



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

SIXTEENTH REPORT OF THE MONITOR

ALVAREZ & MARSAL CANADA INC.

September 20, 2023



ALVAREZ & MARSAL

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1.0 INTRODUCTION

- 1.1 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 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 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. The Sale Transaction closed on October 30, 2020.
- 1.3 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.
- 1.4 On March 29, 2022, this Honourable Court granted an order (the “**Distribution Order**”) granting, *inter alia*, the approval of a distribution methodology (the “**Distribution Methodology**”), to be applied by the Monitor in administering any distributions in these CCAA Proceedings, 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.
- 1.5 On March 30, 2023, this Honourable Court pronounced an order further extending the Stay Period to September 29, 2023 (the “**September Stay Expiry**”) and granted, among other things, the Monitor the authority to make an assignment of bankruptcy on behalf of the Petitioners pursuant to the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended, following a

final distribution in accordance with the Distribution Methodology (the “**Final Distribution**”) and an order of this Honourable Court terminating the CCAA Proceedings

- 1.6 Concurrent with this report, the Monitor has filed a notice of application with this Honourable Court, returnable on September 29, 2023 (the “**September 29 Application**”), seeking approval of an order (the “**Stay Extension Order**”) to extend the Stay Period to November 30, 2023.
- 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 Sixteenth Report dated September 20, 2023 (the “**Sixteenth Report**”) has been prepared by the Monitor in support of its application for the Stay Extension Order and to provide this Honourable Court and the Petitioners’ stakeholders information with respect to the following:
 - a) the activities of the Monitor since the Monitor’s Fifteenth Report dated March 23, 2023 (the “**Fifteenth Report**”);
 - b) an update on the anticipated Final Distribution;
 - c) a comparison of the actual cash receipts and disbursements compared to the cash flow forecast (the “**Tenth Cash Flow Forecast**”), as appended to the Fifteenth Report;
 - d) an updated cash flow forecast for the period September 18, 2023 to November 30, 2023 (the “**Eleventh Cash Flow Forecast**”), and the Monitor’s comments in respect of same; and
 - e) the Monitor’s conclusions and recommendations.

3.0 TERMS OF REFERENCE

- 3.1 The Monitor has prepared this Sixteenth Report in connection with the September 29 Application and this report should not be relied on for any other purpose.
- 3.2 Certain of the information referred to in this Sixteenth 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 Canada Handbook* 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, Claims Process Order, and Distribution 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 Fifteenth Report have included the following:

Review of CCAA Court Materials

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

Attending to Matters Related to the Interim Distributions

- b) addressing numerous enquiries from Claimants, Employee Claimants and statutory authorities related to the Interim Distributions and anticipated Final Distribution;
- c) corresponding and following up with numerous Claimants and Employee Claimants and/or their legal counsel regarding their Interim Distributions, as well as outstanding cheques and updating addresses and contact information as required;

Monitoring of Cash Receipts & Disbursements

- d) preparing and reviewing bi-weekly payments, as well as reconciling cash receipts and disbursements of the trust accounts of the Monitor;

Asset Realization and Recovery Matters

- e) completing the wind-down of 1077's interest in Park Towns Developments Limited Partnership, a residential townhouse project located in Toronto, Ontario, which consisted of numerous discussions and correspondence with legal counsel of the general partner and directors of Park Towns Developments GP Inc., resulting in settlement proceeds of \$60,000;
- f) coordinating and advancing the recovery of certain customs levies applied by the Canada Border Services Agency ("CBSA") and administered by the Canada Revenue Agency ("CRA") for the importation of certain goods with the assistance of KPMG LLP ("KPMG"), resulting in net receipts of \$372,000 collected by the Monitor on September 13, 2023 (the "CBSA Refund");

Statutory and Other Responsibilities

- g) preparing this Sixteenth Report and Eleventh Cash Flow Forecast;

- h) reconciling and/or filing pre-filing payroll withholding remittances and post-filing GST returns and corresponding with the CRA regarding post-filing refunds and other related matters;
- i) concluding the CRA's audit of the Canada Emergency Wage Subsidy received by the Petitioners for the period between March 15, 2020 to November 30, 2020;
- j) attending to numerous enquiries from former employees requesting physical and electronic copies of their personnel files and other related employment records and information; and
- k) receiving and responding to telephone and email enquiries from members.

