



NO. S-209201  
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  
AND 1314625 ONTARIO LIMITED

PETITIONERS

**NOTICE OF APPLICATION**

**Name(s) of applicant(s):** Alvarez & Marsal Canada Inc., as Monitor in these proceedings

To: THE SERVICE LIST

TAKE NOTICE that an application will be made by the applicant(s) to Justice Fitzpatrick at the courthouse at 800 Smithe Street, Vancouver, BC on October 17, 2025 at 9 a.m. for the order(s) set out in Part 1 below.

The applicant(s) estimate(s) that the application will take 20 minutes

[Check the correct box.]

- This matter is within the jurisdiction of an associate judge.
- This matter is not within the jurisdiction of an associate judge. Justice Fitzpatrick is seized of these proceedings.

**Part 1: ORDER(S) SOUGHT**

1. An Order directing those funds relating to unclaimed distributions made under these CCAA Proceedings be transferred to the bankruptcy estate with the rights of each of the Unclaimed Creditor (as defined below) preserved, and thereafter remitted by the Bankruptcy Trustee to the Office of Superintendent of Bankruptcy (the "OSB") in accordance with section 154 of the *BIA*; and
2. An Order sealing the confidential Appendix "A" appended to this Eighteenth Report, on the basis it contains personal details of certain Employee Claimants, including names, last known addresses, and distribution amounts.

## Part 2: FACTUAL BASIS

### A. Procedural History

1. On September 14, 2020, 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 appointed Alvarez & Marsal Canada Inc. (“A&M”) as monitor of 1077 (the “Monitor”) during the CCAA Proceedings.
2. On November 27, 2020, this 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.
3. On March 29, 2022, this Court granted an order (the “Distribution Order”) granting, *inter alia*, the approval of a distribution methodology to be applied by the Monitor in administering any distributions in these CCAA Proceedings (the “Distributions”), which included, among other things, (i) authorizing the Petitioners to make one or more cash distributions to each Claimant and Employee Claimant holding an Accepted Claim; and (ii) directing the Monitor to make final distributions only to those Claimants who would be entitled to distributions of \$10.00 or more.
4. On November 29, 2023, this Court pronounced an order (the “Termination Order”) terminating these CCAA Proceedings effective November 30, 2023 and directing the Petitioners be assigned into bankruptcy for the purposes of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3 (the “BIA”). The Petitioners were assigned into bankruptcy on November 29, 2023 and A&M was appointed as the trustee of the Petitioners’ estate (the “Bankruptcy Trustee”). The Termination Order discharged the Monitor from its duties and obligations in these proceedings, but nonetheless preserved the Monitor’s authority to perform any act necessary or incidental to the proper conclusion of the proceedings.

### B. Unclaimed Distributions

5. As of March 23, 2023, there were 249 Accepted Claims totaling \$31.7 million. Between May 31, 2022 to October 31, 2023, the Monitor made three distributions totaling \$30 million, representing a recovery of 94.6% on the total Accepted Claims.

Fifteenth Report of the Monitor, dated March 23, 2023.

6. As of September 25, 2025, six Employee Claimants have not deposited some or all of their distribution cheques (the “Unclaimed Creditors”), which in aggregate totals \$43,895.63 (the “Unclaimed Distributions”). The Monitor has undertaken extensive efforts to locate and contact the Unclaimed Creditors, including:
  - (a) issuing three letters to the last known addresses of each creditor;

- (b) sending emails and making phone calls by utilizing contact information contained in the Petitioners' records;
- (c) requesting additional contact details from the human resources team at MEC Mountain Equipment Company Ltd., where available; and
- (d) conducting online searches for updated contact information.

Eighteenth Report of the Monitor, dated September 25, 2025.

- 7. Despite these efforts, the Monitor has been unable to locate the Unclaimed Creditors and the Unclaimed Distributions remain uncashed and continue to be held by the Monitor.
- 8. The Monitor is hereby seeking the Court's authorization to: (i) transfer the Unclaimed Distributions from the Monitor to the bankruptcy estate with the rights of each of the Unclaimed Creditor preserved, and (ii) thereafter remit the Unclaimed Distributions to the OSB, in its capacity as Trustee of the bankruptcy estate.
- 9. The Monitor has consulted with the OSB in respect of the proposed approach and on August 20, 2025, the OSB advised that it is generally not opposed to the Monitor redirecting the funds to the bankruptcy estate and for the specific creditors' rights to be preserved, provided that the OSB receives at least three weeks' advance notice of the court hearings.

