the Court granted the First Amended and Restated Initial Order which, among other things, extended the Stay Period up to and including June 28, 2019. The Initial Order was further amended and restated by the Second Amended and Restated Initial Order dated April 25, 2019.

4. The Stay Period has been subsequently extended from time to time, most recently by an order dated October 31, 2024, which extended the Stay Period until January 31, 2025.

5. In the time since the Stay Period was last extended, RBH has acted and continues to act in good faith and with due diligence in these CCAA proceedings by, among other things:

- (a) continuing to operate its business in the normal course and in accordance with the Second Amended and Restated Initial Order;
- (b) attending the meeting of Affected Creditors (as defined in the Proposed Plan) of RBH on December 12, 2024;
- (c) obtaining the RBH Insurance Settlement and Bar Order on December 23, 2024 approving a settlement between RBH and certain insurers which will result in payments of approximately \$32 million to be contributed by RBH towards its share of the Global Settlement Amount if the Proposed Plan is sanctioned and implemented, and be distributed to the Claimants in accordance with the Proposed Plan;

- (d) participating in case conferences and court hearings on November 18, 2024 (relating to the sanction hearing timeline), November 22, 2024 (related to amending and restating the Appointment of Representative Counsel Order), December 10, 2024 (related to injunctive relief sought by the QCAPs and PCCs) and December 23, 2024 (related to the Sanction Protocol Order);
- (e) meeting with and providing business updates and information to the Monitor at its request;
- (f) engaging in the mediation process on the basis directed by the Court-Appointed Mediator;
- (g) continuing to manage and populate the data room; and,
- (h) communicating with counsel for the Monitors and the other Tobacco Companies, when appropriate, to ensure the parties' respective CCAA proceedings are procedurally coordinated.

6. The Stay Period presently expires on January 31, 2025.

7. At the hearing on October 31, 2024, RBH sought to extend the Stay Period to March 31, 2025. In the October Endorsement, the Court indicated that extending the Stay Period past the anticipated timing of the sanction hearing “could create a degree of uncertainty”. As the sanction hearing was expected to occur in January 2025, the Court extended the Stay Period to January 31, 2025.

8. Given that dates for the sanction hearing have been scheduled, to the extent necessary, up to February 13, 2025, it is necessary to extend the Stay Period for a short period to allow for the completion of the sanction hearing.

9. It is just and convenient and in the interests of RBH and its stakeholders that the Stay Period be extended.

10. RBH will continue to operate its business in the normal course and in accordance with the Initial Order for the benefit of its stakeholders.

11. RBH will have sufficient funds available to continue its operations throughout the requested extension of the Stay Period.

12. The Monitor supports the requested extension of the Stay Period.

13. RBH also relies upon the following:

- (a) section 11.02, the provisions of the CCAA and the inherent and equitable jurisdiction of this Court;
- (b) rules 1.04, 2.03, 3.02, 16, 37 and 39 of the *Rules of Civil Procedure* (Ontario), as amended; and
- (c) such further and other grounds as counsel may advise and this Honourable Court may permit.

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

- (a) the Affidavit of Milena Trentadue, sworn January 15, 2025;
- (b) the Twenty-Third Report of the Monitor, to be filed; and,
- (c) such further and other materials as counsel may advise and this Court may permit.

January 15, 2025

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Lawyers for the Applicant

TO: COMMON SERVICE LIST

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

Proceeding commenced at Toronto

NOTICE OF MOTION
(Stay Extension Order)
(Returnable January 29, 2025)

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Lawyers for the Applicant

Tab 2

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

**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 PROPOSED PLAN OF COMPROMISE OR
ARRANGEMENT OF ROTHMANS, BENSON & HEDGES INC.**

Applicant

**AFFIDAVIT OF MILENA TRENTADUE
(Sworn January 15, 2025)**

I, Milena Trentadue, of the City of Toronto, in the Province of Ontario, MAKE
OATH AND SAY:

1. I am the Managing Director of Rothmans, Benson & Hedges Inc. (“**RBH**” or the “**Applicant**”). I have served in this capacity since February 1, 2024. I have been employed with RBH, an affiliate of Philip Morris International Inc. (“**PMI**”), for over five years. Prior to my appointment as Managing Director of RBH, I served as a Director of Commercial Deployment from January 2019 to January 2024. Prior to joining RBH, I spent over 20 years in the consumer packaged goods industry.
2. Through my current role as Managing Director of RBH, I am familiar with RBH’s operations, financial results and strategies and, as such, have personal knowledge of the matters to which I depose in this affidavit. Where I do not possess personal knowledge, I have stated the source of my information and believe it to be true.

3. I swear this affidavit in support of RBH's motion for an Order substantially in the form attached at Tab 3 of the Applicant's Motion Record:

- (a) extending the Stay Period (defined below) from January 31, 2025 until and including February 28, 2025 (the "**Requested Stay Extension Period**"); and
- (b) granting such further and other relief as counsel may request.

4. Capitalized terms used but not otherwise defined herein have the meanings given to them in the Second Amended and Restated Initial Order (defined below).

I. **BACKGROUND**

A. **The Company and its Business**

5. RBH is a Canadian company that is headquartered in Toronto. RBH and its predecessor corporations have been engaged in the business of the production and sale of tobacco products in Canada (the "**Business**") for over 100 years. RBH is the second-largest supplier of traditional tobacco products in the tax-paid Canadian market. RBH manufactures and sells cigarettes and fine-cut tobacco as well as distributing pipe tobacco and cigar products. RBH also distributes smoke-free alternatives to cigarettes, developed and produced by the PMI Group ("**Reduced Risk Products**").

6. RBH provides employment or consultant work to approximately 780 people located across all ten Canadian Provinces. RBH employs approximately 370 employees in Ontario. I believe RBH is the largest employer among manufacturers of tax-paid tobacco products in Canada although it is the second-largest supplier.

B. Supply and Distribution Arrangements

7. RBH indirectly sources the majority of the tobacco leaf used in its products from Ontario tobacco growers.

8. RBH also purchases other non-tobacco inputs used by RBH in the manufacture of tobacco products from third party suppliers. Such inputs include cigarette papers, liners, filters and packaging materials.

9. RBH sells its products through retailers and wholesale distributors and uses the services of third parties for logistics and other services, each of whom benefits from RBH's continuing operations either directly or indirectly.

C. Significant Tax Revenues

10. The Canadian tobacco market is subject to extensive regulation governing the sale and marketing of tobacco products and tobacco-related activities are subject to significant federal and provincial taxation. Provincial and federal taxes account for more than 60% of the price of tax-paid cigarettes.

D. The Pending Litigation

11. While the operations of the Business are stable and cash-flow positive, these *Companies' Creditors Arrangement Act* (Canada) (the "CCAA") proceedings were initiated to address the extensive litigation to which RBH had become subject (collectively, the "Pending Litigation"), which is described in greater detail in prior affidavits that I have sworn in these proceedings. The Pending Litigation involves myriad contested issues and

significant complexity. In the absence of a global settlement of claims that is implemented by way of a CCAA plan, a complex and time-consuming process would likely be required to establish and value all outstanding Pending Litigation claims and resolve the many contested issues before distributions could be made after a sale or liquidation of the assets.

II. CCAA PROCEEDINGS

A. Commencement of CCAA Proceedings

12. RBH commenced these proceedings pursuant to the CCAA to prevent disruption of the Business as a result of the Pending Litigation, and to enable it to explore a consensual global resolution of these litigation claims.

13. On March 22, 2019, the Court granted an initial order (the “**Initial Order**”) pursuant to the CCAA. The Initial Order, among other things, (i) granted a stay of proceedings in favour of RBH with a stay period until and including April 19, 2019 (as extended from time to time, the “**Stay Period**”); and (ii) appointed Ernst & Young Inc. as Monitor of RBH (the “**Monitor**”).

14. On April 5, 2019, the Court granted an amended and restated initial order (the “**First Amended and Restated Initial Order**”) which, among other things, extended the Stay Period up to and including June 28, 2019. The Initial Order was further amended and restated by a second amended and restated initial order (the “**Second Amended and Restated Initial Order**”) dated April 25, 2019. A copy of the Second Amended and Restated Initial Order is attached hereto as **Exhibit “A”**.

15. The Stay Period has been subsequently extended from time to time, most recently by an order dated October 31, 2024. The Stay Period is presently extended up to and including January 31, 2025. A copy of the most recent stay extension order is attached hereto as **Exhibit “B”** (the “**October 2024 Order**”). A copy of the associated endorsement of the Court is attached hereto as **Exhibit “C”** (the “**October 2024 Endorsement**”).

16. On October 17, 2024, the Court-Appointed Mediator and Monitor filed a proposed plan of compromise and arrangement in relation to RBH (as amended and restated, the “**Proposed Plan**”). On December 5, 2024, the Court-Appointed Mediator, together with the Monitor, filed an amended and restated Proposed Plan.

17. On October 31, 2024, on motion by the Court-Appointed Mediator and the Monitor, the Court granted a Claims Procedure Order and a Meeting Order.

18. A meeting of Affected Creditors (as defined in the Proposed Plan) of RBH was held on December 12, 2024. The proposed CCAA Plan was approved by the requisite majorities of Affected Creditors.

19. On December 23, 2024, on motion by the Court-Appointed Mediator and the Monitor, the Court granted a Sanction Protocol Order which, among other things, scheduled the sanction hearing in relation to the Proposed Plan for January 29-31, 2025, February 3-5, 2025 and February 10-11, 2025, if necessary. A copy of the Sanction Protocol Order is attached hereto as **Exhibit “D”**.

20. On January 7, 2025, the Monitor sent an e-mail to the Common Service List indicating that the sanction hearing dates had been revised to January 29-31, 2025, February 3-5, 2025 and February 11-13, 2025, if necessary.

