

Kearney, Mary

From: Al Mueller <Al.Mueller@paccoast.com>
Sent: Thursday, March 28, 2019 8:52 PM
To: Feldsher, Jennifer; Dendinger, Mark
Subject: Alfred K. Mueller Objection To ITL Company Ltd Chapter 15 Petition-Case No. 19-10771 (SSC)
Attachments: Mueller ITL Objection Letter GJ Rev 1.docx

Please accept and consider my objection...a hard copy will be mail to Judge Shelly C. Chapman and the Bracewell LLP New York office by priority US mail....thank you...Alfred K. Mueller

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BY Priority Mail

March 29, 2019

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

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

OBJECTIONS IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF IMPERIAL TOBACCO COMPANY CANADA LIMITED CHAPTER 15 PETITION-CASE NO. 19-10771 (SSC)

My name is Alfred K Mueller and I live at 44537 Arapaho Ave, Fremont, CA Telephone # (510) 651-26599, Cell # (510) 207-2321 and Email al.mueller@paccoast.com.

In 1986 I was employed by Genstar Corporation ("Genstar") headquartered in San Francisco, California. As President of Genstar Cement division and I participated in the Genstar Deferred Income Plan ("DIP.") The DIP provided for participants to contribute a portion of their salaries into the plan in return for stipulated monthly retirement payments from age 65 to 80. Attendance at the hearing in this matter in New York City is not feasible for me. Accordingly, I am submitting my objections in writing.

In Section 14 on page 6 of the Verified Petition the Debtor proposes to continue to fund ordinary course payments to their pension and retirement plans of US subsidiaries with the exception of (i) a deferred income plan for approximately 53 individuals who are former senior management employees of Genstar (the "DIP") (ii) a supplement executive retirement plan for 14 individuals and (iii) a supplementary plan for 3 individuals "(collectively the "Plans"). I am a participant in the DIP plan to which I made salary deduction contributions and I have been receiving regular monthly payments according to the plan since my age 65.

I submit that the relief requested "out of an abundance of caution" to discontinue payments to the Plans by the Debtor including the DIP Plan is not justified from a financial point of view. The Debtor is a long standing going concern with assets in Canada and in the U.S. in excess of C\$ 5 billion with significant cash flow and profitability. The Debtor is primarily interested in preservation of its assets and the continued contributions to the Plans will not be material to its financial position.

The failure to continue contributions to the Plans will inflict significant financial harm to the participants all of whom are of advanced retirement age and who have been relying in receipt of these payments since their age 65. The discontinuance of the payments constitutes a breach of the obligations incurred

in the formation of the DIP which provided that the Genstar assets would be sold or merged only with a successor capable of the fulfilling the funding obligations. Furthermore the DIP participants contributed to the DIP plan with voluntary cash reductions in their salaries in reliance on receiving future retirement payments. In addition insurance policies were purchased to as part of the DIP funding. The Debtor acquired the assets of the Genstar companies in excellent condition and benefitted significantly from their operations. In return the Debtor should continue to fulfill its obligations to the former executive employees under the Plans.

I therefore request that during the pendency of the bankruptcy proceedings and beyond that the Debtor be required to continue to fund the Plans without interruption. Furthermore I request that the Court make clear in any rulings that it is not making a determination of my participant's rights under the employee benefit provisions of the DIP and the obligations of the Debtor thereunder, which determinations should be made only upon proper notice and an opportunity for me to respond.

Respectfully Submitted

Alfred K. Mueller



April 1, 2019

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

Attn: INTAKE

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

Dear Sir/Madam,

Enclosed please find the following:

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

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

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

Very truly yours,

Mary Kearney
Paralegal