

**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.**

**MOTION RECORD  
(Stay Extension Order)  
(Returnable March 28, 2023)**

**March 16, 2023**

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

**R. Paul Steep** LSO#: 21869L  
Tel: 416-601-7998  
Email: [psteep@mccarthy.ca](mailto:psteep@mccarthy.ca)

**James D. Gage** LSO#: 34676I  
Tel: 416-601-7539  
Email: [jgage@mccarthy.ca](mailto:jgage@mccarthy.ca)

**Heather Meredith** LSO#: 48354R  
Tel: 416-601-8342  
Email: [hmeredith@mccarthy.ca](mailto:hmeredith@mccarthy.ca)

**Natasha Rambaran** LSO#: 80200N  
Tel: 416-601-8110  
Email: [nrambaran@mccarthy.ca](mailto:nrambaran@mccarthy.ca)

Lawyers for the Applicant

**TO: SERVICE LIST**

# INDEX

**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.**

**MOTION RECORD  
(Stay Extension Order)  
(Returnable March 28, 2023)**

**INDEX**

**TAB DOCUMENT**

- 1 Notice of Motion
- 2 Affidavit of Mindaugas Trumpaitis sworn March 16, 2023
- 3 Draft Stay Extension Order

**TAB 1**

**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

**NOTICE OF MOTION  
(Stay Extension Order)  
(Returnable March 28, 2023)**

Rothmans, Benson & Hedges Inc. (the “**Applicant**” or “**RBH**”) will make a motion before the Honourable Justice McEwen of the Ontario Superior Court of Justice (Commercial List) on March 28, 2023 at 11:00 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 the Virtual Hearing Protocol attached as Schedule “A” hereto in order to attend.

**THE MOTION IS FOR:**

- (a) an order extending the Stay Period (defined below) until and including September 29, 2023 (the “**Requested Stay Extension Period**”); and
- (a) 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 Mingdaugas Trumpaitis sworn March 16, 2023 (the “**Trumpaitis Affidavit**”). Capitalized terms used and not otherwise defined herein have the meanings ascribed to them in the Trumpaitis Affidavit.

**Background**

2. On March 22, 2019, the Court granted an initial order (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 (the “**Stay Period**”); and (ii) appointed Ernst & Young Inc. as Monitor of RBH (the “**Monitor**”).

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 was subsequently extended, most recently by an order dated September 29, 2022. The Stay Period is presently extended up to and including March 31, 2023.

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 cash-flow positive business in the normal course and in accordance with the Initial Order;

- (b) meeting with and providing business updates and information to the Monitor at its request;
  - (c) actively engaging in the mediation process by, among other things, participating in meetings, engaging in discussions with the Court-Appointed Mediator and/or the Monitor(s), engaging in discussions and negotiations with other stakeholders, and reviewing, preparing and providing information and written materials, all under the guidance of the Court-Appointed Mediator;
  - (d) continuing to manage and populate the RBH Data Room to assist the Claimants in the mediation process; and
  - (e) communicating with counsel for the Tobacco Companies and the Monitors, when appropriate, in relation to the mediation process and to ensure the parties' respective CCAA proceedings are procedurally coordinated.
6. The Stay Period presently expires on March 31, 2023.
7. The extension of the Stay Period until and including September 29, 2023 is necessary to allow the multi-party mediation process directed by the Court-Appointed Mediator to continue, with the goal of negotiating a global resolution of the Tobacco Claims.
8. RBH believes that it is critical to give this process the time and attention required by the Court-Appointed Mediator to ensure the best chances of achieving a successful resolution.
9. The additional time contemplated by the Requested Stay Extension Period would provide a reasonable period of time to allow for additional progress in the mediation, having regard to the

complexity of issues subject to the mediation and the number of parties involved. At the same time, RBH has and will continue to operate the business and generate positive cash flow for the benefit of its stakeholders.

10. During this ongoing mediation process, the extension of the Stay Period is important to keep RBH's litigation creditors and contingent creditors on an equal footing while RBH explores a plan of compromise or arrangement with its creditors.

