

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

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

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

NOTICE OF OBJECTION

March 28, 2019

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of Saskatchewan, in their capacities
as plaintiffs in the HCCR Actions
(the "**Consortium**")

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A. Overview

1. The Consortium objects to the relief provided for in paragraph 20 of the Initial Order obtained on March 8, 2019 (the “**Initial Order**”), and requests the deletion of that paragraph. The Consortium also objects to the appointment of Deloitte Restructuring Inc. (“**Deloitte**”) as the Monitor of the Applicant.

2. Paragraph 20 allows the Applicant to continue to contest the Quebec Class Actions (as defined in the Initial Order), including by way of an application for leave to appeal to the Supreme Court of Canada.

3. The Consortium submits that to allow the Applicant to seek leave to appeal to the Supreme Court of Canada would be contrary to the stated purpose of the Applicant’s CCAA proceedings and would be an unnecessary, time consuming and costly application, at a time when all parties’ resources and focus should be on an efficient resolution of the CCAA proceedings. In addition, there is no prejudice to the Applicant in deleting paragraph 20 of the Initial Order.

4. The Consortium further submits that if all of their claims are to be stayed under the CCAA, in order to maintain the status quo, no further steps should be taken in any other litigation against the Applicant.

5. Finally, the Consortium has concerns about the ability of Deloitte to fulfill the neutral and independent role required of a court-appointed monitor.

B. Leave to Appeal to the Supreme Court of Canada

I. Purpose of the CCAA proceedings

6. In its application materials to obtain the Initial Order, the Applicant stated that it “requires the protections offered under the CCAA to obtain a stay and a period of stability within which to attempt to find a collective resolution” and as a result of the Quebec Class Actions and other actions against it, the Applicant “now seeks a collective solution for the benefit of all stakeholders.”

7. To allow the Applicant to seek leave to appeal the Quebec Class Action decision is inconsistent with its stated purpose of the CCAA proceeding, which is to effect a collective resolution of the claims against the Applicant.

8. Having sought the protections and benefits of the CCAA with that express and stated purpose, the Applicant has made a choice to attempt to resolve the claims against it, including the Quebec Class Actions. It cannot avail itself of the CCAA while at the same time continue to fight those same claims. The focus of all parties at this time should be on the collective resolution for which the Applicant advocated in its materials.

9. A fundamental principle of the CCAA is to maintain the status quo, and in order to do so, if certain claims against the Applicant are going to be stayed, no further steps should be taken in any claims against the Applicant.

10. The Consortium also notes that Imperial Tobacco Canada Limited and Imperial Tobacco Company Limited have not sought the ability to seek leave in their CCAA proceeding, and have stated publicly that to do so would be inconsistent with the purpose of their CCAA application.

II. No prejudice

11. The Applicant will suffer no prejudice in not seeking leave to appeal to the Supreme Court of Canada at this time. Should the stated purpose of the CCAA proceedings fail, the Applicant would still be able to seek leave to appeal at that time.

12. Paragraph 21 of the Initial Order expressly provides “that, to the extent any prescription, time or limitation period relating to any Proceeding against or in respect of the Applicant, any of the Other Defendants or any member of the JTI Group that is stayed pursuant to this Order may expire, the term of such prescription, time or limitation period shall hereby be deemed to be extended by a period equal to the Stay Period.”

13. As such, no limitation period will expire during the Stay Period, and no prejudice will result from the Applicant not seeking leave to appeal while it pursues the stated purpose of its CCAA proceedings – a collective resolution.

C. Potential conflict of the Monitor

14. A monitor is an officer of the court with fiduciary duties to all stakeholders; it is intended to act as the eyes and ears of the court. Therefore, in order to properly fulfill this role, the monitor must be independent of all parties and must also be seen to be independent.

15. In light of Deloitte’s and/or its affiliates’ relationship with the Applicant and its affiliates, the Consortium has serious concerns about the ability of Deloitte to fulfill the neutral and independent role required of a court-appointed monitor.

16. This CCAA proceeding is unique, with a purpose of achieving a collective resolution, and has a variety of stakeholders with competing interests, including affiliates of the Applicant. In

these circumstances, it is crucial for all stakeholders to be able to rely on the monitor to act with an even hand and to have their best interests in mind at all times. Deloitte's and/or its affiliates' relationship with the Applicant and its affiliates raises serious concerns about Deloitte's ability to do so in this CCAA proceeding.

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Proceeding commenced at Toronto

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