III. STAY EXTENSION

21. In the time since the Stay Period was last extended, RBH has acted and continues to act in good faith and with due diligence in these CCAA proceedings by, among other things:

- (a) continuing to operate its business in the normal course and in accordance with the Second Amended and Restated Initial Order;
- (b) attending the meeting of Affected Creditors (as defined in the Proposed Plan) of RBH on December 12, 2024;
- (c) obtaining the RBH Insurance Settlement and Bar Order on December 23, 2024 approving a settlement between RBH and certain insurers which will result in payments of approximately \$32 million to be contributed by RBH towards its share of the Global Settlement Amount if the Proposed Plan is sanctioned and implemented, and be distributed to the Claimants in accordance with the Proposed Plan;
- (d) participating in case conferences and court hearings on November 18, 2024 (relating to the sanction hearing timeline), November 22, 2024 (related to amending and restating the Appointment of Representative Counsel Order), December 10, 2024 (related to injunctive relief sought by the QCAPs and PCCs) and December 23, 2024 (related to the Sanction Protocol Order);

- (e) meeting with and providing business updates and information to the Monitor at its request;
- (f) engaging in the mediation process on the basis directed by the Court-Appointed Mediator;
- (g) continuing to manage and populate the data room; and,
- (h) communicating with counsel for the Monitors and the other Tobacco Companies, when appropriate, to ensure the parties' respective CCAA proceedings are procedurally coordinated.

22. The Stay Period presently expires on January 31, 2025.

23. At the hearing on October 31, 2024, RBH sought to extend the Stay Period to March 31, 2025. In the October Endorsement, the Court indicated that extending the Stay Period past the anticipated timing of the sanction hearing “could create a degree of uncertainty”. As the sanction hearing was expected to occur in January 2025, the Court extended the Stay Period to January 31, 2025.

24. Given that dates for the sanction hearing have been scheduled, to the extent necessary, up to February 13, 2025, it is necessary to extend the Stay Period for a short period to allow for the completion of the sanction hearing.

25. Therefore, RBH proposes a further extension of the Stay Period to February 28, 2025.

IV. CONCLUSION

26. For the reasons stated above, the relief requested in the Order substantially in the form attached at Tab 3 of the Applicant’s Motion Record is in the best interests of RBH and its stakeholders and is appropriate in the circumstances.

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 was located in the City of Toronto, in the Province of Ontario and the commissioner was located in the City of Toronto, in the Province of Ontario.

DocuSigned by:
Meena Alnajar

A Commissioner for Taking Affidavits, etc.
Meena Alnajar | LSO #89626N

DocuSigned by:
Milena Trentadue

MILENA TRENTADUE

Tab A

This is Exhibit "A" referred to in the
Affidavit of **Milena Trentadue**,
sworn before me on January 15, 2025

DocuSigned by:
Meena Alnajar
A508ACD91F1F426...

A Commissioner for taking Affidavits (or as may be)
Meena Alnajar LSO #: 89626N



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

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE) THURSDAY, THE 25th
MR. JUSTICE MCEWEN) DAY OF APRIL, 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
ROTHMANS, BENSON & HEDGES INC.**

Applicant

ORDER

THIS MOTION, made by Rothmans, Benson & Hedges Inc. (the "**Applicant**"), 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 the Notice of Motion of the Applicant dated March 28, 2019, the affidavit of Peter Luongo sworn March 22, 2019 (the "**Initial Order Affidavit**"), the affidavit of Peter Luongo sworn March 28, 2019 and the exhibits thereto (the "**Luongo Affidavit**"), the Pre-Filing Report of Ernst & Young Inc. in its capacity as the proposed Monitor of the Applicant (the "**Monitor**"), the First Report of the Monitor, and on hearing the submissions of counsel for the Applicant, the Monitor, and such other counsel as were present, no one else appearing although duly served as appears from the affidavit of service of Sonia Antonellis dated March 29, 2019 and the affidavit of service of Emilia Moon-de Kemp dated April 3, 2019.

1. **THIS COURT ORDERS** that the time for service and filing of this motion is hereby abridged and validated such that the motion is properly returnable today and hereby dispenses with further service thereof.

APPROVAL OF SECOND AMENDED AND RESTATED INITIAL ORDER

2. **THIS COURT ORDERS AND DECLARES** that the order of Pattillo J. dated March 22, 2019 (the “**Initial Order**”) as amended and restated on April 5, 2019, is hereby amended and restated in the form attached hereto as Schedule “A”.



ENTERED AT / INSCRIT A TORONTO
ON / BOOK NO:
LE / DANS LE REGISTRE NO:

APR 26 2019

PER / PAR: *RW*

Schedule "A"

See attached.

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

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE) FRIDAY, THE 22ND
JUSTICE PATTILLO) 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
ROTHMANS, BENSON & HEDGES INC.**

Applicant

SECOND AMENDED AND RESTATED INITIAL ORDER

THIS APPLICATION, made by Rothmans, Benson & Hedges Inc. (the "**Applicant**"), 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 Peter Luongo sworn March 22, 2019 and the exhibits thereto (the "**Luongo Affidavit**") and (ii) the pre-filing report dated March 22, 2019 of Ernst & Young Inc. ("**EYI**") in its capacity as the proposed Monitor of the Applicant, and on hearing the submissions of counsel for the Applicant and EYI, and on reading the consent of EYI 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 Applicant is a company to which the CCAA applies.

PLAN OF ARRANGEMENT

3. **THIS COURT ORDERS** that the Applicant 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) "**Deposit Posting Order**" means the order of the Court of Appeal of Quebec granted October 27, 2015 and any other Order requiring the posting of security or the payment of a deposit in respect of the Quebec Class Actions;
 - (b) "**Pending Litigation**" means any and all actions, applications and other lawsuits existing at the time of this Order in which the Applicant is a named 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 Quebec Class Actions, the Class Actions, the Health Care Actions, the Tobacco Growers' Action and the Individual Actions (as each of those terms is defined in the Luongo Affidavit);

- (c) **“PMI Group”** means Philip Morris International Inc. and all entities related to or affiliated with it, other than the Applicant;
- (d) **“Quebec Class Actions”** means the proceedings in the Quebec Superior Court and the Court of Appeal of Quebec 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;
- (e) **“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;
- (f) **“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 Applicant or any member of the PMI 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 the Applicant, anywhere else in the world; or
 - (ii) the HCCR Legislation (as defined in the Luongo Affidavit),

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 Applicant or any member of the PMI Group; and

- (g) **“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 Applicant shall remain in possession and control of its 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 Applicant shall continue to carry on business in a manner consistent with the preservation of its business (the **“Business”**) and Property. The Applicant is 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 it, with liberty to retain such further Assistants as it deems reasonably necessary or desirable in the ordinary course of business, to preserve the value of the Property or the Business, or for the carrying out of the terms of this Order.

6. **THIS COURT ORDERS** that the Applicant shall be entitled to continue to utilize the bank accounts currently used by it as described in the Luongo Affidavit and to use or replace them with other accounts from time to time for similar purposes (the **“Bank Accounts”**) and that any present or future bank providing the Bank Accounts and related services (**“Banking Services”**) shall not be under any obligation whatsoever to inquire into the propriety, validity or legality of any transfer, payment, collection or other action taken to, from or with the Bank Accounts, or as to the use or application by the Applicant of funds transferred, paid, collected or

otherwise dealt with in or to the Bank Accounts, shall be entitled to provide Banking Services without any liability in respect thereof to any Person other than the Applicant, pursuant to the terms of the documentation applicable to the Bank Accounts and Banking Services, and shall be, in its capacity as provider of the Bank Accounts and Banking Services, 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 Bank Accounts and Banking Services.

7. **THIS COURT ORDERS** that the Applicant 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 plan payments, employee and retiree pension and other benefits and related contributions and payments (including, without limitation, expenses related to 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 Registered Pension Plans, the Non-Registered Pension Plans and the RRSP (each as defined in the Luongo Affidavit)), reimbursement expenses (including, without limitation, amounts charged to corporate credit cards), termination pay, salary continuance and severance pay, all of which is payable to or in respect of 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 Applicant at their standard rates and charges;
- (c) any payment under or in respect of any Trade Program (as defined in the Luongo Affidavit) operated by the Applicant; and
- (d) any expense that was incurred during or that pertains to the period prior to the date of this Order if, in the opinion of the Applicant and with the consent of the Monitor, the applicable payee or the payment of such expense is necessary or desirable for the

preservation of the Business or the Property or the ongoing operations of the Applicant.

8. **THIS COURT ORDERS** that, except as otherwise provided to the contrary herein, the Applicant shall be entitled but not required to pay all reasonable expenses incurred by the Applicant 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 \$1,000,000 or an aggregate of such expenditures in a calendar year in excess of \$10,000,000; and
- (c) payment for goods or services supplied or to be supplied to the Applicant on or after the date of this Order (including the payment of any royalties or shared services).

9. **THIS COURT ORDERS** that the Applicant is authorized to complete outstanding transactions and engage in new transactions with the members of the PMI 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 PMI Group, including without limitation in relation to finished, unfinished and semi-finished materials, personnel, administrative, technical and professional services, and royalties and fees in respect of trademark licences (collectively, all transactions and all inter-company policies and procedures between the Applicant and any member of the PMI Group, the “**Intercompany Transactions**”) in the ordinary course of business or as otherwise approved by the Monitor. All Intercompany Transactions in the ordinary course of business between the Applicant and any member of the PMI Group, including the provision of goods and services from any member of the PMI Group

to the Applicant, shall continue on terms consistent with existing arrangements or past practice or as otherwise approved by the Monitor.

10. **THIS COURT ORDERS** that the Applicant 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 Applicant 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 Applicant.