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

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

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

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

15. 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 Mingdaugas Trumpaitis sworn March 16, 2023;
- (b) the Thirteenth Report of the Monitor, to be filed; and
- (c) such further and other materials as counsel may advise and this Court may permit.

March 16, 2023

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

**R. Paul Steep** LSO#: 21869L  
Tel: 416-601-7998  
Email: [psteep@mccarthy.ca](mailto:psteep@mccarthy.ca)

**James D. Gage** LSO#: 34676I  
Tel: 416-601-7539  
Email: [jgage@mccarthy.ca](mailto:jgage@mccarthy.ca)

**Heather Meredith** LSO#: 48354R  
Tel: 416-601-8342  
Email: [hmeredith@mccarthy.ca](mailto:hmeredith@mccarthy.ca)

**Natasha Rambaran** LSO#: 80200N  
Tel: 416-601-8110  
Email: [nrambaran@mccarthy.ca](mailto:nrambaran@mccarthy.ca)

Lawyers for the Applicants

**TO: SERVICE LIST**

**Schedule “A” – Virtual Hearing Protocol**

Please see attached.

## PROTOCOL FOR MOTION BY ZOOM VIDEO CONFERENCE

### Scheduling and Specific Requirements

1. Any person on the Service List that wishes to appear virtually on the motion (“**Participants**”) must register by 4:00 p.m. three (3) business days in advance of the hearing (Thursday, March 17, 2022 for the motion scheduled Monday, March 22, 2022), by emailing Veritext Litigation Solutions Canada, Inc. (scheduling@neesonsreporting.com) and copying each Monitor’s counsel (tbarbiero@dwpv.com, msassi@casselsbrock.com, nancy.thompson@blakes.com). In their email, Participants should provide contact information, including a name, who they are acting for, an email address and phone number for the counsel slip, along with a statement regarding whether they intend to make submissions.
2. Subject to the Court’s overriding discretion over all matters, Monitors’ counsel will coordinate with Participants and the Court to develop an agenda for the hearing.
3. All material for use on the motion is to be posted on CaseLines, as more fully described in Appendix “B”.
4. Participants will appear by video. Monitors’ counsel will distribute the Zoom link to Participants. Participants are not permitted to forward or share the Zoom link. No person should have access to the hearing on Zoom other than Participants. If a Participant is unable to attend by video, they should contact Monitors’ counsel. Participants should carefully review the technical requirements below.
5. Counsel is not required to gown for the hearing. Instead, business attire is required for all Participants appearing by video.
6. For access by the general public, a YouTube link will be posted on each of the Monitors’ websites by 10:00 a.m. not less than two (2) business days prior to the hearing. The YouTube link will allow the general public to view a livestream of the hearing, but not participate in the hearing. For greater clarity, individuals viewing the livestream via YouTube will not be heard or seen by the Court, Judge or Participants.
7. No recording of any part of the hearing (including audio) may be made unless authorized in advance by the Court.
8. For greater certainty, notice and service requirements are set out in the Rules of Civil Procedure, and the various orders and endorsements in the proceedings. For ease of reference, we have included paragraphs 58-63 of the Second Amended and Restated Initial Order dated

March 8, 2019 in the JTIM proceedings, attached as Appendix “A”. It should be noted that similar notice and service requirements have been set out in various orders and endorsements in the parallel proceedings of Imperial and RBH. Nothing in this protocol modifies or amends Orders of the Court related to service requirements, the Rules of Civil Procedure, any Commercial List Practice Direction or other applicable rules.

9. Participants will be placed into a virtual waiting room upon entering the Zoom meeting.

#### Technical Requirements for Zoom Participants

10. Participants will require a device with a working microphone and camera. The device can be a computer (desktop or laptop), tablet or smartphone. The device must be connected to an internet connection that is sufficient to send and receive video and audio.

