

**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 PLAN OF COMPROMISE OR ARRANGEMENT  
OF MCEWAN ENTERPRISES INC.

**SECOND SUPPLEMENT TO THE SECOND REPORT OF THE MONITOR  
ALVAREZ & MARSAL CANADA INC.**

**NOVEMBER 10, 2021**

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## 1.0 INTRODUCTION

- 1.1 This report is a further supplement (this “**Second Supplement**”) to the Second Report dated October 14, 2021 (the “**Second Report**”) of Alvarez & Marsal Canada Inc., in its capacity as Court appointed Monitor (in such capacity, the “**Monitor**”) of McEwan Enterprises Inc. (“**MEI**” or the “**Applicant**”).
- 1.2 This Second Supplement should be read in conjunction with: (i) the Second Report; (ii) the supplement to the Second Report dated November 1, 2021 (the “**Supplement**”); (iii) the Affidavit of Dennis Mark McEwan sworn on September 27, 2021 (the “**McEwan Affidavit**”), and filed in support of the Applicant’s application for relief under the *Companies’ Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the “**CCAA**”); and (iv) the Affidavit of Dennis Mark McEwan sworn on October 1, 2021 (together with the McEwan Affidavit, the “**McEwan Affidavits**”), and filed in support of the Approval and Vesting Order (as defined below).<sup>1</sup>
- 1.3 The proceedings commenced by the Applicant under the CCAA are referred to herein as the “**CCAA Proceedings**”. Capitalized terms used and not defined in this Second Supplement have the meanings given to them in the Second Report or the Supplement.
- 1.4 On October 15, 2021, the Court heard the Applicant’s motion for an Order (the “**Approval and Vesting Order**”), among other things, approving the Proposed Transaction and the

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<sup>1</sup> The Second Report, the Supplement, the McEwan Affidavits and other Court-filed documents in the CCAA Proceedings are available on the Monitor’s case website at [www.alvarezandmarsal.com/McEwanEnterprises](http://www.alvarezandmarsal.com/McEwanEnterprises).

purchase agreement dated September 27, 2021 between the Applicant and the Purchaser, being a new entity formed by MEI's current shareholders.

1.5 On November 1, 2021, the Court issued written reasons dismissing the relief requested by the Applicant in the Approval and Vesting Order, and issued an Order (the “**Stay Extension and Interim Transaction Funding Approval Order**”) that, among other things:

- (i) extended the Stay Period to and including November 12, 2021; and
- (ii) granted the Interim Funding and corresponding Interim Funding Lender's Charge up to a maximum amount of \$600,000.

1.6 A copy of the Stay Extension and Interim Transaction Funding Approval Order is attached to this Second Supplement as **Appendix “A”**.

1.7 The Applicant is requesting an extension of the Stay Period to and including November 26, 2021.

1.8 The purpose of this Second Supplement is to provide the Court with information, and where applicable, the Monitor's views on:

- (i) the Applicant's cash flow results for the two-week period ended November 5, 2021;
- (ii) the Applicant's updated cash flow forecast for the three-week period ending November 26, 2021; and
- (iii) the proposed extension of the Stay Period to and including November 26, 2021.

## 2.0 TERMS OF REFERENCE AND DISCLAIMER

2.1 In preparing this Second Supplement, A&M, in its capacity as Monitor, has been provided with, and has relied upon unaudited financial information and the books and records prepared by MEI, and has had discussions with management of MEI and its legal counsel (collectively, the “**Information**”). Except as otherwise described in this Second Supplement in respect of the Applicant’s cash flow forecast:

- (i) the Monitor has reviewed the Information for reasonableness, internal consistency and use in the context in which it was provided. However, the Monitor has not audited or otherwise attempted to verify the accuracy or completeness of the Information in a manner that would wholly or partially comply with Canadian Auditing Standards (“CASs”) pursuant to the *Chartered Professional Accountants Canada Handbook* (the “**CPA Handbook**”) and, accordingly, the Monitor expresses no opinion or other form of assurance contemplated under CASs in respect of the Information; and
- (ii) some of the information referred to in this Second Supplement consists of forecasts and projections. An examination or review of the financial forecasts and projections, as outlined in the CPA Handbook, has not been performed.