### Part 3: LEGAL BASIS

- 10. Section 11 of the *CCAA* provides this Court with broad discretion to make any order that it considers appropriate under the circumstances. This discretion must be exercised in furtherance of the *CCAA*'s remedial purpose, which is to avoid the devastating social and economic effects of bankruptcy.

*Century Services Inc. v. Canada (Attorney General)*, 2010 SCC 60 at paras. 59 & 70.

- 11. Pursuant to the Termination Order, the *CCAA* proceedings were terminated and the Petitioners were assigned into bankruptcy. In order to preserve the rights of the Unclaimed Creditors while continuing to close its file and prepare its budget and final fees, the Monitor seeks approval from this Court to transfer the remaining Unclaimed Distributions to the bankruptcy estate, such that they can be treated in accordance with section 154 of the *BIA*.
- 12. Pursuant to section 154(1) of the *BIA*, at the time of discharge, a trustee is to forward to the Superintendent, for deposit with the Receiver General, according to the directives of the Superintendent, the unclaimed dividends and undistributed funds that a bankruptcy trustee possesses.

*Office of the Superintendent of Bankruptcy v. MacLeod*, 2011 FCA 4 at para. 29; *BIA*, s. 154(1).

- 13. The bankruptcy trustee is also required to provide a list of names and the last known addresses, if any, of the creditors entitled to such unclaimed dividends as well as the amount payable to each such creditor.

*BIA, s. 154(1).*

14. Following the discharge of the bankruptcy trustee, a creditor who has the right to such unclaimed dividend can apply to the Receiver General to recover the unclaimed dividend and the Receiver General is to make the payment as shown on the list which will have effect as if made by the trustee.
15. As stated above, there are six Unclaimed Creditors that have not deposited some or all of their distribution cheques. The Unclaimed Creditors and their last known post offices are set out in Confidential Appendix A to the Monitor's Eighteenth Report.
16. Once the funds are transferred from the Monitor's possession to the bankruptcy estate, the Monitor, in its capacity as Trustee of the bankruptcy estate, will promptly remit the Unclaimed Distributions to the OSC in accordance with Section 154 of the BIA, net of the applicable levy, together with a schedule of the Unclaimed Creditors, including their names, last known addresses, and the amounts payable, as set out in Appendix A to the Monitor's Eighteenth Report.
17. The Monitor is of the view this is appropriate in the circumstances because it will ensure that Unclaimed Distributions are maintained for the benefit of the Unclaimed Creditors.

**Part 4: MATERIAL TO BE RELIED ON**

1. The Eighteenth Report of the Monitor, dated September 25, 2025;
2. The Fifteenth Report of the Monitor, dated March 23, 2023; and
3. Such other material as the parties may advise and this Court may permit.

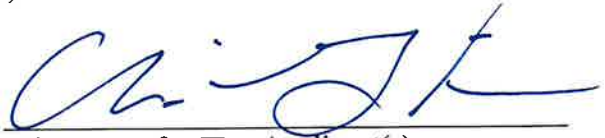
TO THE PERSONS RECEIVING THIS NOTICE OF APPLICATION: If you wish to respond to this notice of application, you must, within 5 business days after service of this notice of application or, if this application is brought under Rule 9-7, within 8 business days after service of this notice of application,

- (a) file an application response in Form 33,
- (b) file the original of every affidavit, and of every other document, that
  - (i) you intend to refer to at the hearing of this application, and
  - (ii) has not already been filed in the proceeding, and
- (c) serve on the applicant 2 copies of the following, and on every other party of record one copy of the following:
  - (i) a copy of the filed application response;
  - (ii) a copy of each of the filed affidavits and other documents that you intend to refer to at the hearing

of this application and that has not already been served on that person;

(iii) if this application is brought under Rule 9-7, any notice that you are required to give under Rule 9-7 (9).

Dated: September 25, 2025



Signature of  Applicant(s)  
 Lawyer for applicant(s)

**For:** Mary Buttery, K.C. / Maya Churilov

***To be completed by the court only:***

Order made

[ ] in the terms requested in paragraphs ..... of Part 1 of this notice of application

[ ] with the following variations and additional terms:

.....  
.....  
.....

Date: .....[dd/mmm/yyyy].....

.....  
Signature of [ ] Judge [ ] Associate Judge

**Appendix**

*[The following information is provided for data collection purposes only and is of no legal effect.]*

**THIS APPLICATION INVOLVES THE FOLLOWING:**

- discovery: comply with demand for documents
- discovery: production of additional documents
- other matters concerning document discovery
- extend oral discovery
- other matter concerning oral discovery
- amend pleadings
- add/change parties
- summary judgment
- summary trial
- service
- mediation
- adjournments
- proceedings at trial
- case plan orders: amend
- case plan orders: other
- experts
- none of the above