VANCOUVER
MAR 24 2022
REGISTRY

No. S209201
Vancouver Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

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

AND

IN THE MATTER OF 1077 HOLDINGS CO-OPERATIVE (FORMERLY, MOUNTAIN EQUIPMENT CO-OPERATIVE) AND 1314625 ONTARIO LIMITED

PETITIONERS

TWELFTH REPORT OF THE MONITOR

ALVAREZ & MARSAL CANADA INC.

March 23, 2022

ALVAREZ & MARSAL

TABLE OF CONTENTS

1.0 INTRODUCTION ..... - 3 -
2.0 PURPOSE ..... - 4 -
3.0 TERMS OF REFERENCE ..... - 5 -
4.0 ACTIVITIES OF THE MONITOR ..... - 6 -
5.0 CLAIMS PROCESS – STATUS UPDATE ..... - 8 -
6.0 WAGE EARNER PROTECTION PROGRAM ..... - 9 -
7.0 PROPOSED DISTRIBUTION ..... - 13 -
8.0 NOTICE OF APPLICATION MADE BY FORMER EMPLOYEE ..... - 17 -
9.0 ACTUAL CASH FLOW RESULTS COMPARED TO SEVENTH CASH FLOW FORECAST ... - 18 -
10.0 MONITOR'S CONCLUSIONS AND RECOMMENDATIONS ..... - 20 -

APPENDIX

Confidential Appendix A - Dividend Sheet for Proposed Interim Distribution

1.0 INTRODUCTION

1.1 On September 14, 2020 (the "**Filing Date**"), Mountain Equipment Co-operative (subsequently renamed 1077 Holdings Co-operative) and 1314625 Ontario Limited (together, "**1077**" or the "**Petitioners**") were granted an initial order (the "**Initial Order**") by the Supreme Court of British Columbia commencing proceedings (the "**CCAA Proceedings**") under the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "**CCAA**"). Among other things, the Initial Order afforded 1077 an initial stay of proceedings up to and including September 24, 2020 (the "**Stay Period**") and appointed Alvarez & Marsal Canada Inc. as monitor of 1077 (the "**Monitor**") during the CCAA Proceedings.

1.2 On October 2, 2020, this Honourable Court pronounced the amended and restated initial order (the "**ARIO**") and sale approval and vesting order (the "**SAVO**") to approve the sale transaction (the "**Sale Transaction**") contemplated by the asset purchase and sale agreement between the Petitioners and 1264686 B.C. Ltd. (the "**Original Purchaser**") dated September 11, 2020 (the "**APA**") for the sale of the Purchased Assets and to vest all of the Purchased Assets in the Original Purchaser's permitted assignee free and clear of any Encumbrances other than Permitted Encumbrances, as such capitalized terms are defined in the APA.

1.3 On October 21, 2020, this Honourable Court pronounced an assignment order to assign all of the rights and obligations of the Petitioners under certain contracts to the Original Purchaser's assignee, 1266524 B.C. Ltd. (subsequently renamed MEC Mountain Equipment Company Ltd. on January 7, 2021 and referred hereinafter as the "**Purchaser**"). The Sale Transaction closed on October 30, 2020 (the "**Closing Date**").

1.4 On November 27, 2020, this Honourable Court pronounced an order enhancing the powers of the Monitor and an order (the "**Claims Process Order**") setting a claims process by which creditors may confirm or prove their claims against the Petitioners (the "**Claims Process**").

1.5 On December 7, 2021, this Honourable Court pronounced an order further extending the Stay Period to June 10, 2022 (the "**Stay Extension Order**").

1.6 Concurrent with this twelfth report of the Monitor dated March 23, 2022 (the "**Twelfth Report**"), the Monitor has filed a notice of application with this Honourable Court, returnable on April 1, 2022 (the "**April 1 Application**"), seeking an order authorizing the Petitioners to make one or more distributions to the creditors with Accepted Claims (as defined below), as well as guidance from this Court regarding the applicability of the recent amendments (the "**WEPPA Amendments**") to the *Wage Earner Protection Program Act*, S.C. 2005, c. 47, s. 1 (the

"**WEPPA**"), and the related provisions of the *Wage Earner Protection Program Regulations*, SOR/2008-222 (the "**WEPP Regulations**"), to these CCAA Proceedings.

1.7 Further information regarding these CCAA Proceedings, including the Initial Order, affidavits, reports of the Monitor and all other Court-filed documents and notices are available on the Monitor's website at www.alvarezandmarsal.com/mec.

