

COURT FILE NUMBER 1703-12765

COURT COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE EDMONTON

PLAINTIFF SERVUS CREDIT UNION LTD. Ch

DEFENDANTS CRELOGIX ACCEPTANCE CORPORATION, CRELOGIX PORTFOLIO SERVICES CORP., CRELOGIX CREDIT GROUP INC., KARL SIGERIST, NICHOLAS CARTER, MIKE MCKAY AND MICHAEL MILLS

DOCUMENT **APPLICATION BY ALVAREZ & MARSAL CANADA INC IN ITS CAPACITY AS COURT APPOINTED RECEIVER OF THE CORPORATE DEFENDANTS (COLLECTIVELY "CRELOGIX") – Advice and Directions on Unfunded Merchant Claims Process Order**

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT
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File: 73150-2

NOTICE TO RESPONDENTS: Unfunded Merchants as per attached service list

This application is made against you. You are a respondent.

You have the right to state your side of this matter before the master/judge.

To do so, you must be in Court when the application is heard as shown below:

Date	June 13, 2018
Time	8:30 a.m.
Where	Edmonton Law Courts
Before Whom	The Honourable Mr. Justice R. Graesser, in Chambers

Go to the end of this document to see what else you can do and when you must do it.

Remedy claimed or sought:

1. An Order abridging the time required for service of notice of this Application to that actually given, and declaring such notice as was given to be good and sufficient notice of this Application;



2. Advice and directions generally with respect to the hearing of the claims made by certain parties defined in these proceedings as the “Unfunded Merchants” presently scheduled for July 11 and July 12, 2018, and specifically with respect to the following issues:
 - a. Should the claims of certain Unfunded Merchants who failed to strictly comply with the requirements of this Honourable Court’s Process Order granted and filed herein on April 13, 2018 be dismissed, or should any such deficiencies be excused?
 - b. Should the Unfunded Merchants be permitted to participate in the hearings scheduled for July 11 and July 12, 2018 by telephone?
 - c. Can the Unfunded Merchants be self-represented at the hearings scheduled for July 11 and July 12, 2018?
3. Such further and other relief as this Honourable Court may grant as may be necessary to give effect to the foregoing.

Grounds for making this application:

4. With respect to the technical breaches of this Honourable Court’s Process Order, the Receiver notes that several of the Unfunded Merchant claims submitted in response to the Process Order were not filed, or were not filed by the deadline set out in paragraph 4 of the Process Order. Paragraph 5 of the Process Order provides that in the event that merchant did not comply with paragraph 4 of the Process Order, the unfunded loan agreements to which that Unfunded Merchant is a party and any funds collected by the Receiver pursuant to such unfunded loan agreement will be declared to be the property of Crelogix and subject to the first ranking security interest of the Plaintiff herein and the Unfunded Merchant in question shall be considered an unsecured creditor with respect to any claims it may have pursuant to the unfunded loan agreements.
5. With respect to the ability of any Unfunded Merchant to participate in the hearings scheduled for July 11 and July 12, 2018 by telephone, the Receiver notes that Rule 6.10 of the *Alberta Rules of Court* (the “Rules”) permits an electronic hearing if the parties agree and the Court so permits, or, on application, the Court orders an electronic hearing.
6. With respect to the ability of an Unfunded Merchant to be self-represented in these proceedings, the Receiver notes that Rule 2.23(3)(a) of the Rules provides that the Court may permit a person to assist a party before the Court but that no assistance may be permitted that would contravene s.106(1) of the *Legal Profession Act*. Alberta case law from our Court of Appeal stands for the

proposition that no corporation may be represented by anyone other than a lawyer before the Courts of this province.

7. Such further and other grounds as Counsel may advise.

Material or evidence to be relied on:

8. All Reports filed by the Receiver, including without limitation its Fifth Report; and,
9. Such further and other material or evidence as Counsel may advise and this Honourable Court may permit.

Applicable rules:

10. Rules 6.3, 11.27 and 13.5 of the *Alberta Rules of Court*, together with those Rules specifically referred to above.

Applicable Acts and regulations:

11. As referenced above.
12. Such further and other Acts and regulations as Counsel may advise.

Any irregularity complained of or objection relied on:

13. None.

How the application is proposed to be heard or considered:

14. In person before the Honourable Mr. Justice R. Graesser in Chambers.
15. For out of town participants, the Receiver will open a conference telephone facility at 8:15 a.m. on June 13, 2018 as follows:

Toll Free (North America): 1-877-234-4610

Passcode: 33281#

WARNING

If you do not come to Court either in person or by your lawyer, the Court may give the applicant what they want in your absence. You will be bound by any order that the Court makes. If you want to take part in this application, you or your lawyer must attend in Court on the date and at the time shown at the beginning of the form. If you intend to rely on an affidavit or other evidence when the application is heard or considered, you must reply by giving reasonable notice of the material to the applicant.

**Crelogix Acceptance Corporation, Crelogix Portfolio Services Corp
Crelogix Credit Group Inc. (collectively "Crelogix") – in Receivership**

Service List D – Unfunded Merchants (who have provided application materials for hearing in July 2018)

Counsel/Contact	Name of Merchant	Email/Fax
Frank M. Falconi Barrister, Solicitor, Notary Public 369 Murray Street North Bay, ON P1B 4G3 Attn.: Frank M. Falconi	1537891 Ontario Inc.(o/a Positive Promotions) Elder Enterprises Ltd. J&B Cycle and Marine Co. Ltd. North Bay Cycle & Sports (2015) Inc. Clare's Cycle and Sports Ltd. 900337 Ontario Inc. O/A Gaston's Sports & Marine Andrew Sports	frank@falconi.ca Fax: (705) 474-8303
1537891 Ontario Inc. (o/a Positive Promotions) 333 McIntyre Street East North Bay, ON P1B 8G5 Attn.: Brad Long	1537891 Ontario Inc. (o/a Positive Promotions)	brad@positivepromotions.ca Fax: (705) 476-3231
John Brown Law 276 Conception Bay Highway PO Box 1500 Bay Roberts, NL AOA 1G0 Attn.: John Brown	Recreational Parts & Accessories Limited	jb@johnbrownlaw.ca Fax: (709) 786-1392
Renovation & Construction Gauthier et Peloguin 1358 Boulevard Marie-Victorin Longueuil, Quebec J4G 1A3 Attn.: Katherine Perreault	Renovation & Construction Gauthier et Peloguin	Backoffice.enairbec@gmail.com Fax: (450) 332-4928

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Blackfoot Motorcycle Ltd.
Airdrie Trailer Sales Ltd.
Badiuk Equipment Ltd.
BroadView Power Sports Ltd.
Broker's Marine & Sport Ltd.
Elk Island Sales Inc.
Fraser Pacific Equipment Corp.
GRM Sales Ltd. (Bar T5 Trailers Sask)
Happy Camper R/V Alberta Ltd.
Jake's Speed Shop Inc. (J & J Sports)
Ken's Marine (Northstar Recreation)
1784302 Alberta Ltd. (M & P Trailer Sales)
Mountain Toys Polaris Ltd.
Proline Motorsports & Marine Ltd.
1455300 Alberta Ltd. (Raven Truck Accessories)
Recreational Power Sports Inc.
Red-Line Power Craft Ltd.
Rick's Marine (1999) Ltd.
1431209 AB Inc. (Riderz)
Traction Motorcycles Ltd. (Daytona Motorsports)
Trailer Country Ltd.
Whitecap Recreation
Dynasty Spas Inc. (World of Spas Calgary)
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