11. **THIS COURT ORDERS** that the Applicant is authorized to post and to continue to have posted cash collateral, letters of credit, performance bonds, payment bonds, guarantees and other forms of security from time to time, in an aggregate amount not exceeding \$31,100,000 (the "**Bonding Collateral**"), to satisfy regulatory or administrative requirements to provide security that have been imposed on it 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 Applicant as such security and the Applicant is authorized to post

and to continue to have posted cash collateral with Citibank Canada and any other issuers of Bonding Collateral as security therefor.

12. **THIS COURT ORDERS** that the Canadian federal, provincial and territorial authorities entitled to receive payments or collect monies from the Applicant 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 Applicant 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 Applicant 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 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 Applicant is 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 Applicant or claims to which it is subject to any of its creditors as of this date and to post no security in respect of any such amounts or claims, including pursuant to any order or judgment; (b) to grant no security interests, trust, liens, charges or encumbrances upon or in respect of any of its Property; and (c) to not grant credit or incur liabilities except in the ordinary course of the Business.

RESTRUCTURING

15. **THIS COURT ORDERS** that the Applicant 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 its business or operations, and to dispose of redundant or non-material assets not exceeding \$5,000,000 in any one transaction or \$10,000,000 in any calendar year 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 Applicant to proceed with an orderly restructuring of the Business (the “**Restructuring**”).

16. **THIS COURT ORDERS** that the Applicant shall provide each of the relevant landlords with notice of the 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 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 the Applicant, or by further Order of this Court upon application by the Applicant on at least two (2) days’ notice to such landlord and any such secured creditors. If the 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 the Applicant’s claim to the fixtures in dispute.

17. **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 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 the 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 June 28, 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 an application for leave to appeal to the Supreme Court of Canada in the Quebec Class Actions (a "**QCA Leave Application**"), the Pending Litigation and any other Proceeding in relation to a Tobacco Claim, shall be commenced, continued or take place by, against or in respect of the Applicant, the Monitor or the Court-Appointed Mediator (defined below), or affecting the Business or the Property or the funds deposited pursuant to the Deposit Posting Order, except with leave of this Court, and any and all Proceedings currently under way or directed to take place by, against or in respect of the Applicant 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 Applicant in the Pending Litigation are likewise subject to this stay of Proceedings during the Stay Period. *by the Applicant*

19. **THIS COURT ORDERS** that during the Stay Period, (i) none of the Pending Litigation or any Proceeding in relation thereto shall be commenced, continued or take place against or in respect of any Person named as a defendant or respondent (other than Imperial Tobacco Canada Limited, Imperial Tobacco Company Limited or JTI-Macdonald Corp.) in any of the Pending Litigation (such Persons, the "**Other Defendants**"); and (ii) no Proceeding in Canada that relates

in any way to a Tobacco Claim or to the Applicant, the Business or the Property shall be commenced, continued or take place against or in respect of any member of the PMI Group; except with leave of this Court, and any and all such Proceedings currently underway or directed to take place against or in respect of any of the Other Defendants or any member of the PMI Group, 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.

20. **THIS COURT ORDERS** that, to the extent any prescription, time or limitation period relating to any Proceeding by, against or in respect of the Applicant, any of the Other Defendants or any member of the PMI Group that is stayed pursuant to this Order may expire, including but not limited to any prescription of time whereby the Applicant would be required to commence the QCA Leave Application, 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 Applicant or the Monitor, 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 Applicant or the Property), are hereby stayed and suspended except with the written consent of the Applicant and the Monitor, or leave of this Court, provided that nothing in this Order shall (i) empower the Applicant to carry on any business which the Applicant is 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 Applicant, except with the written consent of the Applicant and the Monitor, or leave of this Court.

CONTINUATION OF SERVICES

23. **THIS COURT ORDERS** that during the Stay Period, all Persons having oral or written agreements with the Applicant 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 or the Applicant, 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 Applicant, and that the Applicant shall be entitled to the continued use of its 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 Applicant in accordance with normal payment practices of the Applicant or such other practices as may be agreed upon by the supplier or service provider and each of the Applicant 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 Applicant. 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 Applicant in respect of Sales & Excise Taxes 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 \$270,000,000, as security for all amounts owing by the Applicant 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 herein.

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 Applicant with respect to any claim against the directors or officers that arose before the date hereof and that relates to any obligations of the Applicant 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 Applicant shall indemnify its directors and officers against obligations and liabilities that they may incur as directors or officers of the Applicant 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 Applicant 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 \$7,000,000, 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 Applicant's 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.

APPOINTMENT OF MONITOR

30. **THIS COURT ORDERS** that EYI is hereby appointed pursuant to the CCAA as the Monitor, an officer of this Court, to monitor the business and financial affairs of the Applicant with the powers and obligations set out in the CCAA or set forth herein and that the Applicant and its shareholders, officers, directors, and Assistants shall advise the Monitor of all material steps taken by the Applicant 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 Applicant's 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 Applicant in its preparation of the Applicant's cash flow statements, which information shall be reviewed with the Monitor;

- (d) advise the Applicant in its development of the Plan and any amendments to the Plan;
- (e) assist the Applicant, to the extent required by the Applicant, 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 Applicant, to the extent that is necessary to adequately assess the Applicant's 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;
- (h) assist the Applicant, to the extent required by the Applicant, in its efforts to explore the potential for a resolution of any of the Tobacco Claims;
- (i) consult with the Court-Appointed Mediator in connection with the Court-Appointed Mediator's mandate, including in relation to any negotiations to settle any Tobacco Claims and the development of the Plan; and
- (j) 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 regulations thereunder (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 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 Applicant and the Court-Appointed Mediator with information provided by the Applicant in response to reasonable requests for information made in writing by such creditor 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 Applicant 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 Applicant 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 Applicant shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges, by the Applicant as part of the costs of these proceedings. The Applicant is

hereby authorized and directed to pay the accounts of the Monitor, counsel for the Monitor and counsel for the Applicant on a bi-weekly basis and, in addition, the Applicant is hereby authorized to pay the Monitor and counsel to the Monitor, retainers in the amount of \$250,000 and \$50,000 respectively 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 Applicant 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 \$3,000,000, 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.

COURT-APPOINTED MEDIATOR

39. **THIS COURT ORDERS** that the Hon. Warren K. Winkler, Q.C. is hereby appointed, as an officer of the Court and shall act as a neutral third party (the “**Court-Appointed Mediator**”) to mediate a global settlement of the Tobacco Claims.

40. **THIS COURT ORDERS** that in carrying out his mandate, the Court-Appointed Mediator may, among other things:

- (a) Adopt processes which, in his discretion, he considers appropriate to facilitate negotiation of a global settlement;
- (b) Retain independent legal counsel and such other advisors and persons as the Court-Appointed Mediator considers necessary or desirable to assist him in carrying out his mandate;

- (c) Consult with all Persons with Tobacco Claims (“**Tobacco Claimants**”), the Monitor, the Applicant, the Co-Defendants (as defined in the Luongo Affidavit), other creditors and stakeholders of the Applicant and/or the Co-Defendants and any other persons the Court-Appointed Mediator considers appropriate;
- (d) Accept a court appointment of similar nature in any proceedings under the CCAA commenced by a company that is a co-defendant or respondent with the Applicant or the Co-Defendants in any action brought by one or more Tobacco Claimants, including the Pending Litigation; and,
- (e) Apply to this Court for advice and directions as, in his discretion, the Court-Appointed Mediator deems necessary.

41. **THIS COURT ORDERS** that, subject to an agreement between the Applicant and the Court-Appointed Mediator, all reasonable fees and disbursements of the Court-Appointed Mediator 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 carrying out his mandate shall be paid by the Applicant and the Co-Defendants on a monthly basis, forthwith upon the rendering of accounts to the Applicant and the Co-Defendants.

42. **THIS COURT ORDERS** that the Court-Appointed Mediator shall be entitled to the benefit of and is hereby granted a charge (the “**Court-Appointed Mediator 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 Court-Appointed Mediator Charge shall have the priority set out in paragraphs 45 and 47 hereof.

43. **THIS COURT ORDERS** that the Court-Appointed Mediator 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 Court-Appointed Mediator 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).

VALIDITY AND PRIORITY OF CHARGES CREATED BY THIS ORDER

45. **THIS COURT ORDERS** that the priorities of the Administration Charge, the Court-Appointed Mediator Charge, the Directors' Charge and the Sales and Excise Tax Charge (collectively, the "**Charges**"), as among them, shall be as follows:

First – Administration Charge (to the maximum amount of \$3,000,000) and the Court-Appointed Mediator Charge (to the maximum amount of \$1,000,000), *pari passu*;

Second – Directors' Charge (to the maximum amount of \$7,000,000); and

Third – Sales and Excise Tax Charge (to the maximum amount of \$270,000,000).

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 Registered Pension Plans, but only to the extent that any such 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;
- (d) liens for unpaid municipal property taxes or utilities that are given first priority over other liens by statute; and
- (e) cash collateral deposited with a financial institution as security for letters of credit or bank guarantees issued by the financial institution at the request of the Applicant.

48. **THIS COURT ORDERS** that except as otherwise expressly provided for herein, or as may be approved by this Court, the Applicant shall not grant any Encumbrances over any Property that rank in priority to, or *pari passu* with, any of the Charges, unless the Applicant also obtains the prior written consent of the Monitor and the beneficiaries of the Charges affected thereby (collectively, the “**Chargees**”), or further Order of this Court.

49. **THIS COURT ORDERS** that the Charges shall not be rendered invalid or unenforceable and the rights and remedies of the Chargees 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* of Canada (the “**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 Applicant, 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 Applicant 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
- (c) the payments made by the Applicant 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.