2.0 PURPOSE

2.1 This Twelfth Report has been prepared by the Monitor to provide this Honourable Court and the Petitioners' stakeholders with respect of the following:

a) the activities of the Monitor since the eleventh report of the Monitor dated December 1, 2021 (the "**Eleventh Report**");

b) an update on the Claims Process generally, including an estimate of the potential distributions to creditors with Accepted Claims and timing thereof should this Court grant the proposed Distribution and Sealing Orders (as subsequently defined) sought by the Monitor;

c) information regarding the WEPPA Amendments and a request that this Court provide the Monitor with advice and direction as to whether 1077 and its former employees meet the criteria established by section 3.2. of the WEPP Regulations, pursuant to section 5(5) of the WEPPA, as of the date of the proposed Distribution and Sealing Orders (as subsequently defined);

d) the Monitor's comments and recommendations regarding the April 1 Application, pursuant to which the Monitor is seeking orders (the "**Distribution Order**" and the "**Sealing Order**") for, *inter alia*, the following relief:

   i. approval of the Monitor's proposed distribution methodology as detailed in section 7.0 of this report, including confirmation that:

      (A) all Claims against the Petitioners, including Pre-filing Claims, Restructuring Period Claims, D&O Claims, and Employee Claims, which have been allowed by the Monitor accordance with the Claims Process Order, shall be accepted and valid Claims (the "**Accepted Claims**") for purposes of the proposed distributions (the "**Proposed Distributions**");

      (B) the Monitor shall establish and maintain a reserve fund on account of any and all Claims that are subject to a Notice of Revision or Disallowance and/or a Notice of Dispute, and are therefore not Accepted Claims (the "**Disputed Claims**");

      (C) all Claims, except for the Disputed Claims, against the Petitioners, which were: (i) not asserted or preserved as required by the Claims Process Order, or (ii) were

otherwise disallowed by the Monitor pursuant to the Claims Process Order (and which are not Disputed Claims), shall be forever barred and extinguished (each such claim, a "**Barred and Extinguished Claim**"), and any such person asserting a Barred and Extinguished Claim shall not be entitled to participate in the Proposed Distributions;

(D) that, in the event this Court determines that 1077 and its former employees meet the criteria as set out under WEPPA and the WEPP Regulations (as detailed further in section 6.12 of this Twelfth Report), certain Employee Claimants will be entitled to receive a "top-up" payment, in lieu of the WEPP payments to which they would otherwise be entitled;

ii. authorizing the Petitioners to make one or more cash distributions to each Claimant and Employee Claimant with an Accepted Claim, in accordance with and pursuant to the Distribution Order;

iii. sealing the confidential Appendix "**A**" (the "**Confidential Appendix**") appended to this Twelfth Report, on the basis that the dividend sheet contained therein contains personal details regarding the Employee Claimants, including *inter alia*: (i) names of the Employee Claimants; (ii) details of the Employee Claimants' Accepted Claims; and (iii) the amount of each Employee Claimants' proposed interim distribution;

e) the Monitor's comments and recommendations regarding the notice of application submitted by a former employee of the Petitioners on February 7, 2022, regarding the applicability of the WEPPA Amendments in these CCAA Proceedings; and

f) a comparison of the actual cash receipts and disbursements compared to the cash flow forecast (the "**Seventh Cash Flow Forecast**") as appended to the Eleventh Report.

3.0 TERMS OF REFERENCE

3.1 The Monitor has prepared this Twelfth Report in connection with the April 1 Application and this report should not be relied on for any other purpose.

3.2 Certain of the information referred to in this Twelfth Report consists of financial forecasts and/or projections prepared by the Monitor. An examination or review of financial forecasts and projections and procedures as outlined by the Chartered Professional Accountants of Canada has not been performed. Readers are cautioned that since financial forecasts and/or projections are based upon assumptions about future events and conditions that are not ascertainable, actual results will vary from those forecasts and/or projected and the variations could be significant.

3.3 Unless otherwise stated, all monetary amounts contained herein are expressed in Canadian dollars.

3.4 Background information, including capitalized terms not otherwise defined herein, are contained in the Initial Order, ARIO, SAVO, Claims Process Order and the Monitor's previous reports, and have not been repeated herein.