11. Each Participant is responsible for ensuring that they have suitable equipment to participate in the hearing and that such equipment works properly. Participants must test such equipment well in advance of the scheduled hearing to ensure:

- (a) that they are familiar with how to use such equipment;
- (b) the compatibility and functioning of such equipment; and
- (c) that the remote location has adequate internet bandwidth to support the use of Zoom without interruption.

12. Each Participant is also responsible for ensuring that they are familiar with the features and operation of Zoom. Participants must ensure that they have downloaded any necessary software, and practiced using Zoom, well in advance of the scheduled hearing.

13. Counsel on Zoom should identify their display name in the following format: [First Name] [Last name], for [Client].

14. Participants should log on using the Zoom link provided approximately 30 minutes before the hearing is scheduled to begin. During this time, Participants should speak to each other to determine if there are any audio/visual/connection issues.

15. It is suggested that Participants use the “gallery view” mode, rather than the “active speaker” mode, available on Zoom.

16. It is suggested that only counsel who are making submissions turn on their cameras during the hearing.

17. Should a Participant become disconnected from Zoom or experience technical difficulties during the hearing, they should immediately inform the Court by sending an email to Veritext Litigation Solutions Canada, Inc. ([scheduling@neesonsreporting.com](mailto:scheduling@neesonsreporting.com)).

18. Further participant information is included in Appendix "B."

## APPENDIX "A"

58. **THIS COURT ORDERS** that, subject to paragraph 59, 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.

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

60. **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**").

61. **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.

62. **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.

63. **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.

## APPENDIX "B"

1. All Participants will have their microphones muted and may only unmute their own microphones when they are addressing the Court. When parties are not muted, they must avoid making extraneous noise (including for example, typing and shuffling papers) as these noises may interfere with the hearing.
2. Participants must ensure that they participate in the Zoom hearing from a well-lit room so that they are easily visible. Participants must also ensure that no filters are active that may distort or otherwise conceal their appearance.
3. Participants must ensure that they participate in the Zoom hearing from a quiet location where they (and the Court) will not be interrupted or disturbed during the hearing.
4. All mobile devices must be turned off or put on silent mode during the hearing.
5. Participants must refrain from speaking over other Participants.
6. Participants should make submissions in accordance with the order set out in the agenda. If there is a need to make submissions out of sequence, Participants should make a request in a manner directed by the Court. The Court may ask Participants to signal when they intend to address the Court by raising their hand (either by physically raising their hand or by using the virtual "raise hand" feature in Zoom).
7. Participants must state their name and who they represent before addressing the Court.
8. Upon entry into the virtual waiting room, each Participant joining by video should identify themselves, including any person off camera that may be viewing the video feed. This also allows any audio or visual issues to be identified. Each Participant is obligated to immediately notify the presiding judge if any additional person joins them in viewing the video feed.
9. If a Participant intends to rely on any documents, the materials you intend to rely on must be served and shared on the relevant CaseLines bundle and all references during the hearing should reference the CaseLines page numbering associated with such CaseLines bundle.
10. If a party wishes to share certain documents during the hearing, the documents should be provided to the Monitors in advance so that it can be added to the agenda and a method for sharing can be set up.