50. **THIS COURT ORDERS** that any Charge created by this Order over leases of real property in Canada shall only be a Charge in the Applicant's 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), (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 Applicant of more than \$1,000, except with respect to (I) plaintiffs in the Pending Litigation, in which cases the Monitor shall only send a notice to counsel of record, as applicable, (II) beneficiaries of the Registered Pension Plans (as that term is defined in the Luongo Affidavit), in which case the Monitor shall only send a notice to the trustees of each of the Registered Pension Plans and the Financial Services Commission of Ontario and the Régie Des Rentes Du Québec, as applicable, and (III) current and former employees of the Applicant; 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 at 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 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: www.ey.com/ca/rbh (the “**Case Website**”).

53. **THIS COURT ORDERS** that if the service or distribution of documents in accordance with the Guide is not practicable, the Applicant 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, personal delivery, facsimile or other electronic transmission to the Applicant’s creditors or other interested parties at their respective addresses as last shown on the records of the Applicant and that any such service or notice 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.

54. **THIS COURT ORDERS** that the Applicant is authorized to rely upon 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.

55. **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.

56. **THIS COURT ORDERS** that the Applicant 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 Applicant’s 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).

57. **THIS COURT ORDERS** that, subject to paragraph 58, 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.

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

59. **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**”).

60. **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.

61. **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.

62. **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.

GENERAL

63. **THIS COURT ORDERS** that the Applicant 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 concerning the discharge of their respective powers and duties under this Order or the interpretation or application of this Order.

64. **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 Applicant, the Business or the Property.

65. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or outside of Canada, to give effect to this Order and to assist the Applicant, the Monitor and their respective agents in carrying out the terms of this Order. All courts, tribunals and regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Applicant 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 Applicant and the Monitor and their respective agents in carrying out the terms of this Order.

66. **THIS COURT ORDERS** that each of the Applicant 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.

67. **THIS COURT ORDERS** that any interested party (including the Applicant 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.

68. **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 Applicant 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.



**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 ROTHMANS, BENSON & HEDGES INC.**

Court File No: CV-19-616779-00CL₇

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

Proceeding commenced at Toronto

**AMENDED AND RESTATED
INITIAL ORDER**

McCarthy Tétrault LLP
Toronto Dominion Bank Tower
Toronto, ON M5K 1E6
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Lawyers for the Applicant

19007942

**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 ROTHMANS, BENSON & HEDGES INC.**

Court File No: CV-19-616779-00CL

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

Proceeding commenced at Toronto

ORDER

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Lawyers for the Applicant

DOC#19113279

Tab B

This is Exhibit "B" referred to in the
Affidavit of **Milena Trentadue**,
sworn before me on January 15, 2025

DocuSigned by:

Meena Alnajjar

A Commissioner for taking Affidavits (or as may be)
Meena Alnajjar LSO #: 89626N

EXTENSION OF STAY PERIOD

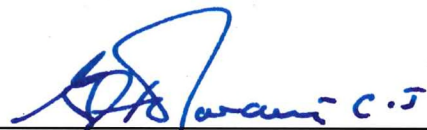
2. **THIS COURT ORDERS** that the Stay Period as defined in the Second Amended and Restated Initial Order of Justice McEwen dated April 25, 2019 is hereby extended until and including January 31, 2025.

GENERAL

3. **THIS COURT ORDERS** that this Order is effective from the date that it is made and is enforceable without any need for entry and filing.

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

5. **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 to give effect to this Order and to assist the Applicant and 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 Applicant and to the Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Applicant and the Monitor, and their respective agents, in carrying out the terms of this Order.



Chief Justice Geoffrey B. Morawetz

Court File No: CV-19-616779-00C

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 ROTHMANS, BENSON & HEDGES INC.

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

Proceeding commenced at Toronto

**ORDER
(Stay Extension)**

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Lawyers for the Applicant

Tab C

This is Exhibit "C" referred to in the
Affidavit of **Milena Trentadue**,
sworn before me on January 15, 2025

DocuSigned by:

Meena Alnajjar

A508ACD91F1F426...

A Commissioner for taking Affidavits (or as may be)
Meena Alnajjar LSO #: 89626N

CITATION: Imperial Tobacco Limited, 2024 ONSC 6061
COURT FILE NOS.: CV-19-615862-00CL, CV-19-616077-00CL and CV-19-616779-00CL
DATE: 2024-11-04

SUPERIOR COURT OF JUSTICE - ONTARIO

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

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

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

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

BEFORE: Chief Justice Geoffrey B. Morawetz

COUNSEL: *Robert Thornton, Mitch Grossell, Rachel Nicholson and Scott McGrath*, for JTI-Macdonald Corp.

Deborah Glendinning, Marc Wasserman, Marleigh Dick and Martino Calvaruso, for Imperial Tobacco Canada Limited and Imperial Tobacco Company Limited

Paul Steep, Trevor Courtis, Jamey Gage, Heather Meredith and Meena Alnajjar, for Rothmans, Benson & Hedges Inc.

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

R. Shayne Kukulowicz and Joseph Bellissimo, for Ernst & Young Inc., in its capacity as court-appointed Monitor of Rothmans, Benson & Hedges Inc.

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

Maria Konyukhova, for British American Tobacco p.l.c., B.A.T. Industries, p.l.c. and British American

Robert Cunningham, for the Canadian Cancer Society

Scott Bomhof, Adam Slavens, Jeremy Opolsky and Alec Angle, for JT Canada LLC Inc., and PricewaterhouseCoopers Inc., in its capacity as Receiver of JTI-Macdonald TM Corp.

Avram Fishman, Mark E. Meland, André Lespérance, Harvey Chaiton and Gordon Kugler, Conseil québécois sur le tabac et la santé, Jean-Yves Blais and Cécilia Létourneau (Quebec Class Action Plaintiffs)

James Bunting, for the Heart and Stroke Foundation

Jacqueline Wall, for the Province of Ontario

Glenda Best, for the Province of Newfoundland

David Ullmann, and Alexandra Teodorescu, for Northbridge General

Amanda McInnis, for La Nordique Compagnie D'Assurance du Canada

Joseph Pasquariello, for PricewaterhouseCoopers Inc. as Liquidator of Northumberland General Insurance Company

Sabri Shawa, for the Province of Alberta

Jeffrey Leon, Mike Eizenga and Jesse Mighton, for the Province of British Columbia, Province of Manitoba, Province of New Brunswick, Province of Nova Scotia, Province of Prince Edward Island, Province of Saskatchewan, Government of Northwest Territories, Government of Nunavut and Government of Yukon in their capacities as Plaintiffs in the HCCR Legislation Claims.

André Michael, for the Consortium of Provinces and Territories

Raymond Wägner and Kate Boyle, Representative Counsel for the Pan-Canadian Claimants

Brett Harrison, for the Province of Quebec

Patrick Flaherty and Claire Wortsman, for R.J. Reynolds Tobacco Company and R.J. Reynolds Tobacco International Inc.

Douglas Lennox, for Representative Plaintiff, Kenneth Knight, in the Certified British Columbia Class Action

Harvey T. Strosberg, K.C., for the Ontario Flue-Cured Tobacco Growers' Marketing Board

James Doris, U.S. Department of Justice

Ari Kaplan, for Representative Counsel for Former Genstar U.S. Retiree Group Committee

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

HEARD and DETERMINED: October 31, 2024

REASONS: November 4, 2024

ENDORSEMENT

[1] This Endorsement relates to all three Applicants, JTI-Macdonald Corp., (“JTI”), Imperial Tobacco Canada Limited and Imperial Tobacco Company Limited (collectively “Imperial”) and Rothmans, Benson and Hedges Inc. (“RBH”).

[2] A number of motions were heard on October 31, 2024. At the conclusion of the hearing, a Stay Extension was granted to each Applicant up to and including January 31, 2025. In addition, a Meeting Order and a Claims Procedure Order was granted in the *Companies’ Creditors Arrangement Act* (“CCAA”) proceeding of each Applicant, with reasons to follow. A preliminary motion brought by JTI to strike certain paragraphs in the affidavit of André Lespérance was deferred. A cross-motion brought by JTI proposing certain amendments in respect of the status of representative counsel, Ray Wagner, was adjourned with an expectation that it be dealt with in writing.

[3] These are the reasons with respect to the Stay Extension, the Meeting Orders and Claims Procedure Orders.

[4] The evidence to support a request for a Stay Extension for each Applicant is set out in the Seventeenth Report of Deloitte Restructuring Inc. (“Deloitte”), Monitor of JTI, the Nineteenth Report of FTI Consulting Canada Inc. (“FTI”), Monitor of Imperial and the Seventeenth Report of Ernst & Young Inc. (“E&Y”), Monitor of RBH.

[5] The evidence to support the Meeting Orders is set out in the Eighteenth Report of Deloitte, the Twentieth Report of FTI and the Nineteenth Report of E&Y.

[6] The evidence to support the Claims Procedure Orders is set out in the Eighteenth Report of Deloitte and the Twenty-first Report of FTI in the Eighteenth Report of E&Y.

[7] An affidavit of Mr. William Aziz, Chief Restructuring Officer of JTI, was filed by JTI and an affidavit of Mr. André Lespérance, one of the attorneys representing the Québec class-action plaintiffs (“QCAP”) was also filed.

[8] The CCAA proceedings for each Applicant were commenced in March 2019.

[9] Since the commencement of the CCAA proceedings, JTI, Imperial and RBH (“collectively, the “Tobacco Companies”), the Claimants (defined below), Deloitte, FTI and E&Y (collectively, the “Monitors”), and The Honourable Warren K. Winkler, K.C., the Court-appointed Mediator (the “Mediator”) have spent thousands of hours in hundreds of court-ordered mediation sessions.