4.0 ACTIVITIES OF THE MONITOR

4.1 The activities of the Monitor since the Eleventh Report have included the following:

Review of CCAA Court Materials

a) reviewing draft Court application materials in consultation with the Monitor's legal counsel;

Assisting with Post-Closing Matters related to the Sale Transaction

b) reviewing documentation in respect of transferring certain contracts and accounts assumed by the Purchaser;
c) reconciling deposits and corresponding with the Purchaser to coordinate the return of all deposits received by the Petitioners that may belong to the Purchaser;
d) preparing for the storage and destruction of physical and electronic financial, human resources, and other records, in accordance with statutory requirements and certain agreements with the Purchaser;

Administering the Claims Process

e) administering the Claims Process in accordance with the Claims Process Order (including resolving disputed Claims, amending certain Claims, dealing with numerous enquiries with Claimants and Employee Claimants, and preparing application material for the purposes of making distributions to Claimants), as further described and defined in section 5.0 of this Twelfth Report;
f) seeking proposals from payroll services providers to assist in the execution of the contemplated distribution to 1077's former employees with Accepted Claims;
g) corresponding and holding meetings with Service Canada regarding the handling of potential overpayments of employment insurance benefits ("**EI**") in relation to the contemplated distribution to 1077's former employees with Accepted Claims;
h) preparing application materials and related analyses for the purposes of determining the applicability of the recent WEPPA Amendments in these proceedings, as well as holding

discussions with a former employee of the Petitioners, Service Canada, and Superintendent of Bankruptcy regarding the matter;

Monitoring of Cash Receipts & Disbursements

i) preparing and reviewing weekly payments as well as reconciling cash receipts and disbursements of the trust accounts of the Monitor;

j) consolidating and closing the remaining bank accounts of the Petitioners;

Statutory and Other Responsibilities

k) preparing this Twelfth Report;

l) reconciling and filing of post-filing GST returns and corresponding with the Canada Revenue Agency ("**CRA**") regarding post-filing refunds;

m) corresponding with the Ministry of Attorney General regarding filing returns, reconciling, and payment of the British Columbia employer health tax to the Ministry of Finance;

n) attending to numerous telephone calls with and correspondence received from the CRA regarding reconciliation of pre-filing payroll withholdings remittances, amendments to banking details, the Monitor's access to certain tax accounts of 1314625 Ontario Limited, and other related matters;

o) holding discussions with the Canada Border Services Agency ("**CBSA**") and customs consultants, Tradewin, to address CBSA's request for amendments to pre-filing import declarations;

p) coordinating and advancing the recovery of certain customs levies applied by the CBSA for importation of certain goods with the assistance of KPMG LLP;

Creditor and Other Stakeholder Matters

q) receiving and responding to telephone and email enquiries from trade creditors, members, former employees and other interested parties;

r) responding to requests for employment information from former employees and/or their legal counsel; and

Other Matters

s) preparing for and advancing the wind-down of 1077's interest in Park Towns Developments Limited Partnership ("**Park Towns LP**"), a residential townhouse project located in Toronto, Ontario ("**Park Towns**").

5.0 CLAIMS PROCESS – STATUS UPDATE

Update of Claims Process

5.1 Tabled below is an updated summary of the Claims including the number and quantum of the Proofs of Claims submitted by Claimants and Employee Claimants, Notices of Revision or Disallowance ("**NORDs**") issued by the Monitor, Accepted Claims, and Disputed Claims that remain unresolved:

1077 Holdings Co-operative and 1314625 Ontario Limited
Summary of Claims
as at March 13, 2022
(in CAD 000's)

	Proofs of Claim		Notice of Revision or Disallowance		Accepted Claims		Disputed Claims	
	No.	Claim Amount ($)	No.	Disallowed Amount ($)	No.	Accepted Amount ($)	No.	Disputed Amount ($)
Landlord	8	$ 68,829	8	$ 72,855	5	$ 19,901	2	$ 983
Employee	48	4,030	46	2,385	228	8,980	-	-
Trade and other	39	9,672	31	7,599	15	2,151	-	-
Equity	2	1	2	1	-	-	-	-
Total	**97**	**$ 82,532**	**87**	**$ 82,839**	**248**	**$ 31,031**	**2**	**$ 983**

5.2 As at the date of this Twelfth Report, the Monitor has received 97 Proofs of Claim with a total claim value of approximately $82.5 million and has responded to 87 Claimants through NORDs, except where the Proofs of Claim had been withdrawn by the Claimant or accepted in its entirety by the Monitor.

5.3 Subsequent to filing the Eleventh Report, total Accepted Claims have decreased by $90,000 as a result of the following:

a) the Monitor issued an amended NORD to revise a Claim downwards by $42,000 upon review of additional information, which amended NORD was accepted by the Claimant;

b) the Monitor accepted two additional Proofs of Claims from trade and other creditors totaling $44,000;

c) reclassification of an Accepted Claim in the amount of $150,000 from "trade and other" to "employee", upon further review of the underlying nature of the Claim; and

d) removal of the allowed portion of a Disputed Claim totaling $91,000, pending a resolution between the parties involved, as detailed further in sections 5.5 to 5.8 of this Twelfth Report.