2.2 Future oriented financial information referred to in this Second Supplement was prepared based on MEI management’s estimates and assumptions. Readers are cautioned that since projections are based upon assumptions about future events and conditions that are not ascertainable, actual results will vary from the projections, even if the assumptions materialize, and the variations could be significant.

2.3 While this Second Supplement considers certain of the potential future impacts of the COVID-19 pandemic on MEI's business and operations, such impacts cannot be fully determined at this time.

2.4 Unless otherwise stated, all monetary amounts contained herein are expressed in Canadian dollars ("CAD").

### 3.0 CASH FLOW RESULTS RELATIVE TO FORECAST

3.1 Actual receipts and disbursements for the two-week period October 23 to November 5, 2021 (the "**Reporting Period**"), as compared to the cash flow forecast attached as Appendix "A" to the Supplement, are summarized in the following table:

Cash Flow Results		CAD\$000's	
	Budget	Actual	Variance
<b>Receipts</b>	<b>1,503</b>	<b>1,475</b>	<b>(28)</b>
<b>Disbursements</b>			
Vendors	(1,181)	(1,092)	89
Employee wages	(463)	(415)	48
Rent	(450)	(447)	3
Other SG&A	(215)	(172)	43
RBC principal, lease payments & interest	(74)	(79)	(5)
Restructuring professional Fees	(167)	(174)	(7)
<b>Net Cash Flow</b>	<b>(1,047)</b>	<b>(904)</b>	<b>143</b>
Cash balance, opening	207	207	-
Net Cash Flow	(1,047)	(904)	143
Revolving Facility draws	600	140	(460)
Interim Funding	600	600	-
<b>Ending Cash Balance</b>	<b>360</b>	<b>43</b>	<b>(317)</b>

3.2 During the Reporting Period:

- (i) total receipts of approximately \$1.5 million actualized as forecast;

- (ii) total disbursements were approximately \$143,000 less than forecast, attributed primarily to timing variances that are expected to reverse in future weeks;
- (iii) disbursements for restructuring professional fees totalling approximately \$174,000 reflect amounts paid to the Monitor and the Monitor's counsel. Since the commencement of the CCAA Proceedings, the Applicant's legal counsel has not been paid for amounts invoiced to date. The Monitor understands that the Applicant's legal counsel has agreed to defer its fees until after the current Stay Period extension or until alternative financing is arranged; and
- (iv) overall, MEI experienced a positive net cash flow variance of approximately \$143,000.

3.3 During the week ended November 5, 2021, MEI received \$600,000 of Interim Funding from the Interim Lender.

3.4 As at November 5, 2021, MEI's available liquidity was approximately \$653,000, comprised of: (i) approximately \$43,000 cash on hand; and (ii) \$610,000 available under the Revolving Facility.

#### Yonge & Bloor Rent Reserve

3.5 The Monitor continues to hold the amounts funded into the Yonge & Bloor Rent Reserve in respect of disputed October and November rents.

#### Pre-Filing Payments

3.6 In accordance with paragraph 7(e) of the Initial Order (as amended by the Amended and Restated Initial Order), the Applicant is entitled to pay, with the consent of the Monitor,

amounts owing for goods and services supplied prior to the Filing Date, if in the opinion of the Applicant, such payment is necessary or desirable to avoid disruption to the operations of the business or the Applicant during the CCAA Proceedings. The Applicant set out in its materials filed in support of the Initial Order that it intended to provide payment to all trade suppliers in the normal course, subject to the terms of the Initial Order, in order to protect its ongoing business.

- 3.7 As at November 5, 2021, the Applicant has issued, with the consent of the Monitor, pre-filing payments totaling approximately \$1.5 million to third-party suppliers in respect of goods and services provided prior to the Filing Date. Each such payment was made with the consent of the Monitor in accordance with the Initial Order

The Cadillac Fairview Entities' Rent

- 3.8 The Monitor was advised in the afternoon of November 9, 2021 that the Cadillac Fairview Entities believe that certain post-filing rent for certain of the Cadillac Fairview Entities' locations remains outstanding. The Applicant is reviewing such position. The Monitor understands that the Cadillac Fairview Entities and the Applicant, with the assistance of their respective counsel, are discussing this matter with a view to resolving it expeditiously. It is the Cadillac Fairview Entities' position that this matter needs to be addressed without any delay and at any rate, in advance of the Applicant's November 26, 2021 hearing date. The parties are working cooperatively and the resolution of this matter may require attendance to the Court prior to November 26, 2021.