5.0 FINAL DISTRIBUTION

- 5.1 As detailed in the Fifteenth Report, there are 249 Accepted Claims totaling \$31.7 million that the Monitor has, or is deemed to have, accepted and there are no unresolved Disputed Claims remaining.
- 5.2 To date, the Monitor has made two Interim Distributions: the first on or about May 31, 2022 and the second on November 28, 2022, together totaling \$28.2 million and representing 89% of the total Accepted Claims. There are 6 Employee Claimants who have not yet deposited their Interim Distribution cheques, which in aggregate totals to \$84,411. The Monitor periodically reviews its trust bank account and has made best efforts to contact the specific Claimants and Employee Claimants in order to re-issue and/or redirect the cheques, where possible.
- 5.3 The Monitor has maintained a cash reserve in the estate for the estimated on-going costs of the CCAA Proceedings and to ensure that the Final Distribution to Claimants and Employee Claimants would be in excess of \$10.00 per Claim, as further discussed in section 7.3 of this report.
- 5.4 The Monitor had anticipated receiving the CBSA Refund well in advance of the September Stay Expiry, and to this end, the Monitor had engaged both the CBSA and the CRA in extensive communications consisting of phone calls, emails, and customer service enquiries to provide all necessary information to advance the issuance and delivery of the CBSA Refund. On August 28, 2023, KPMG was advised by the CBSA that the process of issuing a cheque for the CBSA Refund had been initiated, which was subsequently received by the Monitor's office on September 13, 2023.
- 5.5 While waiting for the resolution and issuance of the CBSA Refund, the Monitor had considered an interim distribution prior to the September Stay Expiry, however, decided to forgo such a distribution due to the incremental expenses and professional fees that would be incurred by the

estate in advancing an interim distribution in addition to the eventual Final Distribution, which would decrease the overall recovery to Claimants.

5.6 With the collection of the CBSA Refund, the Monitor has begun preparations for the Final Distribution and the total anticipated recovery to Claimants is expected to be in the range of 94% of their Accepted Claim, which remains consistent with the estimated recoveries presented by the Monitor in previous reports. It is the Monitor's intention to make best efforts to effect the Final Distribution as soon as possible, which is anticipated to occur no later than the end of October 2023.

6.0 ACTUAL CASH FLOW RESULTS COMPARED TO TENTH CASH FLOW FORECAST

6.1 Consistent with the ongoing oversight and monitoring of the business and financial affairs of the Petitioners, the Monitor has modified the cash flow review protocol to review actual cash flows against the Tenth Cash Flow Forecast from a weekly basis to bi-weekly to reflect the decreased activity in the accounts and minimize associated professional fees.

6.2 The Petitioners' actual cash receipts and disbursements compared to the Tenth Cash Flow Forecast during the period from September 15, 2020 to September 17, 2023 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 September 17, 2023
(in CAD 000's)

	For the 157 Weeks Ended September 17, 2023		
	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	4,755	4,692	63
GST refunds	187	205	(17)
Return of deposits	(601)	(601)	-
Total receipts	54,146	54,100	46
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	3,320	3,413	93
Insurance	145	145	-
Property taxes and other property liabilities	4,512	4,547	35
Statutory obligations	3,760	3,767	7
Consultants	63	63	-
Total disbursements	59,825	59,960	135
	(5,679)	(5,860)	180
Other disbursements			
KERP payments	778	778	-
Professional fees	6,223	6,260	37
Debt service	987	987	-
Contingency	574	599	25
Total other disbursements	(8,562)	(8,624)	62
Interim Distributions	(28,233)	(28,233)	-
Net proceeds from Sale Transaction	30,411	30,411	-
Net Cash Flow	\$ (12,063)	\$ (12,305)	\$ 243
Opening Cash Balance	\$ 14,188	\$ 14,188	\$ -
Net Cash Flow	(12,063)	(12,305)	243
Ending Cash Balance	\$ 2,126	\$ 1,883	\$ 243

** 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.*

6.3 As at September 17, 2023, the closing cash balance held in trust by the Monitor totaled approximately \$2.1 million. Certain variances in respect of the reported cash receipts and disbursements are as follows:

- a) total operating receipts were approximately \$46,000 higher than forecast, primarily due to higher than anticipated interest income and CBSA Refund amount, which were offset by delays in receiving GST refunds from the CRA; and

b) total operating disbursements were approximately \$197,000 lower than forecast, primarily due to timing differences with respect to payment of certain general and administrative expenses and property taxes, along with lower than anticipated professional fees.

6.4 Since the Fifteenth Report, the Monitor has continued to review the cash receipts and disbursements of the Petitioners and perform bi-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.