5.4 Accordingly, and as at the date of this Twelfth Report, there are 248 Accepted Claims totaling $31.0 million that the Monitor has or is deemed to have accepted.

Disputed Claims

5.5 At present there are two Disputed Claims, totaling $983,000, that remain unresolved. These Disputed Claims pertain to the retail store previously located in St. Denis, Quebec (the "**St. Denis Property**").

5.6 As detailed in the Monitor's Eleventh Report, the lease in respect of the St. Denis Property was disclaimed effective October 16, 2020. Thereafter, two Proofs of Claim (collectively, the "**St. Denis Claim**") were submitted: one was submitted by the previous landlord, 169159 Canada Inc. ("**169**"), and the second was submitted by Argo Partners ("**Argo**"), a party claiming to have been assigned the St. Denis Claim.

5.7 The Monitor has engaged in discussions with both 169 and Argo in an effort to resolve the dispute between 169 and Argo as to which party is entitled to assert the St. Denis Claim, as well as the quantum of the claim. However, as at the date of this Twelfth Report, 169 and Argo have been unable to reach a resolution of these issues.

5.8 Accordingly, and to avoid further delay in making a distribution to creditors with Accepted Claims, the Monitor intends to create a reserve fund of $733,000 (the "**St. Denis Claim Reserve**"), which is the amount equivalent to the larger of the two St. Denis Claims, and to make a *pro rata* distribution to the holder of the St. Denis Claim out of the St. Denis Claim Reserve, after a determination has been made regarding both entitlement to and quantum of the St. Denis Claim.

6.0 WAGE EARNER PROTECTION PROGRAM

The WEPPA Amendments

6.1 On November 20, 2021, amendments to WEPPA and WEPP Regulations came into force which now authorize the court to make a determination that former employees are entitled to WEPPA payments in the context of CCAA proceedings if the following criteria (set out in section 5(1) of WEPPA) are established:

a) the individual's employment ended for a reason prescribed by regulation which includes termination or expiry of the individual's employment;
b) the former employer is subject to proceedings under the CCAA;
c) the individual is owed eligible wages by the former employer; and
d) <u>a court determines under subsection 5(5) that criteria prescribed by regulation are met [emphasis added].</u>

6.2 In this respect, the recently enacted section 5(5) of WEPPA provides that on application by any person, the supervising CCAA court may determine that a former employee satisfies the criteria prescribed by regulation. In turn, section 3.2 of the WEPP Regulations now provides that "*for the purposes of subsection 5(5) of [WEPPA], a court may determine whether the former employer is the former employer of all of whose employees in Canada have been terminated other than any retained to wind down its business operations*" [emphasis added].

6.3 At the commencement of the CCAA Proceedings, the Petitioners had approximately 1,500 employees located in Canada, of which 210 employees were terminated on or prior to the Closing Date and a further 16 employees were terminated prior to the CCAA Proceedings with a salary continuance arrangement pursuant to an employment termination agreement (together, the "**Terminated Employees**"). The remaining 1,290 employees (or 86% of total employees) were transferred to the Purchaser upon the Closing Date pursuant to the terms of the APA (the "**Transferred Employees**").

6.4 A determination of whether the Transferred Employees would be considered "terminated" for the purposes of section 3.2 of the WEPP Regulations is complicated by the following:

a) the APA required the Purchaser to offer employment to all non-unionized employees of the Petitioners (except for those specifically excluded) on terms and conditions that are no less favourable than those they enjoyed with the Petitioners effective on the Closing Date;
b) all employees who accepted the Purchaser's offer were to become employees of the Purchaser on the closing, with their prior service recognized and benefits entitlements continued; and
c) the APA further provides that the Purchaser is responsible for the vacation pay and severance pay owed to these employees (whether accruing or arising prior to closing) and liability for other employment-related liabilities arising on or after closing.

6.5 However, despite these provisions of the APA, and for the purposes of determining whether the WEPP Amendments apply to these proceedings, the Monitor is of the view that the Petitioners' employment relationship with the Transferred Employees ended on the Closing Date (being the effective date that their employment was transferred to the Purchaser under the provisions of the APA).

6.6 The analysis in respect of the Terminated Employees is more straightforward, as substantially all the Terminated Employees are entitled to statutory termination and severance pay, vacation pay, and/or salary continuance pursuant to the employment standards legislation in their respective

provinces of employment, contractual entitlement, common law entitlement, and/or an employment termination agreement. Accordingly, the Terminated Employees would have "eligible wages" as assessed under WEPPA, subject to the review by Service Canada.

