



No. S245481
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 THE *COOPERATIVE ASSOCIATION ACT*, S.B.C.C. 1999, c. 28

AND

IN THE MATTER OF BC TREE FRUITS COOPERATIVE, BC TREE FRUITS INDUSTRIES
LIMITED and GROWERS SUPPLY COMPANY LIMITED

PETITIONERS

APPLICATION RESPONSE

Application Response of: the voting members of the BC Tree Fruits Cooperative (the
“Members”)

THIS IS A RESPONSE TO the notice of application of Alvarez and Marsal Canada Inc. filed
July 9, 2025.

The application respondent estimates that the application will take 30 minutes

Part 1: ORDERS CONSENTED TO

The Members consent to the granting of the orders set out in the following paragraphs of Part 1
of the notice of application: NIL

Part 2: ORDERS OPPOSED

The Members oppose the granting of ALL the orders set out in of Part 1 of the notice of application.

Part 3: ORDERS ON WHICH NO POSITION IS TAKEN

The Members take no position on the granting of the orders set out in the following paragraphs of
Part 1 of the notice of application: NIL

Part 4: FACTUAL BASIS

1. On July 9, 2025, the court-appointed monitor, Alvarez & Marsal Canada Inc. (the “**Monitor**”) filed an application (the “**Application**”) seeking to:
 - (a) appoint a representative and representative counsel for all former members of the BC Tree Fruits Cooperative (“**BCTFC**”) who delivered fruit to BCTFC at any time during the years 2018 through 2023 (the “**Former Members**”); and
 - (b) grant a charge over the over the Property (as defined in the Amended and Restated Initial Order granted on August 26, 2024 in these proceedings) in the amount of \$50,000 as security for the Former Members’ legal fees (the “**Former Members Charge**”).
2. The Members oppose:
 - (a) the Monitor seeking to appoint a representative and counsel for the Former Members on its own initiative, with little supporting evidence, when similar assistance was not provided to the Members (who have a larger stake in these proceedings); and
 - (b) the Monitor seeking the Former Members Charge when Former Members have not been required to self-fund any of their own legal fees in relation to these CCAA proceedings (in comparison, the Members self-funded approximately \$32,000 of their own legal fees to obtain a representative and counsel).

Affidavit #4 of Amarjit Singh Lalli sworn July 15, 2025 (“**Lalli Affidavit #4**”), para 8

3. The Application and its supporting materials lack sufficient evidence to justify the extraordinary relief being sought.
4. Further, if the Members pass a vote amending the BCFC rules to remove Former Members from a distribution of surplus funds, then Former Members will have no interest in the BCTFC estate, and therefore no justification to receive the Former Members Charge.

Lalli Affidavit #4, para 9

Part 5: LEGAL BASIS

5. The Members rely on Sections 11 and 11.52(1)(c) of the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36.
6. This Court's factors to be considered for appointment of a Former Members' representative and representative counsel have not been satisfied. Similarly, the factors to approve the Former Members Charge have not been satisfied.

Mountain Equipment Co-Operative (Re), 2020 BCSC 2037 at para 23, citing *Canwest Publishing Inc. (Re)*, 2010 ONSC 1328 at para 21

Mountain Equipment Co-Operative (Re), 2020 BCSC 2037 at para 58

7. As such, the application should be dismissed.

Part 6: MATERIAL RELIED ON

1. Fourth Affidavit of Amarjit Singh Lalli made July 15, 2025.
 - ☒ The application respondent has filed in this proceeding a document that contains the application respondent's address for service.
 - ☐ The application respondent has not filed in this proceeding a document that contains an address for service. The application respondent's ADDRESS FOR SERVICE is: [insert address]

Dated: July 15, 2025



Signature of Mary Buttery, K.C.
Counsel for BC Tree Fruits Members