

**Kearney, Mary**

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**From:** George Foster <George.Foster@pcci.com>  
**Sent:** Friday, March 29, 2019 9:45 AM  
**To:** Feldsher, Jennifer; Dendinger, Mark  
**Subject:** IMPERIAL TOBACCO LIMITED CHAPTER 15 PETITION - CASE NO. 19-10771 (SSC)  
**Attachments:** Foster IT Bankruptcy Objections Glen (RL) (George Foster) (1.1).docx

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Dear Ms. Feldsher and Mr. Dendinger,

Please find attached my objection to the matter of a Plan of Compromise or arrangement of Imperial Tobacco Canada, Ltd. Chapter 15 Petition, Case No. 19-10771 (SSC)

I am a Genstar Corporation Deferred Income Plan (U.S. Plan) recipient as a former senior manager, and as such, object to the specific language pertaining to the deferred income piece of the Chapter 15 Petition. I am also sending a hard copy by registered mail today.

Respectfully submitted,  
George A. Foster  
7 Gary Way  
Alamo, CA 94507  
(925) 837-0605

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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 CANADA LIMITED CHAPTER 15  
PETITION –Case No. 19-10771 (SCC)**

My name is: George A. Foster

7 Gary Way

Alamo, CA 94507 U.S.A.

- 1) I am currently receiving monthly benefits earned on funds deducted from my salary as a senior manager and contributed to the Genstar Corporation Deferred Income Plan (U.S. Plan) referred to as the “DIP.” I am one of 53 former retired employees who participate in the DIP.
- 2) I understand that the purpose of placing Imperial Tobacco Canada, Ltd. (ITCAN) into Chapter 15 Bankruptcy Court in New York State is to stop creditors from seizing the tobacco held in the company’s warehouses, among other things, which would preclude the company from continuing its normal business while it negotiates a payment plan.
- 3) My objection is not with parts of the proceeding which allow the company to continue with its daily operations while a plan is worked through.
- 4) My objection is with the provision in Document #2, filed on 3/13/2019, page 6 of 12, which states: .” Pursuant to an agreement dated April 2, 1986, ITCAN guaranteed payment of certain pension and retirement obligations of its U.S. Subsidiaries.

[ITCAN Aff. P.55] During the pendency of this case, ITCAN intends to continue to fund contributions to Imasco so that its U.S. Subsidiaries can make ordinary course payments in respect of their pension and retirement plan obligations, with the exception of (i) a non-U.S. tax qualified “deferred income plan” for approximately 53 individuals who are either former senior management employees of Genstar or their surviving spouses, (ii) a non-U.S. tax qualified “supplemental executive retirement plan” for approximately 14 individuals who were either former Genstar employees or their surviving spouses, and (iii) a non-U.S. tax qualified “supplementary pension plan” for 3 individuals who were either former Genstar employees or their surviving spouses.[ITCAN] Aff. P. 55]

- 5) When we signed up for the “DIP” program, one part of the agreement in paragraph 16, “Binding Effect” stated that “The agreement shall be binding upon and inure to the benefit of the Employee or Director and Employee’s or Director’s heirs and representatives as the case may be and the Company and its successors and assigns. The Company will not consolidate with or merge into another entity or sell all or substantially all of its assets to another entity, unless such entity shall have the financial ability to discharge obligations assumed under this plan, and in fact assumes this plan and upon such assumption, Employees or Directors and Successors shall become obligated to perform all of the terms and conditions herein contained.”
- 6) It is my understanding that the Genstar Corporation took out a life insurance policy on all of the participants’ lives to help fund this program.
- 7) The “DIP” plan distributes post-retirement monthly payments earned on the amounts deducted from salary and payable to participants from age 65 to age 80. I do not have access to all the 53 DIP participants, but because of the time this program was put into effect, most of the current beneficiaries of the program are

now in their 70's--- many in their late 70's most all of whom are retired and unable to return to work. Receiving these benefits earned on the funds voluntarily deducted from their paychecks and contributed to the DIP was and is a significant part of retirement planning for participants. The financial damage and hardship resulting from the cessation of these benefits will be substantial to participants based on the amounts they voluntarily contributed to the DIP. I do not believe that the purpose of this proceeding should financially harm any retired employees participating in the DIP.

- 8) Since Imperial Tobacco has been funding Imasco's U.S. Subsidiaries in the past, and will continue to fund certain ordinary payments of retirement, etc., the funding of the DIP would not damage ITCAN, or preclude it from a Chapter 15 workout. According to the Wall Street Journal, Imperial Tobacco recorded a profit before taxes of C\$792 million last year. I believe continued payments to cover the DIP would not injure ITCAN and would prevent injury to DIP recipients.
- 9) I therefore request that during the pendency of this case and beyond ITCAN will be permitted to continue to fund contributions to Imasco for: a) the Deferred Income Plan (DIP), 53 individuals b) the Supplemental Executive Retirement Plan, 14 individuals, and c) the Supplemental Pension Plan, 3 individuals, who were either former Genstar employees or their surviving spouses. I don't see any factual or legal basis for ceasing these payments provided in any of the papers on file with the Court. To the extent that ITCAN intends to stop making payments to me under my DIP plan, I object to the Verified Petition and ask that the Court make plain that it is not ruling on the merits of my entitlement and ITCAN's obligations under the DIP plan by merely recognizing the existence of a Canadian proceeding or granting other relief to ITCAN. I believe that any determination of my rights and ITCAN's

obligations should be made upon proper notice and an opportunity to respond.

Respectfully Submitted

George A. Foster

7 Gary Way

Alamo, California, 94507, USA



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](mailto:mary.kearney@bracewell.com).

Very truly yours,

Mary Kearney  
Paralegal