6.7 Therefore, and based on all of the foregoing, the Monitor is of the view that a court would likely determine that section 3.2 of the WEPP Regulations is satisfied, as all former employees (including the Terminated Employees and the Transferred Employees) may, subject to a determination by this Court, be considered "terminated" for the purposes of determining whether section 3.2 of the WEPP Regulations is satisfied.

6.8 As detailed further below, notwithstanding the apparent applicability of WEPP to these CCAA Proceedings, the Monitor is seeking approval of an alternative distribution method that would effectively achieve the same result as WEPP.

Employment and Social Development Canada – Labour Program

6.9 In consideration of and connection with the WEPPA Amendments, the Monitor has had extensive discussions with representatives of the Labour Program as administered by Employment and Social Development Canada (the "**Labour Program**"), the federal agency responsible for assessing and implementing the WEPP policy, in order to provide the Labour Program with information on the CCAA Proceedings, make inquiries regarding the WEPP eligibility criteria and application to these CCAA Proceedings, and to discuss an alternative (the "**WEPP Alternative**") distribution method – one that would achieve the same outcome as WEPPA, in a more timely and cost-effective manner. The details of the WEPP Alternative are set out below.

6.10 In the course of these discussions, the Monitor provided representatives of the Labour Program with an update on the status of the Claims Process, including the estimated potential recovery to creditors (which is in the range of $0.90 on the dollar of their Accepted Claim), and its intention to make an interim distribution some time prior to June 2022.

6.11 The Monitor further advised the Labour Program representatives that it had prepared preliminary analyses demonstrating that, if WEPP was found to be applicable in these CCAA Proceedings:

a) the majority of the Employee Claimants would receive the same amount under WEPP as they would through the Claims Process as, pursuant to section 36.1(1) of WEPPA, Her Majesty in right of Canada would have a subrogated claim for the amount paid under WEPP – which subrogated claim must be paid in priority prior to any distributions under the Claims Process are made payable to the Employee Claimants; and

b) of the 228 Employee Claimants, approximately 48 would likely receive a higher amount under WEPP than they would under the Claims Process, based on the assumption that these Employee Claimants would receive the lower of the maximum 2022 WEPP payment of $8,117.34 and its Accepted Claim amount. These 48 Employee Claimants would each, on average, receive $115 or in aggregate $5,500 more under WEPP than the Claims Process.[1]

6.12 As the cost to administer WEPP would likely exceed the recovery to these 48 Employee Claimants, and since the remaining Employee Claimants would receive the same amount under both WEPP and through the Claims Process, the Monitor advised of its intention to seek approval of the WEPP Alternative, whereby:

a) the Monitor would seek approval of a distribution order, instead of a determination under section 5(5) of WEPP, that would expressly provide for a "top-up" in favour of the 48 Employee Claimants, such that they would receive the same amount under WEPP as they would under the Claims Process; and
b) the sum of $10,000 (see Note 1 below) would be allocated, on a *pro rata* basis among the other Employee Claimants and Claimants (including landlords and trade and other creditors), which would have a *de minimis* impact on the distribution to which they would otherwise be entitled of approximately $0.0003 on the dollar of their Accepted Claim.

6.13 The Labour Program has indicated its support for the WEPP Alternative, and further advised the Monitor that, in the event a determination is made under section 5(5) of WEPPA, it would likely take until July 2022 before WEPP payments were processed and made payable to the eligible Employee Claimants. The Labour Program further advised that there could be additional delays in the administration of WEPP, as WEPPA contains a dispute resolution mechanism and any disputes arising between the Labour Program and Employee Claimants would need to be resolved.

6.14 Accordingly, in the event a determination under section 5(5) of WEPPA is made by this Court, the Monitor is concerned that such a determination would: (i) result in a further delay of distributions being made to creditors (including the non-Employee Claimants) with Accepted Claims; and (ii) increase administration costs to the Petitioners' estate.

6.15 Thus, while the Monitor would be supportive of a determination under section 5(5) of the WEPPA, it is the Monitor's view that it would be more expeditious and cost effective for this

[1] The Monitor notes that the sum of $5,500 is subject to change based on the resolution of the Disputed Claim and recovery of additional amounts; however, based on the Monitor's analyses, it is unlikely that the total payable to these 48 Employee Claimants will exceed $10,000.

court to approve the Distribution Order and the WEPP Alternative (which, as noted above, would result in a "top-up" in favour of the 48 Employee Claimants whose recovery would increase under WEPPA), in lieu of such a determination.