7.0 UPDATED CASH FLOW FORECAST

7.1 The Eleventh Cash Flow Forecast has been prepared by the Monitor for the period from September 18, 2023 to November 30, 2023 (the “Forecast Period”). The Eleventh Cash Flow Forecast is attached herewith as Appendix “A” along with accompanying notes and assumptions. A summary of the Eleventh Cash Flow Forecast is tabled below:

1077 Holdings Co-operative and 1314625 Ontario Limited	
Eleventh Cash Flow Forecast	
For the 11 week period ending on November 30, 2023	
(in CAD 000's)	
	<u>Forecast Period</u>
Receipts	
GST and other refunds	\$ 13
Total receipts	<u>13</u>
Disbursements	
General and administrative	92
Property taxes	35
Statutory obligations	4
Total disbursements	<u>131</u>
	(118)
Other disbursements	
Professional fees	130
Contingency	14
Total other disbursements	<u>(144)</u>
Net cash flow	<u>\$ (262)</u>
Opening cash balance	\$ 2,126
Net cash flow	(262)
Ending cash balance	<u>\$ 1,864</u>

7.2 The Monitor’s comments with respect to the Eleventh Cash Flow Forecast are as follows:

- a) forecast receipts totaling \$13,000 relate to GST refunds anticipated for post-filing expenses incurred during the pendency of the CCAA Proceedings;
- b) forecast disbursements totaling \$275,000 consist of the following:

- i. general and administrative costs of approximately \$92,000 relate to estimated fees for engaging KPMG to assist with the recovery of the CBSA Refund and a third-party payroll provider to administer distributions to Employee Claimants and preparation of related tax forms, and estimated mailing and banking fees for the Final Distribution;
- ii. property liabilities approximating \$35,000 in connection with outstanding property taxes for the former head office property;
- iii. statutory obligations of approximately \$4,000 relate primarily to assessments pertaining to the CRA's pensionable and insurable earnings reviews; and
- iv. professional fees of approximately \$130,000 for services provided by the Monitor and its legal counsel (refer to section 7.3 below regarding a reserve for a future bankruptcy of the 1077 estate).

7.3 At present, the Monitor anticipates it will be holding approximately \$1.9 million at the end of the Forecast Period, which is consistent with the Monitor's Fifteenth Report. The majority of the \$1.9 million balance will be used to make the Final Distribution in accordance with the Distribution Methodology with a balance of funds, expected not to exceed \$75,000, reserved to administer the Petitioners' bankrupt estate and resolve any remaining residual matters in the CCAA Proceedings, if any.

7.4 The Eleventh Cash Flow Forecast has been prepared solely for the purpose described in Note 1 on the face of the Eleventh Cash Flow Forecast, and readers are cautioned that it may not be appropriate for other purposes.

8.0 STAY EXTENSION

8.1 Pursuant to the Stay Extension Order, the Stay Period will expire on September 29, 2023. The Monitor is seeking an extension of the Stay Period to November 30, 2023.

8.2 The Monitor believes extending the Stay Period for 9 weeks is reasonable for the following reasons:

- a) during the proposed extension of the Stay Period, the Monitor will have an opportunity to:
 - i. complete the Final Distribution to affected creditors, make the necessary statutory remittances, and make reasonable efforts to follow-up with any undeposited cheques prior to the end of the Forecast Period;
 - ii. prepare for the issuance of annual tax forms for the Employee Claimants and other tax compliance reporting as required;

- iii. assign the Petitioners into bankruptcy upon completion of the Final Distribution and the termination of these CCAA Proceedings, as authorized by the Court order granted March 30, 2023; and
 - iv. attend to any remaining activities relating to the wind-down of the Petitioners' operations and business.
- b) the Eleventh Cash Flow Forecast indicates that there is sufficient liquidity to continue operating during the requested extension of the Stay Period; and
 - c) no creditor or any stakeholders of the Petitioners would be materially prejudiced by the extension of the Stay Period.

9.0 MONITOR'S CONCLUSIONS AND RECOMMENDATIONS

- 9.1 For the reasons set out in this Sixteenth Report, the Monitor is of the view that the requests are reasonable and respectfully recommends that this Honourable Court grant the proposed Stay Extension Order.

All of which is respectfully submitted to this Honourable Court this 20th day of September, 2023.