#### 4.0 UPDATED CASH FLOW FORECAST

4.1 The Applicant, with the assistance of the Monitor, has prepared an updated cash flow forecast (the “**Updated Cash Flow Forecast**”) for the three-week period from November 6, 2021 to November 26, 2021 (the “**Cash Flow Period**”). A copy of the Updated Cash Flow Forecast, together with the Notes and Summary of Assumptions, is attached hereto as **Appendix “B”**.

4.2 The following table provides a summary of the Updated Cash Flow Forecast:

Updated Cash Flow Forecast		CAD\$000's
		<b>3-Week Period</b>
		<i>Nov-26</i>
		<hr/>
<b>Receipts</b>		<b>2,253</b>
<b>Disbursements</b>		
Vendors		(1,512)
Employee wages		(681)
Rent		-
Other SG&A		(309)
RBC principal, lease payments & interest		-
Restructuring professional Fees		(236)
		<hr/>
<b>Net Cash Flow</b>		<b>(485)</b>
		<hr/>
Cash balance, opening		43
Net Cash Flow		(485)
Revolving Facility draws		610
Interim Funding		-
		<hr/>
<b>Ending Cash Balance</b>		<b>168</b>

4.3 The Monitor notes that during the requested Stay Period extension to and including November 26, 2021, net cash flows are projected to be negative approximately \$485,000. These negative cash flows are projected to be financed by a combination of: (a) cash on

hand of approximately \$43,000; and (b) draws on the Revolving Facility of approximately \$610,000.

- 4.4 Although not included in the Updated Cash Flow Forecast above, the Monitor notes that soon after November 26, 2021, the Applicant is projected to require additional interim funding to provide for: (i) December 1 rent payments of approximately \$450,000 and (ii) additional amounts to fund operating costs and professional fees, which amounts may be material.

## **5.0 EXTENSION OF THE STAY PERIOD**

- 5.1 As described above, the current Stay Period expires on November 12, 2021 and the Applicant is seeking an extension of the Stay Period to and including November 26, 2021.

- 5.2 The Monitor supports the Applicant's request to extend the Stay Period for the following reasons:

- (i) as set out in the Updated Cash Flow Forecast, no additional interim funding is required through the extended Stay Period;
- (ii) the proposed extension will provide the Applicant with the stability required to continue its ordinary course business operations, which is in the best interests of MEI's stakeholders;
- (iii) RBC has provided its consent to the proposed extension to the Stay Period and neither the Cadillac Fairview Entities nor the Yonge & Bloor Landlord oppose it; and

- (iv) the Applicant has acted, and continues to act, in good faith and with due diligence to advance the CCAA Proceedings, continue discussions with certain of its key stakeholders and consider its available restructuring options.

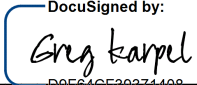
## **6.0 CONCLUSIONS AND RECOMMENDATIONS**

- 6.1 For the reasons set out in this Second Supplement, the Monitor respectfully recommends that the Court grant the relief requested by the Applicant.

\*\*\*\*\*

All of which is respectfully submitted to the Court this 10<sup>th</sup> day of November, 2021.

**Alvarez & Marsal Canada Inc., solely in its capacity as  
Monitor of McEwan Enterprises Inc.,  
and not in its personal or corporate capacity**

Per:  \_\_\_\_\_  
Greg Karpel  
Senior Vice-President

**APPENDIX A**  
**STAY EXTENSION AND INTERIM TRANSACTION FUNDING APPROVAL ORDER**

See attached.

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

THE HONOURABLE CHIEF

)

MONDAY, THE 1<sup>ST</sup>

JUSTICE MORAWETZ

)

DAY OF NOVEMBER, 2021

)



**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 MCEWAN ENTERPRISES INC.**

Applicant

**STAY EXTENSION AND INTERIM  
TRANSACTION FUNDING APPROVAL ORDER**

THIS MOTION, made by McEwan Enterprises Inc. (the “**Applicant**”) pursuant to the *Companies’ Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the “**CCAA**”), was heard this day via videoconference.