7.0 PROPOSED DISTRIBUTION

7.1 As detailed above, the Monitor is applying for the Distribution Order to authorize making one or more distributions to Claimants and Employee Claimants having Accepted Claims using the following proposed distribution methodology (the "**Proposed Distribution Methodology**"):

a) each Claimant holding an Accepted Claim will receive *a pro rata* distribution up to the maximum amount of their Accepted Claim amount. For greater certainty, Accepted Claims shall include all Claims that have been finally determined in accordance with the Claims Process Order. Any person who was required to but did not assert an Accepted Claim in accordance with the Claims Process Order shall not be entitled to a distribution and shall be forever barred and each claim extinguished;

b) each Employee Claimant holding an Accepted Claim will receive a *pro rata* distribution up to the maximum amount of their Accepted Claim amount, net of applicable withholding taxes, EI overpayments, and other statutory deductions, if any;

c) all distributions will be made in Canadian dollars, and any Accepted Claim denominated in a foreign currency shall be converted to Canadian dollars at the Bank of Canada daily average exchange rate as at the Filing Date;

d) no secured claims or priority claims remain;

e) no distributions will be made to the holders of the disputed St. Denis Claim, and the Monitor shall create the St. Denis Reserve pending the resolution of entitlement to and quantum of the St. Denis Claim. Following a determination of these issues, the Monitor shall make a *pro rata* distribution to the holder of the St. Denis Claim using the funds in the St. Denis Reserve;

f) any surplus funds remaining in the St. Denis Claim Reserve after payment of the holder's *pro rata* distribution, shall be distributed to the holders of Accepted Claims on a *pro rata* basis;

g) a "top-up" amount will be distributed to those Employee Claimants who would have been positively affected by a determination that WEPP was applicable in these CCAA Proceedings. The total "top-up" amounts will be allocated on a *pro rata* basis to the other Employee Claimants and Claimants;

h) the distributions made to Employee Claimants shall be in lieu of any and all amounts they might have otherwise received from Service Canada, through its administration of WEPP,

had a determination been made under subsection 5(5) of WEPPA, should the Court approve the WEPP Alternative as described in section 6.12 of this Twelfth Report;

i) sufficient funds will be withheld from any interim distributions to cover the anticipated administration costs to the completion of the CCAA Proceedings; and

j) given the costs of preparing and distributing cheques to creditors and following up on uncashed cheques, the Monitor proposes that the final distribution be made only to those Claimants who would be entitled to distributions of $10 or more.[2]

7.2 If the Distribution Order is granted, and barring any unforeseen issues, the Monitor anticipates making an interim distribution to the holders of Accepted Claims in mid to late May 2022. The Distribution Order further authorizes the Monitor to, subject to the St. Denis Claim Reserve, make further distributions without further Order of this Court.

7.3 The Monitor is of the view that the Proposed Distribution Methodology is fair and allows for distributions to be made on an expedited basis and in a cost-effective manner. Accordingly, the Monitor is seeking the approval of this Court of the Proposed Distribution Methodology as described herein.

Potential Distributions to Claimants and Employee Claimants

7.4 In order to assist creditors in estimating their potential recoveries, the Monitor has tabled below an estimate of funds available for the Accepted Claims:

[2] This limitation is consistent with Directive 18 as issued by the Office of Superintendent of Bankruptcy where Trustees are not expected to distribute immaterial funds if individual payments are less than $10 when there are five or more creditors.

1077 Holdings Co-operative and 1314625 Ontario Limited Estimated Net Realizations Available for Distribution (in CAD 000's)		
Ending cash balance as at March 13, 2022	$	30,353
Estimated future receipts		
GST and other refunds		50
Customs levy refunds		200
Distribution from Park Towns' residual assets		150
		400
Estimated future disbursements		
General and administrative		100
Property liabilities		65
Statutory obligations		150
Professional fees		550
Contingency		70
		935
Estimated net realizations available		29,818
Reserve for Disputed Claim		(733)
Estimated net realizations available for Accepted Claims	**$**	**29,085**

7.5 At present, the Monitor anticipates it will be holding funds of approximately $29.1 million that will ultimately be made available to unsecured creditors.

7.6 As there will be a shortfall on recovery to the unsecured creditors with Accepted Claims, there will be no surplus funds available to make any distributions, interim or otherwise, to 1077's members.