[10] Following court directions issued on October 5, 2023, the Mediator and Monitors – with the input of the Tobacco Companies and the Claimants – have developed consolidated, comprehensive Plans of Arrangement that provide for a Pan-Canadian global settlement of tobacco claims.

[11] The Monitors, acting in concert with the Mediator, brought this motion to approve, for filing, each of these three substantially identical individual plans proposed for each of the Tobacco Companies (the “CCAA Plans”), to schedule meetings of creditors for December 12, 2024 and to establish a claims procedure as a predicate to those meetings.

[12] The CCAA Plans are structured to permit the Tobacco Companies to exit the CCAA proceedings as going concerns while facilitating a Pan-Canadian global settlement of tobacco claims for the benefit of all stakeholders in the CCAA proceedings. If approved by the requisite double majority of Affected Creditors, sanctioned by this court, and ultimately implemented, the CCAA Plans will, among other things, provide for a global settlement amount of \$32.5 billion and provide a full and final release to the Tobacco Companies.

[13] At this stage of the proceedings it is clear that not all issues have been resolved. Notably, there are outstanding issues as between the Tobacco Companies concerning the financial allocation of the settlement amount as between them. There is also an outstanding issue concerning the creditor status of JTI-Macdonald TM Corp (“JTI-TM”), specifically whether JTI-TM has a secured or unsecured claim.

[14] As this court has observed, these CCAA proceedings are among the most complex insolvency proceedings in Canadian history (2023 ONSC 2347, at paras. 4, 7 and 14).

[15] The CCAA proceedings were precipitated by a \$13.5 billion-plus judgement against the Tobacco Companies rendered in the Québec Superior Court in 2015 and affirmed by the Court of Appeal of Québec in 2019 (the “Québec Judgement”). The Québec Judgement concerned class actions brought on behalf of individual tobacco smokers. The Tobacco Companies’ inability to satisfy the Québec Judgement led to their decision to seek protection from this court under the CCAA.

[16] Beyond the Québec Judgement, multiple other claims have been brought against the Tobacco Companies across Canada, totaling more than \$1 trillion (inclusive of the Québec Judgement). These claims include:

- (a) health care costs recovery sought by the provincial and territorial governments;
- (b) putative class actions for tobacco-related harms;
- (c) a deceptive trade practice class action related to marketing practices;
- (d) claims by Ontario tobacco farmers and growers related to the historical pricing of tobacco leaves; and
- (e) actions by individuals seeking damages for a variety of claims.

[17] These claims have been brought by the following stakeholders, (which collectively are referred to as the “Claimants”):

- (a) the Québec class-action plaintiffs (“QCAP”): individuals who meet the criteria of the certified class definitions in the Québec class-action;
- (b) the Pan-Canadian Claimants (“PCC”): individuals, excluding the QCAP plaintiffs in relation to QCAP claims, who have asserted or may be entitled to assert a PCC claim (a claim related to, among other things, the development, design, manufacture, production, marketing, advertising, distribution, purchase or sale of tobacco products);
- (c) The Knight class-action plaintiffs: with respect to Imperial only, individuals asserting a product liability claim who meet the criteria of the certified class definition in the Knight class-action started in British Columbia;
- (d) the Provinces and Territories: all of the Provinces and Territories of Canada, each of which seek recovery of tobacco-related health care costs; and
- (e) Tobacco Producers: persons who have advanced uncertified class actions asserting a failure by the Tobacco Companies to make certain payments pursuant to agreements between the Ontario Flue-Cured Tobacco Growers’ Marketing Board and the Tobacco Companies.

[18] In consideration for the full and final settlement of the Affected Claims, the CCAA Plans contemplate that the Tobacco Companies will pay an aggregate global settlement amount of \$32.5 billion into three separate global settlement trust accounts over multiple years. The global settlement will consist of upfront contributions, annual contributions determined by a prescribed metric (based on the Tobacco Companies’ net after-tax income) and any tax refunds. Based on current projections, the Monitors report that it will take roughly 20 years for the global settlement amount to be paid in full.

[19] If the CCAA Plans are sanctioned and implemented, distributions from the global settlement trust accounts will be made to the QCAP; the PCC; the provinces and territories; a public charitable foundation (the “*Cy-près* foundation”); the tobacco producers; and, in the case of Imperial only, the Knight class-action plaintiffs. Payments from the global settlement trust accounts to eligible QCAP and PCC will be made via a Québec class-action administration plan and Pan-Canadian Claimants compensation plan, respectively.

[20] Each of the Monitors will be appointed as a CCAA Plan Administrator to administer and oversee the implementation of the respective Tobacco Company’ CCAA Plan. The CCAA Plan Administrators will be court-appointed officers that are neutral and independent of the Tobacco Companies and the Claimants.

[21] The motions seek the issuance of separate, but substantially identical Meeting Orders for each of the Tobacco Companies: (i) accepting the filing of the CCAA Plans; and (ii) authorizing and directing the Monitors to convene the meetings of a single class of the Claimants to consider

and vote on a resolution to approve the CCAA Plans and the transactions contemplated therein. The meetings are to be held sequentially and virtually by videoconference on December 12, 2024.

[22] The meeting materials will be published on each of the Monitor's websites no later than November 29, 2024.

[23] Following the meetings, the Monitors will report to the court on: (i) the voting results of the meetings; and (ii) any other matter that the Monitors consider relevant for the Sanction Hearing.

[24] The Mediator and the Monitors are of the view that: (i) the meeting materials, the processes for providing notice of the meetings, and the procedure for the meetings, including the voting procedures, each as stated in the proposed Meeting Orders, are reasonable and appropriate in the circumstances; and (ii) the timelines contained in the Meeting Orders are necessary to allow the CCAA Plans to move forward in a timely manner for the benefit of all stakeholders.

[25] The motions also seek the issuance of separate, but substantially identical, Claims Procedure Orders for each of the Tobacco Companies.

[26] The Claims Procedure Orders also establish the omnibus notice program, under which the omnibus notice will be disseminated to the Claimants, putative miscellaneous Claimants, and the public generally, to explain the CCAA Plans, the claims procedure, and the meetings.

[27] It is noted that the Claims Procedures Orders create a negative notice procedure for the determination and quantification of certain claims.

[28] The amount of the voting claim that may be voted (or is deemed to be voted) will be governed under the Claims Procedure Orders.

[29] Each of the Monitors is in favour of the requested relief. It is noted, however, that Deloitte's support was somewhat muted and reflected certain concerns of JTI, as noted below.

[30] Counsel on behalf of the QCAP, the PCC, and a majority of the Provinces supported the requested relief.

[31] Imperial and RBH supported the requested relief, albeit with certain reservations with respect to unresolved issues relating to allocation.

[32] JTI supported the granting of the Claims Procedure Order but took the position that it was not appropriate or necessary to issue the Meeting Order at this time. JTI took the position that issues relating to allocation and the status of the claim of JTI-TM had to be addressed prior to the granting of the Meeting Order. They contend that if these issues are not solved, the CCAA Plans were unworkable and could never be sanctioned.

[33] In the joint factum submitted by the Mediator and Monitors, the three principal issues on these motions were set out as follows:

- (1) whether the court has the discretion to grant the Claims Procedure Orders and the Meeting Orders on motions brought by the Monitors;

- (2) whether the court should accept the CCAA Plans for filing, approve the classification of the Affected Creditors as a single class for voting purposes, and grant the Meeting Orders; and
- (3) whether the court should approve the claims procedure and grant the Claims Procedure Orders.

[34] In a typical CCAA proceeding, it is the debtor company or one of its creditors that, pursuant to s. 4 or s. 5 of the CCAA, brings a motion before the court for approval to schedule a meeting of creditors. These cases, however, are not a typical CCAA proceeding.

[35] As I noted in the October 5, 2023 endorsement, after five years of mediation without any clear prospect of a plan emerging, I determined that it was “necessary and appropriate” in the circumstances to direct the Monitor and the Mediator to “develop” the CCAA Plans. Empowering the Mediator and Monitors in this way was likely to offer the “best chance” of developing the CCAA Plans.

[36] No party objected to, sought to vary, or sought to appeal the October 2023 direction.

[37] In my view, the decision to empower the Monitors and Mediator was an exercise of the discretion conferred to the court under sections 11 and 23(1)(k) of the CCAA.

The Test for a Meeting Order

[38] Section 4 of the CCAA provides that the court may order a meeting of unsecured creditors, or a class of creditors, to vote on a compromise or arrangement.

[39] Counsel on behalf of the Monitor submits that the threshold for granting a Meeting Order is rather low (*Just Energy Group Inc. et al. v. Morgan Stanley Capital Group Inc. et al.* 2022 ONSC 3698, at para. 7; see also *Arrangement relatif à Bloom Lake*, 2018 QCCS 1657, at para. 19 (“Bloom Lake”). The applicable test is simply whether the “plan is doomed” to fail at either the creditor or court approval stage; if the plan is not doomed to fail at either stage, it may be presented at a creditors meeting (*U.S. Steel Canada Inc., Re.*, 2017 ONSC 1967, at para. 12; *Bloom Lake*, at para. 19; *Quest University Canada (Re)*, 2020 BCSC 1845) Further, it is a “matter of judgment” for the supervising judge to determine whether a plan is doomed to fail (*Stelco Inc., Re.*, [2005] 78 O.R. (3d) 254 (C.A), at para. 24).

[40] Counsel on behalf of the Monitor submits that there is no evidence to suggest that the CCAA Plans are doomed to fail.

[41] The QCAP, the PCC, and the Tobacco Growers are unanimous in their support of the CCAA Plans. Amongst the Provinces and Territories, 10 of the 13 jurisdictions support the CCAA Plans.

[42] While JTI insisted the issues that were of concern to JTI had not been solved, its counsel acknowledged that the issues were solvable.