ON READING the Notice of Motion of the Applicant dated October 1, 2021 (the “**Notice of Motion**”), the affidavit of Dennis Mark McEwan sworn October 1, 2021 and the Exhibits thereto, the Second Report of Alvarez & Marsal Canada Inc., in its capacity as the Court-appointed monitor of the Applicant (the “**Monitor**”), dated October 14, 2021, and the Supplement to the Second Report of the Monitor dated November 1, 2021 (the “**Supplemental Report**”), and on hearing the submissions of counsel for the Applicant, counsel for the Monitor, and such other counsel as were present.

## SERVICE

1. THIS COURT ORDERS that the time for service of the materials filed in respect of this Motion is hereby abridged and validated so that this Motion is properly returnable today and hereby dispenses with further service thereof.

## EXTENSION OF THE STAY PERIOD

2. THIS COURT ORDERS that the Stay Period (as defined in the Amended and Restated Initial Order granted by this Court in these proceedings on October 7, 2021 (the “**Amended and Restated Initial Order**”)) be and is hereby extended to and including 11:59 p.m. on November 12, 2021, and all other terms of the Amended and Restated Initial Order shall remain in full force and effect, unamended, except as may be required to give effect to this paragraph.

## INTERIM TRANSACTION FUNDING

3. THIS COURT ORDERS that the Applicant is hereby authorized and empowered to obtain interim funding (the “**Interim Transaction Funding**”) from 2864785 Ontario Corp. (the “**Interim Transaction Funding Lender**”) in order to finance the Applicant’s working capital requirements, other general corporate purposes and capital expenditures, and the costs of these proceedings, provided that the Interim Transaction Funding shall not exceed \$600,000 unless permitted by further Order of this Court, and such Interim Transaction Funding is hereby approved.

4. THIS COURT ORDERS that the Interim Transaction Funding shall be on the terms and subject to the conditions set forth in the form of debenture in the form attached as Appendix “B” of the Supplemental Report with such amendments as the Applicant and the Interim Transaction Funding Lender may agree, with the consent of the Monitor (the “**Debenture**”), which Debenture is hereby approved.

5. THIS COURT ORDERS that the Applicant is hereby authorized and empowered to execute and deliver the Debenture and, subject to the Monitor’s consent, such definitive documents (collectively, the “**Definitive Documents**”) as are contemplated by the Debenture or as may be reasonably required by the Interim Transaction Funding Lender in respect of the Interim Transaction Funding, and the Applicant is hereby authorized and directed to pay and

perform all of its indebtedness, liabilities and obligations in respect of the Interim Transaction Funding to the Interim Transaction Funding Lender under and pursuant to the Debenture and the Definitive Documents (if any) as and when the same become due and are to be performed, notwithstanding any other provision of this Order.

6. THIS COURT ORDERS that the Interim Transaction Funding Lender shall be entitled to the benefit of and is hereby granted a charge (the “**Interim Transaction Funding Lender’s Charge**”) on the Property (as defined in the Amended and Restated Initial Order) to secure the Applicant’s obligations in respect of the Interim Transaction Funding to the Interim Transaction Funding Lender under and pursuant to the Debenture and the Definitive Documents (if any). The Interim Transaction Funding Lender’s Charge shall rank in priority to all Encumbrances (as defined in the Amended and Restated Initial Order) in favour of any Person (as defined in the Amended and Restated Initial Order), notwithstanding the order of perfection or attachment, except for (a) any secured creditor of the Applicant who did not receive the Notice of Motion and (b) the Encumbrances in favour of Royal Bank of Canada, and shall rank immediately behind in priority to the Directors’ Charge (as defined in the Amended and Restated Initial Order).

7. THIS COURT ORDERS that the Interim Transaction Funding Lender shall be treated as unaffected in any plan of arrangement or compromise filed by the Applicant under the CCAA, or any proposal filed by the Applicant under the *Bankruptcy and Insolvency Act* (Canada) (the “**BIA**”), with respect to the Interim Transaction Funding.

8. THIS COURT ORDERS that the filing, registration or perfection of the Interim Transaction Funding Lender’s Charge shall not be required, and that the Interim Transaction Funding Lender’s Charge shall be valid and enforceable for all purposes, including as against any right, title or interest filed, registered, recorded or perfected subsequent to the Interim Transaction Funding Lender’s Charge coming into existence, notwithstanding any such failure to file, register, record or perfect.