**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

APPENDIX A

Eleventh Cash Flow Forecast

1077 Holdings Co-operative and 131465 Ontario Limited
Eleventh Cash Flow Forecast (Note 1)
For the 11 week period ending on November 30, 2023
(Unaudited, in 000s CAD)

Week		<i>Week 1</i>	<i>Week 2</i>	<i>Week 3</i>	<i>Week 4</i>	<i>Week 5</i>	<i>Week 6</i>	<i>Week 7</i>	<i>Week 8</i>
Week Ending	Notes	Sep 24	Oct 1	Oct 8	Oct 15	Oct 22	Oct 29	Nov 5	Nov 12
Receipts									
GST and other refunds	2	\$ -	\$ -	\$ -	\$ 13	\$ -	\$ -	\$ -	\$ 1
Total receipts		-	-	-	13	-	-	-	1
Disbursements									
General and administrative	3	-	-	0	-	-	79	0	-
Property taxes	4	-	-	-	-	-	35	-	-
Statutory obligations	5	-	-	4	-	-	-	-	-
Total disbursements		-	-	4	-	-	114	0	-
		-	-	(4)	13	-	(114)	(0)	1
Other disbursements									
Professional fees	6	13	-	-	45	-	-	-	-
Contingency	7	-	5	-	-	-	5	-	-
Total other disbursements		(13)	(5)	-	(45)	-	(5)	-	-
Net cash flow		\$ (13)	\$ (5)	\$ (4)	\$ (32)	\$ -	\$ (119)	\$ (0)	\$ 1
Opening cash balance		\$ 2,126	\$ 2,113	\$ 2,108	\$ 2,104	\$ 2,071	\$ 2,071	\$ 1,952	\$ 1,952
Net cash flow		(13)	(5)	(4)	(32)	-	(119)	(0)	1
Ending cash balance	8	\$ 2,113	\$ 2,108	\$ 2,104	\$ 2,071	\$ 2,071	\$ 1,952	\$ 1,952	\$ 1,953

1077 Holdings Co-operative and 131465 Ontario Limited
Eleventh Cash Flow Forecast (Note 1)
For the 11 week period ending on November 30, 2023
(Unaudited, in 000s CAD)

Week		<i>Week 9</i>	<i>Week 10</i>	<i>Week 11</i>	11 Weeks
Week Ending	Notes	Nov 19	Nov 26	Nov 30	Total
Receipts					
GST and other refunds	2	\$ -	\$ -	\$ -	\$ 13
Total receipts		-	-	-	13
Disbursements					
General and administrative	3	11	-	2	92
Property taxes	4	-	-	-	35
Statutory obligations	5	-	-	-	4
Total disbursements		11	-	2	131
		(11)	-	(2)	(118)
Other disbursements					
Professional fees	6	33	-	40	130
Contingency	7	4	-	-	14
Total other disbursements		(37)	-	(40)	(144)
Net cash flow		\$ (48)	\$ -	\$ (42)	\$ (262)
Opening cash balance		\$ 1,953	\$ 1,905	\$ 1,905	\$ 2,126
Net cash flow		(48)	-	(42)	(262)
Ending cash balance	8	\$ 1,905	\$ 1,905	\$ 1,864	\$ 1,864

1077 Holdings Co-operative and 131465 Ontario Limited

Eleventh Cash Flow Forecast

Notes and Assumptions

- 1 The weekly cash flow forecast of 1077 Holdings Co-operative and 1314625 Ontario Limited (collectively, "1077") for the period September 18, 2023 to November 30, 2023 has been prepared by the Monitor to set out the cash flow of 1077 (the "Eleventh Cash Flow Forecast").

The Eleventh Cash Flow Forecast has been prepared based on unaudited financial information and estimates of 1077's projected receipts and disbursements. Readers are cautioned that since the estimates are based on future events and conditions that are not ascertainable, the actual results achieved will vary and such variations may be material. Neither 1077 nor the Monitor makes any representations, warranties or other assurances that any of the estimates, forecasts, or projections will be realized.

The Eleventh Cash Flow Forecast reflects estimates and assumptions summarized below with respect to operations most notably, that 1077 continues to operate within the protections afforded under the CCAA and the Amended and Restated Initial Order granted on October 2, 2020 during the CCAA Proceedings. The Eleventh Cash Flow Forecast may be updated from time to time.

- 2 GST refunds related to post-filing expenses incurred during the pendency of the CCAA Proceedings.
- 3 General and administrative costs include estimated professional fees payable to 1077's consultant to assist with the recovery of customs levies, a third-party payroll provider for services related to the final distributions, as well as associated banking fees and mailing costs.
- 4 Property taxes include property taxes related to the former head office.
- 5 Statutory obligations include assessments pertaining to the CRA's pensionable and insurable earnings review that may be payable, subject to the Monitor's review and reconciliation.
- 6 Professional fees are estimates of the professional services expected to be provided during the CCAA Proceedings and include fees of the Monitor and its legal counsel.
- 7 Contingency costs are included to account for any unexpected expenses and represent approximately 5% of operating and other disbursements.
- 8 For purposes of this cash flow, the estimated closing cash balance of \$1.9 million will be available for the issuance of the Final Distribution and a reserve to administer the Petitioners' bankrupt estate and attend to any residual matters, which is not expected to exceed \$75,000.