[43] The Mediator and Monitors propose that all Affected Creditors will be classified into one class – the Unsecured Creditors Class – for purposes of voting on the CCAA Plans.

[44] Subsection 22(2) of the CCAA provides that creditors may be included in the same class if “their interests or rights are sufficiently similar to give them a commonality of interest” having regard to:

- (a) the nature of the debts, liabilities, or obligations giving rise to the claim;
- (b) the nature and rank of any security in respect of their claims;
- (c) the remedies available to the creditors in the absence of the compromise or arrangement being sanctioned, and the extent to which the creditors would recover their claims by exercising those remedies; and
- (d) any further criteria, consistent with those set out above.

[45] In the joint factum of the Mediator and Monitors, counsel submit that including the Affected Creditors in a single class is appropriate, having regard to the factors enumerated by section 22(2) of the CCAA in that:

- (a) the claims of the Affected Creditors share a common characteristic: they are all tobacco claims against the Applicant;
- (b) all Affected Creditors are unsecured creditors;
- (c) the grouping of the Affected Creditors into a single class was carried out with the main goals of the CCAA in mind, specifically to aid in the reorganization of the Applicants through the CCAA Plans (see: *Canadian Airlines Corp. (Re)* 19 C.B.R. (4th) 12 (Alta. Q.B.) at para. 31); and
- (d) if the Affected Creditors were fragmented into separate classes, it would be difficult, if not impossible, to obtain approval of the CCAA Plans (*Norcen Energy Resources Limited v. Oakwood Petroleums Limited*, [1989] 2 W.W.R. 566 (Alta. Q.B.) at para. 27).

[46] Counsel on behalf of both JTI and JTI-TM expressed the view that it was inappropriate to classify JTI-TM as an Unaffected Creditor.

[47] At this time, the status of the claim of JTI-TM is unresolved. The CCAA Plans call for the claim of JTI-TM to be treated like an unaffected claim and reference is also made in the CCAA Plans to a full and final release of JTI-TM.

[48] JTI and JTI-TM submit that the Plan is doomed to fail. JTI-TM drew an analogy to *Re, Doman Industries Ltd. (Trustee of)*, 41 C.B.R. (4th) 29, stating that the Plan purports to bind JTI-TM without giving it an opportunity to vote on the plan. Such a plan, they submit, cannot be approved.

[49] It seems to me that this issue falls into the category of those that are solvable. As noted by JTI-TM, the Plan is premised on JTI-TM agreeing to subordinate its claim. It is open to the parties to negotiate such a subordination. This issue does not necessarily result in a plan that is doomed to fail, nor does the legal status of this claim need to be determined at this stage. It can be determined as part of the Sanction Hearing.

[50] JTI-TM also referenced *Target Canada Co. (Re)*, 2016 ONSC 316 (“*Target*”), in support of its position. In *Target*, the proposed CCAA Plan was not accepted for filing. However, at para. 79 it was made clear that the proposal in *Target* contravened previous court orders made in CCAA proceedings and that the Plan could not withstand the scrutiny of the test to sanction a plan (para. 84). In these proceedings, no party has suggested that the CCAA Plans contravene previous court orders.

[51] At this stage, I am unable to conclude that the plans are doomed to fail.

[52] With respect to the Claims Procedure Orders, no party expressed opposition to these orders being granted.

[53] With respect to the request for a Stay Extension, I am satisfied that significant progress has been made since the last extension was granted earlier this year. This reflects good faith negotiations. There are a number of outstanding issues as between the parties, but there are no issues that, in my view, cannot be solved.

[54] The required Cash Flow Forecasts are set out in the Reports of the Monitors and I am satisfied that each of the Applicants has sufficient resources to maintain operations over the coming months.

[55] The requested Stay Extension is to March 31, 2025. It seems to me that an extension to March 31, 2025 could create a degree of uncertainty. The creditor meetings are to be held on December 12, 2024, which could possibly lead to a sanction hearing in January 2025. Such a hearing would provide the court with the opportunity to consider any further extensions of the Stay. Accordingly, it seems to me that a more appropriate date for a Stay Extension is to January 31, 2025.

[56] For greater certainty, the directions provided on October 5, 2023 outlined a process for the development of the CCAA Plans through the auspices of the Monitors and the Mediator. These directions remain in force and can provide the basis to resolve the outstanding issues.

[57] In addition, the directions provided with respect to the Mediator in the Amended and Restated Initial Order remain in effect, as do the directions referred to in the Endorsement of McEwen J. (Court-Appointed Mediator Communication and Confidentiality Protocol) dated May 24, 2019.

[58] I also note that certain representations were made by counsel on behalf of the former Genstar U.S. Retiree Group Committee. The substance of those representations can be considered at a future hearing. Similarly, submissions from the Canadian Cancer Society, in their capacity as social stakeholder, can also be considered at a future hearing.

[59] In summary, I am satisfied that it is both necessary and appropriate to grant the requested relief. The stay is extended to January 31, 2025. The Meeting Orders and the Claims Procedure Orders are granted and have been signed in the form submitted.



Chief Justice Geoffrey B. Morawetz

Date: November 4, 2024

Tab D

This is Exhibit "D" referred to in the
Affidavit of **Milena Trentadue**,
sworn before me on January 15, 2025

DocuSigned by:

Meena Alnajjar

A608ACD94F426...

A Commissioner for taking Affidavits (or as may be)
Meena Alnajjar LSO #: 89626N

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

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE CHIEF) MONDAY, THE 23rd
)
JUSTICE MORAWETZ) DAY OF DECEMBER, 2024

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

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

SANCTION PROTOCOL ORDER

THIS JOINT MOTION made by the “**Monitors**” being Ernst & Young Inc. in its capacity as court-appointed monitor (the “**Monitor**”) of Rothmans, Benson & Hedges Inc. (“**RBH**” or the “**Applicant**”), Deloitte Restructuring Inc. in its capacity as court-appointed monitor of JTI-Macdonald Corp. (“**JTIM**”) and FTI Consulting Canada Inc. in its capacity as court-appointed monitor of Imperial Tobacco Canada Limited and Imperial Tobacco Company Limited (collectively, “**Imperial**”), pursuant to the *Companies' Creditors Arrangement Act* (“**CCAA**”), for an Order, among other things:

- (a) setting the time and date for the Sanction Hearing (as defined below) for approval and sanction of the RBH CCAA Plan (as defined below);
- (b) ratifying the Litigation Timetable (as defined below);
- (c) approving the Omnibus Sanction Hearing Notice (as defined below) and the timetable and procedure for the Sanction Hearing;

- (d) setting the date for the delivery of any Sanction Hearing Objection Notices (as defined below); and
- (e) approving the procedure for the dissemination of the Sanction Hearing Agenda (as defined below);

was heard on this day at Toronto, Ontario.

ON READING the Joint Notice of Motion of the Monitors dated December 13, 2024 (the “**Joint Notice of Motion**”) and the Twenty-Second Report of the Monitor dated December 13, 2024 (the “**Monitor’s Report**”) filed, and upon hearing the submissions of counsel to the Honourable Warren K. Winkler K.C. (the “**Court-Appointed Mediator**”), counsel to the Monitor, counsel to the Applicant, and those other parties listed on the Participant Information Form, and upon being advised by counsel to the Monitor that no one is appearing for any other person on the Common Service List although properly served with the Joint Notice of Motion and the Monitor’s Report, as appears from the Affidavit of Service of Alec Hoy, sworn December 16, 2024:

SERVICE

1. **THIS COURT ORDERS** that the timing and method of service and filing of this motion is hereby abridged and validated such that the motion is properly returnable today and this Court hereby dispenses with further service of this motion.

DEFINITIONS

2. **THIS COURT ORDERS** that capitalized terms not otherwise defined in this Order shall have the meanings given to them in the Monitor's Report, the RBH CCAA Plan or shall have the following meanings:

- a. **"CCAA Plans"**, or **"Plans"**, means, collectively: (i) the RBH CCAA Plan; (ii) the First Amended and Restated Court-Appointed Mediator's and Monitor's Plan of Compromise and Arrangement pursuant to the CCAA, concerning, affecting and involving JTIM dated December 5, 2024, including all Schedules thereto; and (iii) the First Amended and Restated Court-Appointed Mediator's and Monitor's Plan of Compromise and Arrangement pursuant to the CCAA, concerning, affecting and involving Imperial dated December 5, 2024, including all Schedules thereto;
- b. **"Litigation Timetable"** means the litigation timetable leading up to the Sanction Hearing, substantially in the form attached hereto as **Schedule "A"**, including the dates for the filing of motion records, factums and any reply motion materials;
- c. **"Omnibus Sanction Hearing Notice"** means the notice, substantially in the form attached hereto as **Schedule "B"**, which the Monitor shall cause to be published regarding the Sanction Hearing in accordance with the Omnibus Sanction Hearing Notice Program;
- d. **"Omnibus Sanction Hearing Notice Program"** means the plan to publish comprehensive legal notice regarding the Sanction Hearing to Persons, including

Putative Miscellaneous Claimants, situated in all the Provinces and Territories as described in this Sanction Protocol Order;

- e. “**RBH CCAA Plan**”, or “**Plan**”, means the First Amended and Restated Court-Appointed Mediator’s and Monitor’s Plan of Compromise and Arrangement pursuant to the CCAA, concerning, affecting and involving RBH dated December 5, 2024, including all Schedules thereto;
- f. “**Sanction Hearing**” means the hearing before the CCAA Court in respect of the Sanction Order, the sanction orders of JTIM and Imperial, the CCAA Plan Administrators’ Order, certain fee approval motions, and any other related motions;
- g. “**Sanction Hearing Agenda**” means the agenda and procedure for the Sanction Hearing;
- h. “**Sanction Hearing Objection Notice**” means the notice, substantially in the form attached hereto as **Schedule “C”**, which may be submitted or delivered to the Monitor by a Putative Miscellaneous Claimant objecting to the Sanction Order and providing reasons for such objection; and
- i. “**Website**” means the website maintained by the Monitor located at:
www.ey.com/ca/rbh.