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

Proceeding commenced at Toronto

**NOTICE OF MOTION**  
**(Stay Extension Order)**  
**(Returnable March 28, 2023)**

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

**R. Paul Steep** LSO#: 21869L  
Tel: 416-601-7998  
Email: [psteep@mccarthy.ca](mailto:psteep@mccarthy.ca)

**James D. Gage** LSO#: 34676I  
Tel: 416-601-7539  
Email: [jgage@mccarthy.ca](mailto:jgage@mccarthy.ca)

**Heather Meredith** LSO#: 48354R  
Tel: 416-601-8342  
Email: [hmeredith@mccarthy.ca](mailto:hmeredith@mccarthy.ca)

**Natasha Rambaran** LSO#: 80200N  
Tel: 416-601-8110  
Email: [nrambaran@mccarthy.ca](mailto:nrambaran@mccarthy.ca)

Lawyers for the Applicants

**TAB 2**

**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 MINDAUGAS TRUMPAITIS  
(Sworn March 16, 2023)**

I, Mindaugas Trumpaitis, 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 July 11, 2022. I have been employed with the PMI group, which includes RBH's parent company, Philip Morris International Inc. ("**PMI**") and its affiliates including RBH (the "**PMI Group**"), for over 24 years. Throughout this time, I have been employed by PMI Management S.A. Prior to my appointment as Managing Director of RBH, I served as President Director for PT HM Sampoerna Tbk, PMI's affiliate in Indonesia, from December 2, 2016 to July 10, 2022. Prior to that assignment, I also served as Managing Director of RBH from June 28, 2013 to December 1, 2016.
2. Through my current and previous 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 March 31, 2023 until and including September 29, 2023 (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).

### **Background**

5. On March 22, 2019, the Court granted an initial order (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 (the “**Stay Period**”); and (ii) appointed Ernst & Young Inc. as Monitor of RBH (the “**Monitor**”).

6. 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.

7. The Stay Period was subsequently extended, most recently by an order dated September 29, 2022. The Stay Period is presently extended up to and including March 31, 2023.

### **Mediation Process**

8. Pursuant to the First Amended and Restated Initial Order, an officer of the court was appointed to act as a neutral third party to mediate a global settlement of the Tobacco Claims (the “**Court-Appointed Mediator**”). Among other things, the Court-Appointed Mediator is empowered to:

- (a) adopt processes which, in his discretion, he considers appropriate to facilitate negotiation of a global settlement; and

- (b) consult with all Persons with Tobacco Claims, the Monitor, the Applicant, the Co-Defendants, other creditors and stakeholders of the Applicant and/or the Co-Defendants and any other persons the Court-Appointed Mediator considers appropriate.

9. In this role, the Court-Appointed Mediator has established and is implementing a process to facilitate the resolution of issues in this complex case. To date, this has included asking the parties to submit mediation briefs, conducting a plenary session, directing the creation of data rooms, directing individual and group meetings, and facilitating settlement discussions and negotiations between the parties. RBH has actively engaged in the mediation process and has complied with each of these steps, as directed by the Court-Appointed Mediator.

10. Pursuant to the endorsement of Justice McEwen dated May 24, 2019, the mediation is confidential and all statements, discussions, offers made and documents produced by any of the parties in the course of the mediation process must not be disclosed. Accordingly, the description of the activities of RBH and the mediation process below is general in nature.

**A. Data Room and NDAs**

11. Complying with the direction of the Court-Appointed Mediator, RBH worked cooperatively with the Monitor to establish a data room to assist the Claimants in the mediation process (the “**RBH Data Room**”). RBH worked with the Monitor to review information requests and compile numerous documents and other information to populate the RBH Data Room for its launch on August 16, 2019.

12. Similar data rooms were also established by the monitors of Imperial Tobacco Canada Limited (“**ITCAN**”) and JTI-Macdonald Corp. (“**JTIM**”) (RBH together with ITCAN and JTIM, the “**Tobacco Companies**”, the Tobacco Companies’ monitors, the “**Monitors**” and the Tobacco Companies’ collective data rooms, the “**Data Rooms**”).

13. Since the launch of the RBH Data Room, RBH has worked with the Monitor to supplement the original information in the RBH Data Room from time to time, as appropriate, in relation to the progress of the mediation.

14. The information in the Data Rooms is strictly confidential and is to be used solely for the purpose of the mediation process. As such, counsel for RBH participated in discussions with the Claimants that expressed an interest in accessing the RBH Data Room, along with their legal and financial advisors, to establish the terms and conditions for access to the RBH Data Room in the form of Non-Disclosure Agreements (“NDAs”). On August 16, 2019, the RBH Data Room first went “live” and became accessible to parties who had executed NDAs. The Data Rooms continue to be used in the mediation process.

**B. Commitment to Mediation Process**

15. Since the plenary session in October 2019, RBH has participated in numerous meetings with the Court-Appointed Mediator, the Monitor(s) and/or other stakeholders at the request of the Court-Appointed Mediator.