9. THIS COURT ORDERS that except as otherwise expressly provided for herein, the Applicant shall not grant any Encumbrances over any Property that rank in priority to, or *pari passu* with, the Interim Transaction Funding Lender’s Charge, unless the Applicant also obtains the prior written consent of the Interim Transaction Funding Lender.



10. THIS COURT ORDERS that the Debenture, the Definitive Documents (if any) and the Interim Transaction Funding Lender's Charge shall not be rendered invalid or unenforceable and the rights and remedies of the Interim Transaction Funding Lender thereunder shall not otherwise be limited or impaired in any way by (a) the pendency of these proceedings and the declarations of insolvency made herein; (b) any application(s) for bankruptcy order(s) issued pursuant to the BIA, or any bankruptcy order made pursuant to such applications; (c) the filing of any assignments for the general benefit of creditors made pursuant to the BIA; (d) the provisions of any federal or provincial statutes; or (e) any negative covenants, prohibitions or other similar provisions with respect to borrowings, incurring debt or the creation of Encumbrances, contained in any existing loan documents, lease, sublease, offer to lease or other agreement (collectively, an "**Agreement**") which binds the Applicant, and notwithstanding any provision to the contrary in any Agreement:

- (a) neither the creation of the Interim Transaction Funding Lender's Charge nor the execution, delivery, perfection, registration or performance of the Debenture or the Definitive Documents (if any) shall create or be deemed to constitute a breach by the Applicant of any Agreement to which it is a party;
- (b) the Interim Transaction Funding Lender shall not have any liability to any Person whatsoever as a result of any breach of any Agreement caused by or resulting from the creation of the Interim Transaction Funding Lender's Charge, or the execution, delivery or performance of the Debenture or Definitive Documents (if any); and
- (c) the payments made by the Applicant pursuant to this Order, the Debenture or the Definitive Documents (if any), and the granting of the Interim Transaction Funding Lender's Charge, do not and will not constitute preferences, fraudulent conveyances, transfers at undervalue, oppressive conduct, or other challengeable or voidable transactions under any applicable law.

11. THIS COURT ORDERS that the Interim Transaction Funding Lender's Charge created by this Order over leases of real property in Canada shall only be a charge in the Applicant's interest in such real property leases.

**MISCELLANEOUS**

12. 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 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.



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Chief Justice G.B. Morawetz

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

Court File No. CV-21-00669445-00CL

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF  
MCEWAN ENTERPRISES INC.**

Applicant

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

Proceeding commenced at Toronto

**STAY EXTENSION AND INTERIM  
TRANSACTION FUNDING APPROVAL ORDER**

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**APPENDIX B**  
**UPDATED CASH FLOW FORECAST**

See attached.

McEwan Enterprises Inc.

Cash Flow Forecast

For the 3-week period ending November 26, 2021

(Unaudited, in 000s CAD)

		Week 1	Week 2	Week 3	3 Week
Week ending		Nov 12	Nov 19	Nov 26	Total
Receipts					
	(1)	751	751	751	2,253
Disbursements					
Vendors	(2)	(504)	(504)	(504)	(1,512)
Employee wages	(3)	(227)	(227)	(227)	(681)
Rent		-	-	-	-
Other SG&A (incl. HST remittances)	(4)	(107)	(52)	(150)	(309)
Total Disbursements		(838)	(783)	(881)	(2,502)
Operating Net Cash Flow		(87)	(32)	(130)	(249)
RBC principal, lease payments & interest	(5)	-	-	-	-
Restructuring professional fees	(6)	(36)	(110)	(90)	(236)
Net Cash Flow		(123)	(142)	(220)	(485)
Beginning Cash		43	530	388	43
Net Cash Flow		(123)	(142)	(220)	(485)
Interim Funding		-	-	-	-
Change in Revolving credit line		610	-	-	610
Ending Cash		530	388	168	168
<u>RBC Credit Line</u>					
Revolving credit line limit		850	850	850	850
Revolving credit line drawn		(850)	(850)	(850)	(850)
Revolving credit line available		-	-	-	-

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

Court File No.: CV-21-00669445-00CL

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF  
MCEWAN ENTERPRISES INC.**

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

Proceeding commenced at Toronto

**SECOND SUPPLEMENT TO THE  
SECOND REPORT OF THE MONITOR**

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its capacity as the Monitor and not in its personal or  
corporate capacity