SANCTION HEARING

3. **THIS COURT ORDERS** that the Sanction Hearing shall take place commencing on January 29, 2025 at 10:00 a.m. (Eastern time) in a hybrid format, in person and via Zoom video conference for hearing participants and YouTube live stream for members of the public, in accordance with the

Protocol for Motions by Zoom Video conference to be served by the Monitors on the Common Service List and posted on the Monitors' Websites.

4. **THIS COURT ORDERS** that the Litigation Timetable is hereby ratified with such minor amendments as the Monitors and the Court-Appointed Mediator may deem necessary. Any parties wishing to file materials in connection with the Sanction Hearing or make submissions at the Sanction Hearing, including without limitation in connection with any issues of allocation of the Global Settlement Amount among the Tobacco Companies, and any other unresolved issues related to the CCAA Plans, must advise the Monitors by no later than January 3, 2025: (i) whether they intend to file materials in connection with the Sanction Hearing; and (ii) whether they intend to make submissions and estimated time for such submissions so that the Monitors may prepare the Sanction Hearing Agenda. Notwithstanding any time estimates, the time allocated for submissions remains in the discretion of the Court.

5. **THIS COURT ORDERS** that the Monitors shall circulate the draft Sanction Hearing Agenda to the Common Service List by no later than January 8, 2025. The Sanction Hearing Agenda may be amended prior to the Sanction Hearing as the Monitors and the Court-Appointed Mediator may deem necessary.

6. **THIS COURT ORDERS** that any Person who wishes to attend the Sanction Hearing must register by 4:00 p.m. two (2) business days in advance of the Sanction Hearing (Monday, January 27, 2024), by emailing Veritext Litigation Solutions Canada, Inc. at scheduling@neesonsreporting.com and copying each Monitor's counsel at aperley@dwpv.com, sfernandes@cassels.com, nancy.thompson@blakes.com. All participants must provide: (i) contact information, including their name, the party they are acting for, their email address and phone number; (ii) a statement regarding

whether they intend to make submissions; and (iii) whether they will attend in person or virtually. To the extent participants are participating in the hearing by Zoom Video Conference, participants must further comply with the Protocol for Motions by Zoom Video conference to be served by the Monitors on the Common Service List.

APPROVAL OF OMNIBUS SANCTION HEARING NOTICE MATERIALS

7. **THIS COURT ORDERS** that the Omnibus Sanction Hearing Notice and the Sanction Hearing Objection Notice are hereby approved with such minor amendments as the Monitors and the Court-Appointed Mediator may deem necessary.

8. **THIS COURT ORDERS** that the Monitor shall no later than December 30, 2024 cause this Order, the Omnibus Sanction Hearing Notice and the Sanction Hearing Objection Notice, in both French and English, to be posted to the Website.

9. **THIS COURT ORDERS** that the Monitor shall no later than December 30, 2024 email the Omnibus Sanction Hearing Notice, the Sanction Hearing Objection Notice, and a copy of this Order to: (i) each Person that appears on the Common Service List, including any Affected Creditor with a Negative Notice Claim; (ii) any Person known to RBH or the Monitor as having a potential Affected Claim based on the books and records of RBH that is not captured in any Statement of Negative Notice Claim or in any Miscellaneous Claimant Proof of Claim; and (iii) any Putative Miscellaneous Claimant that has identified itself in writing to the Monitor by the Miscellaneous Claims Bar Date.

10. **THIS COURT ORDERS** that the Monitors shall issue a press release on Cision Newswire, no later than December 24, 2024, with a copy of the Omnibus Sanction Hearing Notice.

11. **THIS COURT ORDERS** that the Monitors shall publish, no later than January 10, 2025, a copy of the Omnibus Sanction Hearing Notice in the Globe and Mail (National Edition), National Post (National Edition), and Le Devoir newspapers.

12. **THIS COURT ORDERS** that the steps described herein in paragraphs 7 to 11, shall constitute the Omnibus Sanction Hearing Notice Program as contemplated in the RBH CCAA Plan and the execution of the steps therein, shall constitute (i) compliance with the Omnibus Sanction Hearing Notice Program as well as the RBH CCAA Plan, and (ii) good and sufficient service and delivery of notice of this Order, the Omnibus Sanction Hearing Notice and the Sanction Hearing Objection Notice on all Persons that may be entitled to receive notice and no other notice or service need be given or made and no other document or material need be sent to or served upon any Person in respect of this Order.

13. **THIS COURT ORDERS** that the accidental failure to transmit or deliver this Order, the Omnibus Sanction Hearing Notice, or the Sanction Hearing Objection Notice by the Monitor in accordance with this Sanction Protocol Order, or the non-receipt of such materials by any Person entitled to delivery of such materials shall not invalidate the acceptance of the RBH CCAA Plan or any other proceedings taken at the Sanction Hearing.

14. **THIS COURT ORDERS** that if a Putative Miscellaneous Claimant intends to object to the Sanction Order, such Person must (i) deliver to the Monitor a Sanction Hearing Objection Notice and it must be received by the Monitor no later than January 15, 2025 at 5:00 pm (Eastern time); and (ii) file with the Court and serve upon the Common Service List the court materials it intends to rely on by no later January 20, 2025 at 5:00 p.m. (Eastern time).

GENERAL PROVISIONS

15. **THIS COURT ORDERS** that this Order shall have full force and effect in all provinces and territories in Canada, outside Canada and against all Persons against whom it may be enforceable.

16. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or elsewhere to give effect to this Order and to assist the Monitor and its 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 Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Monitor and its agents in carrying out the terms of this Order

17. **THIS COURT ORDERS** that this Order and all of its provisions are effective as of 12:01 a.m. (Eastern time) on the date hereof and is enforceable without further need for entry or filing.

A handwritten signature in blue ink, appearing to read "G.B. Morawetz C.J.", is written above a horizontal line.

Chief Justice G.B. Morawetz

SCHEDULE "A"**LITIGATION TIMETABLE**

2025	
Mon., Jan. 13	Each Class Counsel files a notice of motion and supporting materials for fee approval (to be heard at the end of the Sanction Hearing)
Wed., Jan. 15	Notices of Motion for Stay Extensions (to be heard on the last day of the Sanction Hearing)
Wed., Jan. 15	Notice of motion for Plan Sanction Orders and CCAA Plan Administrators' Orders
Wed., Jan. 15	Monitors' Reports re: Plan Sanction Orders and CCAA Plan Administrators' Orders
Thurs., Jan. 16	Responding Records to Class Counsel fees
Mon., Jan. 20	Responding Records to Motion for Sanction Orders and CCAA Plan Administrators' Orders
Mon., Jan. 20	Responding Records to Motion for Stay Extension
Wed., Jan. 22	Factum for Plan Sanction Order and CCAA Plan Administrators' Order
Wed., Jan. 22	Factums for Stay Extension Orders
Wed., Jan. 22	Monitors' Reports re: Stay Extensions
Wed., Jan. 22	Factums in support of Class Counsel fees
Fri., Jan. 24	Responding Factums for Motion for Plan Sanction Orders and CCAA Plan Administrators' Orders
Fri., Jan. 24	Responding Factums for Motion for Class Counsel fees
Fri., Jan. 24	Responding Factums for Motion for Stay Extension
Mon., Jan. 27 by 4 p.m.	Reply Evidence and Reply Factums of the Applicants and Claimants on the Plan Sanction Orders and CCAA Plan Administrators' Orders, if necessary to reply to Responding Records served Jan. 20
Mon., Jan. 27	Reply Factum of Class Counsel re Fee Approval, if necessary
Mon., Jan. 27	Reply Factums for Stay Extension Orders, if necessary
Tues., Jan 28 by 10 a.m.	Reply Factum of the Monitors for Plan Sanction Orders and CCAA Plan Administrators' Orders, if necessary
Wed., Jan 29 to Wed., Feb. 5, and Mon., Feb. 10 to Tues., Feb 11, if necessary	Sanction/ CCAA Plan Administration/ Class Counsel Fee Approval/ Stay Extension Hearing

SCHEDULE "B"

OMNIBUS NOTICE FOR SANCTION HEARING

IN THE MATTER OF THE COMPANIES' CREDITORS
ARRANGEMENT ACT, R.S.C. 1985, c. C-36, AS AMENDED
AND IN THE MATTER OF THE PLANS OF COMPROMISE OR ARRANGEMENT OF:
IMPERIAL TOBACCO CANADA LIMITED AND IMPERIAL TOBACCO COMPANY LIMITED
ROTHMANS, BENSON AND HEDGES INC.
JTI-MACDONALD CORP.

NOTICE OF SANCTION HEARING

IMPORTANT NOTE: The Court hearing for approval and sanction of the CCAA Plans will be heard commencing on January 29, 2025 at 10:00 am Eastern time in a hybrid format, in person and via Zoom video conference. The Court-Appointed Mediator and the Monitors will make motions to the Court approving and sanctioning the CCAA Plans and any ancillary relief relating to such sanction.