16. Since my previous affidavit in support of the extension of the Stay Period that was granted on September 29, 2022, RBH has continued to actively participate in the mediation process. This includes participating in further meetings directed by the Court-Appointed Mediator, engaging in discussions with the Court-Appointed Mediator and the Monitor(s), engaging in discussions and negotiations with other stakeholders, and reviewing, preparing and providing information and written materials from time to time, all under the guidance of the Court-Appointed Mediator.

17. RBH is committed to continue its efforts in the CCAA process and will continue to take meaningful steps towards developing, negotiating and implementing a global resolution of the Tobacco Claims. This includes that RBH is committed to actively participating in the mediation process led by the Court-Appointed Mediator.

**C. Requested Extension of the Stay Period**

18. 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 cash-flow positive business in the normal course and in accordance with the Initial Order;

- (b) meeting with and providing business updates and information to the Monitor at its request;
- (c) actively engaging in the mediation process by, among other things, participating in meetings, engaging in discussions with the Court-Appointed Mediator and/or the Monitor(s), engaging in discussions and negotiations with other stakeholders, and reviewing, preparing and providing information and written materials, all under the guidance of the Court-Appointed Mediator;
- (d) continuing to manage and populate the RBH Data Room to assist the Claimants in the mediation process; and
- (e) communicating with counsel for the Tobacco Companies and the Monitors, when appropriate, in relation to the mediation process and to ensure the parties' respective CCAA proceedings are procedurally coordinated.

19. The Stay Period presently expires on March 31, 2023.

20. Mediation sessions and the confidential negotiations underlying a global resolution are ongoing. While meaningful progress has been made to date, additional time is required to complete the mediation and to develop and implement a CCAA plan.

21. It is difficult to provide a precise estimate of the time needed to complete the mediation and to develop and implement a CCAA plan. Given the number of parties and scope of the issues, RBH anticipates that the ongoing mediation process continues to require additional meetings, discussions and/or exchanges of positions among the Court-Appointed Mediator, the Monitors and the various parties to continue to explore positions, more fully develop a global resolution and reach a consensus in respect thereof.

22. The extension of the Stay Period until and including September 29, 2023 is necessary to allow the multi-party mediation process directed by the Court-Appointed Mediator to continue, with the goal of negotiating a global resolution of the Tobacco Claims.

23. RBH believes that it is critical to give this process the time and attention required by the Court-Appointed Mediator to ensure the best chances of achieving a successful resolution.

24. The additional time contemplated by the Requested Stay Extension Period would provide a reasonable period of time to allow for additional progress in the mediation, having regard to the complexity of issues subject to the mediation and the number of parties involved. At the same time, RBH has and will continue to operate the business and generate positive cash flow for the benefit of its stakeholders.

25. During this ongoing mediation process, the extension of the Stay Period is important to keep RBH's litigation creditors and contingent creditors on an equal footing while RBH explores a plan of compromise or arrangement with its creditors.

### **Business Updates**

26. On November 9, 2021, the remaining measures of the *Tobacco Products Regulations (Plain and Standardized Appearance)* (the "**Regulations**") came into force, requiring all cigarettes in Canada to be sold in slide and shell packaging. Pursuant to the Regulations, retailers have been required to comply with all requirements for cigarettes effective February 9, 2022. All RBH products are in compliance with the Regulations as of the effective date.

27. RBH has been appointed the limited risk distributor of reduced-risk products ("**RRP**") for Philip Morris Products S. A. ("**PMP**") in the territory of Canada. Under this agreement, RBH started the distribution of a vape product, VEEV, in October 2021 through its distributors and retailers. Subsequently, RBH also began to distribute the disposable vape brand, VEEBA, in July 2022. Compensation to RBH will be in accordance with the current RRP agreement wherein RBH will earn a profit margin based on a percentage of net sales. At present, VEEV is available in the provinces of Ontario, British Columbia, Alberta and Quebec, and is also sold on the e-commerce platform, with the exception of Quebec, and VEEBA in all provinces.