7.7 The Monitor's comments with respect to the estimated net realizations are as follows:

a) estimated receipts totaling approximately $400,000 consist of the following:

i. GST and other refunds of $50,000 relate to GST refunds anticipated for post-filing expenses incurred during the pendency of the CCAA Proceedings and other refunds with quantum that are not yet known at this time;

ii. customs levy refunds of $200,000 relate to CBSA refunds anticipated for pre-filing duties paid by the Petitioners on importation of certain goods. The investigation with the CBSA is ongoing and actual recoveries may vary significantly; and

iii. a distribution from Park Towns, of an amount to be determined, in respect of the Petitioners' interest in the Park Towns LP. Discussions between the Monitor and Park Towns are ongoing, and Park Towns has not yet provided the Monitor with all of the information and supporting documentation pertaining to Park Towns' assets. Accordingly, actual recoveries in respect of the Park Towns project may vary, pending

the receipt of supporting documentation as requested and subject to the review of the Monitor;

b) estimated disbursements totaling approximately $900,000 consist of the following:

   i. general and administrative costs of approximately $100,000 relate to estimated costs for storage and destruction of electronic and physical records, fees for engaging Tradewin to review and amend pre-filing import declarations in response to an audit by the CBSA, and fees for engaging a third party payroll provider to administer anticipated distributions to Employee Claimants;

   ii. property liabilities approximating $65,000 in connection with outstanding property taxes of $35,000 for the former head office property, as well as unpaid post-filing rent amounts of $30,000, which are owed to the landlord of the disclaimed St. Denis Property lease, the payment of which is expected to correspond with the resolution of the disputed St. Denis Claim;

   iii. statutory obligations of approximately $150,000 which are comprised of:

      (i) $138,000 relating to British Columbia employer health taxes estimated for the post-filing period between September 15, 2020 to December 31, 2020. The Monitor has submitted the applicable return which is currently under review by the Ministry of Finance;

      (ii) $2,000 relating to payroll withholdings discrepancies for the 2019 year pending further review from the CRA; and

      (iii) $10,000 relating to CBSA import fee adjustments, which amount is currently being reviewed by the Monitor with CBSA, CRA, and Tradewin;

   iv. professional fees of approximately $550,000 for services provided by the Monitor and its legal counsel;

c) the sum of $733,000 shall be used to create the St. Denis Claim Reserve, as detailed in section 5.8 of this Twelfth Report, pending a resolution of entitlement to and quantum of the St. Denis Claim.

7.8 The Monitor performed an analysis to determine the estimated potential recovery by creditors of the Petitioners. As summarized in the table below, subject to the resolution of the Disputed Claims as well as actual receipts collected and disbursements paid, the anticipated recovery to Claimants is in the range of 90% of their Accepted Claim.

1077 Holdings Co-operative and 1314625 Ontario Limited Estimated Potential Recoveries and Proposed Distribution to Claimants as at March 13, 2022 (in CAD 000's)				
			Accepted Claim	
	Estimated Recovery	Proposed Interim Distribution	Median	Average
Estimated net realizations available for Accepted Claims	$ 29,085			
Accepted Claims				
Landlord	19,901	$ 14,925	$ 3,750	$ 3,980
Employee - eligible for top-up	94.485	71	1	2
- other	8,885	6,664	26	49
Trade and other	2,151	1,613	18	143
	31,031.184	**23,273**	**$ 3,796**	**$ 4,175**
Illustrative recovery to Claimants	**94%**	**75%**		

7.9 The Monitor intends to make an interim distribution in May 2022, and is of the view that the aggregate total of the interim distribution should be no more than $23.3 million (or 75% of the total Accepted Claims). The table above provides the 'median' and 'average' claim of each category of Accepted Claims for illustrative purposes.

7.10 Appended to this Twelfth Report is the confidential Appendix A (the "**Confidential Appendix**") containing a dividend sheet detailing the Claimants and Employee Claimants, their Accepted Claims, and proposed interim distribution. As the Confidential Appendix contains personal details in respect of the Employee Claimants, including names and information regarding each individual Employee Claimant's Claim amounts, the Monitor respectfully requests that this Honourable Court permit the Confidential Appendix to be filed under and pursuant to the Sealing Order.

7.11 The proposed interim distribution will ensure that the Monitor retains a sufficient holdback of funds to make further distributions in respect of the Disputed Claims, as well as to fund administration and other costs for the pendency of the CCAA Proceedings. It is anticipated that a final distribution will be made following the resolution of all residual matters pertaining to the CCAA Proceedings including the resolution of the Disputed Claims and collection of all anticipated receipts.