PLEASE TAKE NOTICE that on October 17, 2024, the Honourable Warren K. Winkler, K.C., in his capacity as the Court-appointed mediator (the "**Court-Appointed Mediator**") in the CCAA Proceedings of Imperial Tobacco Canada Limited and Imperial Tobacco Company Limited (collectively, "**Imperial**"), Rothmans, Benson and Hedges Inc. ("**RBH**") and JTI-Macdonald Corp. ("**JTIM**" and collectively with Imperial and RBH, the "**Tobacco Companies**" or "**Applicants**") and FTI Consulting Canada Inc. ("**FTI**"), Ernst & Young Inc. ("**EY**"), and Deloitte Restructuring Inc. ("**Deloitte**"), in their respective capacities as Court-appointed monitors to Imperial, RBH and JTIM (FTI, EY and Deloitte, collectively, the "**Monitors**"), filed plans of compromise and arrangement in respect of each of the Tobacco Companies as amended and restated as of December 5, 2024 (the "**CCAA Plans**") under the *Companies' Creditors Arrangement Act* (Canada) (the "**CCAA**").

PLEASE ALSO TAKE NOTICE that on October 31, 2024, the Court-Appointed Mediator and the Monitors obtained the following orders from the Ontario Superior Court of Justice (Commercial List) (the "**CCAA Court**"):

- Claims procedure orders (the "**Claims Procedure Orders**") which, *inter alia*, establish the procedure pursuant to which Claimants, as well as any other purported creditors of the Tobacco Companies can assert a Claim in order to obtain the right to attend the meetings of Affected Creditors (the "**Meetings**") and vote on the CCAA Plans; and
- Meeting orders that, *inter alia*, accept the filing of the CCAA Plans, approve the meeting materials, and direct the Monitors as to the conduct of the Meetings (the "**Meeting Orders**").

PLEASE ALSO TAKE NOTICE that on December 23, 2024, the Court-Appointed Mediator and the Monitors obtained orders (the "**Sanction Protocol Orders**") which, *inter alia*, set a court hearing to approve and sanction the CCAA Plans commencing on January 29, 2025 (the "**Sanction Hearing**").

The CCAA Plans, Claims Procedure Orders, Meeting Orders and Sanction Protocol Orders in respect of each Tobacco Company are available for review on the Monitors' websites, at the links referenced at the end of this

Notice (the “**Monitors’ Websites**”).

All capitalized terms used in this Notice that are not defined herein have the meanings given to them in the CCAA Plans (available on the Monitors’ Websites).

(i) **Key information**

In accordance with the Sanction Protocol Orders, the Sanction Hearing will be heard commencing on January 29, 2025 at 10:00 am Eastern time in a hybrid format, in person and via Zoom video conference.

At the Sanction Hearing, orders of the Court (the “**Sanction Orders**”) approving and sanctioning the CCAA Plans and granting certain ancillary relief will be sought.

If a **Putative Miscellaneous Claimant** intends to object to any Sanction Order, such Person must (i) deliver to the applicable Monitor a Sanction Hearing Objection Notice in the form approved and it must be received by the applicable Monitor by no later than **January 15, 2025 at 5:00 pm (Eastern time)**; and (ii) file with the Court and serve upon the Common Service List the court materials it intends to rely on by no later than **January 20, 2025 at 5:00 p.m. (Eastern time)**.

Any Person, **other than a Putative Miscellaneous Claimant** who intends to object to any Sanction Order must file with the Court and serve upon the Common Service List the court materials it intends to rely on by no later than **January 20, 2025 at 5:00 p.m. (Eastern time)**.

(ii) **Questions and Contact Information**

If you have any questions with respect to the foregoing, you may contact the Monitors as follows:

- Imperial: Monitor: FTI Consulting Canada Inc.
 - Website: <http://cfcanada.fticonsulting.com/imperialtobacco>
 - Phone Number: 1-844-707-7558
 - Email Address: imperialtobacco@fticonsulting.com

- RBH: Monitor: Ernst & Young Inc.
 - Website: www.ey.com/ca/rbh
 - Phone Number: 1-866-943-2280
 - Email Address: rbh@ca.ey.com

- JTIM: Monitor: Deloitte Restructuring Inc.
 - Website: www.insolvencies.deloitte.ca/en-ca/JTIM
 - Phone Number: 1-833-765-1452
 - Email Address: jtim@deloitte.ca

SCHEDULE "C"

SANCTION HEARING OBJECTION NOTICE
FOR PUTATIVE MISCELLANEOUS CLAIMANTS

Capitalized terms used but not defined in this Sanction Hearing Objection Notice shall have the meanings ascribed to them in the Order of the Ontario Superior Court of Justice (Commercial List) in the CCAA proceedings of Rothmans, Benson & Hedges Inc. dated December 23, 2024 (the "Sanction Protocol Order").

You can obtain a copy of the Sanction Protocol Order on the Monitor's website at www.ey.com/ca/rbh.

1. Particulars of the Putative Miscellaneous Claimant:

Name of Putative Miscellaneous Claimant: _____
Representative: _____
Telephone Number: _____
Email Address: _____

2. Reasons for Objection:

Describe the reasons and basis for your objection to the Sanction Order. You may attach a separate schedule if more space is required.

Provide any applicable documentation supporting your objection.

DATED in _____ (city) this _____ (date) day of _____ (month), 202__

I hereby certify that:

1. I am a duly authorized representative of the Putative Miscellaneous Claimant;
2. I have knowledge of the circumstances connected with the objection described herein; and
3. All information and/or documents submitted by the Putative Miscellaneous Claimant in support of its objection are true, accurate and complete.

Name of Putative Miscellaneous Claimant: _____

Signature: _____

Name: _____

Title: _____

Witness: _____

(Signature)

(Print Name)

This Sanction Hearing Objection Notice MUST be received by the Monitor no later than January 15, 2025 at 5:00 p.m. (Eastern time) and such person MUST file with the Court and serve upon the Common Service List the court materials it intends to rely on by no later than January 20, 2025 at 5:00 p.m. (Eastern time).

The Sanction Hearing Objection Notice must be received by the Monitor by registered mail, personal delivery, courier or email (in PDF format) at the address below:

Ernst & Young Inc., as Monitor of RBH
100 Adelaide Street West
Toronto, ON M5H 0B3
Attention: Matt Kaplan
Email: rbh@ca.ey.com

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 ROTHMANS, BENSON & HEDGES INC.

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

Proceeding commenced at Toronto

**SANCTION PROTOCOL ORDER
Dated December 23, 2024**

Cassels Brock & Blackwell LLP

Suite 3200, Bay Adelaide Centre – North Tower
40 Temperance St.
Toronto, ON M5H 0B4

R. Shayne Kukulowicz LSO# 30729S

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Tel: 416-860-6572

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Monique Sassi LSO# 63638L

Tel: 416-860-6886

Email: msassi@cassels.com

*Lawyers for Ernst & Young Inc., in its capacity as the Court-appointed
Monitor of Rothmans, Benson & Hedges Inc*

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 ROTHMANS, BENSON & HEDGES INC.

Court File No: CV-19-616779-00CL

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

Proceeding commenced at Toronto

**AFFIDAVIT OF MILENA TRENTADUE
(Sworn January 15, 2025)**

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Trevor Courtis LSO#: 67715A
Tel: 416-601-7643
Email: tcourtis@mccarthy.ca

Lawyers for the Applicant

Tab 3

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

THE HONOURABLE) WEDNESDAY, THE 29TH
)
CHIEF JUSTICE MORAWETZ) DAY OF JANUARY, 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 PROPOSED PLAN OF COMPROMISE OR
ARRANGEMENT OF ROTHMANS, BENSON & HEDGES INC.

Applicant

**ORDER
(Stay Extension)**

THIS MOTION, made by Rothmans, Benson & Hedges Inc. (the "**Applicant**") pursuant to the *Companies' Creditors Arrangement Act* (Canada), as amended, for an order extending the Stay Period (defined below) until and including February 28, 2025, was heard this day by judicial videoconference via Zoom in Toronto, Ontario.

ON READING the Notice of Motion of the Applicant dated January 15, 2025, the Affidavit of Milena Trentadue sworn January 15, 2025, the Twenty-Third Report of Ernst & Young Inc. in its capacity as Monitor of the Applicant (the "**Monitor**"), and on hearing the submissions of counsel for the Applicant, the Monitor, and such other counsel as were present as listed on the participant sheet, no one else appearing although duly served as appears from the affidavit of service, filed:

SERVICE

1. **THIS COURT ORDERS** that the time for service and filing of the Notice of Motion and the Motion Record of the Applicant herein and the Twenty-Third Report is hereby abridged and validated such that this motion is properly returnable today and hereby dispenses with further service thereof.

EXTENSION OF STAY PERIOD

2. **THIS COURT ORDERS** that the Stay Period as defined in the Second Amended and Restated Initial Order of Justice McEwen dated April 25, 2019 is hereby extended until and including February 28, 2025.

GENERAL

3. **THIS COURT ORDERS** that this Order is effective from the date that it is made and is enforceable without any need for entry and filing.

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

5. **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 to give effect to this Order and to assist the Applicant and 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 Applicant and to the Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Applicant and the Monitor, and their respective agents, in carrying out the terms of this Order.

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 ROTHMANS, BENSON & HEDGES INC.

Court File No: CV-19-616779-00CL

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

Proceeding commenced at Toronto

**ORDER
(Stay Extension)**

McCarthy Tétrault LLP
Suite 5300, TD Bank Tower
Toronto ON M5K 1E6

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Trevor Courtis LSO#: 67715A
Tel: 416-601-7643
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Lawyers for the Applicant

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 ROTHMANS, BENSON & HEDGES INC.

Court File No: CV-19-616779-00CL

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

Proceeding commenced at Toronto

**MOTION RECORD
(Stay Extension)
(Returnable January 29, 2025)**

McCarthy Tétrault LLP
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James D. Gage LSO#: 34676I
Tel: 416-601-7539
Email: jgage@mccarthy.ca

Heather Meredith LSO#: 48354R
Tel: 416-601-8342
Email: hmeredith@mccarthy.ca

Trevor Courtis LSO#: 67715A
Tel: 416-601-7643
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Lawyers for the Applicant