28. In October 2022, the Government of Canada implemented a Federal Excise Duty ("**FED**") on vaping liquids and restricted production of non-tax-stamped vaping products. The government allowed for a three-month transition period prior to requiring all non-tax-stamped products to be disposed of before January 1, 2023. The implemented FED rate on vaping




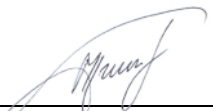
products is CAD 1.00 per 2mL, or fraction thereof, for the first 10mL of vaping substance, CAD 1.00 per 10mL for amounts over the first 10mL. RBH has fully complied with the requirement by the effective date.

**Conclusion**

29. 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 16<sup>th</sup> day of March 2023 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely. The affiant and commissioner were both located in the City of Toronto, in the Province of Ontario.

  
\_\_\_\_\_  
A Commissioner for taking Affidavits, etc.  
Natasha Rambaran | LSO #80200N

  
\_\_\_\_\_  
MINDAUGAS TRUMPAITIS

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

Proceeding commenced at Toronto

**AFFIDAVIT OF MINDAUGAS  
TRUMPAITIS  
(Sworn March 16, 2023)**

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

**R. Paul Steep** LSO#: 21869L  
Tel: 416-601-7998  
Email: [psteep@mccarthy.ca](mailto:psteep@mccarthy.ca)

**James D. Gage** LSO#: 34676I  
Tel: 416-601-7539  
Email: [jgage@mccarthy.ca](mailto:jgage@mccarthy.ca)

**Heather Meredith** LSO#: 48354R  
Tel: 416-601-8342  
Email: [hmeredith@mccarthy.ca](mailto:hmeredith@mccarthy.ca)

**Natasha Rambaran** LSO#: 80200N  
**Tel:** 4016-601-8110  
**Email:** [nrambaran@mccarthy.ca](mailto:nrambaran@mccarthy.ca)

Lawyers for the Applicant

152889/519274  
MT MTDOCS 46957888v5

**TAB 3**

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

THE HONOURABLE ) TUESDAY, THE 28<sup>th</sup>  
 )  
JUSTICE MCEWEN ) DAY OF MARCH 2023

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 September 29, 2023, was heard this day by judicial videoconference via Zoom in Toronto, Ontario.

**ON READING** the Notice of Motion of the Applicant dated March 16, 2023, the Affidavit of Mindaugas Trumpaitis sworn March 16, 2023, the Thirteenth 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 Thirteenth 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 September 29, 2023.

## **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

**R. Paul Steep** LSO#: 21869L  
Tel: 416-601-7998  
Email: [psteep@mccarthy.ca](mailto:psteep@mccarthy.ca)

**James D. Gage** LSO#: 34676I  
Tel: 416-601-7539  
Email: [jgage@mccarthy.ca](mailto:jgage@mccarthy.ca)

**Heather Meredith** LSO#: 48354R  
Tel: 416-601-8342  
Email: [hmeredith@mccarthy.ca](mailto:hmeredith@mccarthy.ca)

**Natasha Rambaran** LSO#: 80200N  
Tel: 416-601-8110  
Email: [nrambaran@mccarthy.ca](mailto:nrambaran@mccarthy.ca)

Lawyers for the Applicant

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

Proceeding commenced at Toronto

**MOTION RECORD  
(Stay Extension Order)  
(Returnable March 28, 2023)**

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

**R. Paul Steep** LSO#: 21869L  
Tel: 416-601-7998  
Email: [psteep@mccarthy.ca](mailto:psteep@mccarthy.ca)

**James D. Gage** LSO#: 34676I  
Tel: 416-601-7539  
Email: [jgage@mccarthy.ca](mailto:jgage@mccarthy.ca)

**Heather Meredith** LSO#: 48354R  
Tel: 416-601-8342  
Email: [hmeredith@mccarthy.ca](mailto:hmeredith@mccarthy.ca)

**Natasha Rambaran** LSO#: 80200N  
Tel: 416-602-8011  
Email: [nrambaran@mccarthy.ca](mailto:nrambaran@mccarthy.ca)

Lawyers for the Applicants