8.0 NOTICE OF APPLICATION MADE BY FORMER EMPLOYEE

8.1 On February 7, 2022, a notice of application was filed by Aerin Kristjaan Bonnell Davies (the "**Davies Application**") to be heard on February 17, 2022, in general chambers. The Davies

Application was subsequently rescheduled to proceed before the Honourable Madam Justice Fitzpatrick, who is seized of these CCAA Proceedings, on April 1, 2022,

8.2 In essence, the Davies Application requests that this Court make a determination as to whether the Petitioners and its former employees met the criteria under the WEPPA Amendments, the details of which are provided in WEPPA, which is described in section 6.2 and not repeated herein.

8.3 On March 7, 2022, the Monitor corresponded with the applicant to discuss an overview of the Proposed Distribution Methodology, including the "top-up" approach to those Employee Claimants who would be impacted by WEPP. At that time, Ms. Davies indicated that they did not oppose the WEPP Alternative at that time.

8.4 The Monitor is of the view that the relief it is seeking in the April 1 Application fully addresses the substance of the Davies Application, as the Monitor is seeking either: (i) approval of the WEPP Alternative; or (ii) direction from this Honourable Court as to whether a determination under section 5(5) of WEPPA ought to be made.

9.0 ACTUAL CASH FLOW RESULTS COMPARED TO SEVENTH CASH FLOW FORECAST

9.1 Consistent with the ongoing oversight and monitoring of the business and financial affairs of the Petitioners, the Monitor has established a weekly cash flow review protocol to compare actual cash flows against the Seventh Cash Flow Forecast.

9.2 The Petitioners' actual cash receipts and disbursements compared to the Seventh Cash Flow Forecast during the period from September 15, 2020 to March 13, 2022 is summarized in the table below:

1077 Holdings Co-operative and 1314625 Ontario Limited
Cash Flow Variance Analysis
For the period September 15, 2020 to March 13, 2022
(in CAD 000's)

	For the 78 Weeks Ended March 13, 2022		
	Actual	**Forecast**	**Variance**
Receipts			
Sales	$ 41,176	$ 41,176	$ -
Canada Emergency Wage and Rent Subsidy	8,628	8,628	-
Other receipts and letters of credit	3,856	3,802	54
GST refunds	164	168	(4)
Return of deposits	(601)	(561)	(40)
Total receipts	**53,223**	**53,212**	**11**
Disbursements			
Merchandise and/or vendor prepayments	33,507	33,507	-
Freight and other non-merchandise	3,142	3,142	-
Wages and salary	11,377	11,377	-
SG&A	3,268	3,323	54
Insurance	145	145	-
Property taxes and other property liabilities	4,498	4,498	-
Statutory obligations	3,592	3,760	168
Consultants	63	63	-
Total disbursements	**59,591**	**59,814**	**222**
	(6,368)	**(6,601)**	**233**
Other disbursements			
KERP payments	778	778	-
Professional fees	5,539	5,492	(47)
Debt service	987	987	-
Contingency	574	604	30
Total other disbursements	**(7,878)**	**(7,861)**	**(17)**
Net proceeds from Sale Transaction	**30,411**	**30,411**	**-**
Net Cash Flow	**$ 16,165**	**$ 15,949**	**$ 216**
Opening Cash Balance	$ 14,188	$ 14,188	$ -
Net Cash Flow	16,165	15,949	216
Ending Cash Balance	**$ 30,353**	**$ 30,137**	**$ 216**

** Net proceeds from the Sale Transaction are presented net of secured debt due to the Royal Bank of Canada which was repaid on the Closing Date.*

9.3 As at March 13, 2022, the closing cash balance held in trust by the Monitor totaled $30.4 million. Certain variances in respect of the reported cash receipts and disbursements are as follows:

a) total operating receipts were generally consistent with forecast; and

b) total operating disbursements were approximately $205,000 lower than forecast, primarily due to timing differences in respect of general and administrative costs, statutory obligations, and professional fees.

9.4 Since the Eleventh Report, the Monitor has continued to review the cash receipts and disbursements of the Petitioners and perform weekly variance reporting and approval of disbursements. Nothing has come to the attention of the Monitor that causes the Monitor to

believe that there have been material adverse changes in the cash flow of the Petitioners or that would financially prejudice the stakeholders of the Petitioners.

10.0 MONITOR'S CONCLUSIONS AND RECOMMENDATIONS

10.1 Based on all of the forgoing, the Monitor respectfully recommends that this Honourable Court grant the Distribution and Sealing Orders as sought, and dismiss the Davies Application referenced herein.

*****

All of which is respectfully submitted to this Honourable Court this 23rd day of March, 2022.

Alvarez & Marsal Canada Inc.,
in its capacity as Monitor of
1077 and not in its personal or corporate capacity

Todd M. Martin
Senior Vice President

Vicki Chan
Vice President