

This is the 2<sup>nd</sup> affidavit  
of Robert Wallis in this case  
and was made on 23/Nov/2020

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 MOUNTAIN EQUIPMENT CO-OPERATIVE AND 1314625 ONTARIO  
LIMITED

Petitioners

### AFFIDAVIT

I, ROBERT WALLIS, of 1077 Great Northern Way, Vancouver, British Columbia,  
Businessperson, AFFIRM THAT:

1 I am a director of the Petitioner, Mountain Equipment Co-operative ("**MEC**")<sup>1</sup>, which is  
now named 1077 Holdings Co-operative ("**1077**"), and as such, I have personal knowledge of  
the facts and matters hereinafter deposed to, except where stated to be based on information  
and belief, in which case I verily believe the same to be true.

#### Background

2 I affirm this Affidavit in support of the Application brought by the Petitioners seeking  
various relief including:

- (a) a claims process order (the "**Claims Process Order**");
- (b) an order granting the Monitor enhanced powers (the "**Enhanced Powers Order**");

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<sup>1</sup> Although the co-operative Petitioner has changed its name, it will continue to use the name "MEC" in this pleading to avoid confusion.

- (c) an order updating the name “1077 Holdings Co-operative” as a petitioner in place of “Mountain Equipment Co-operative” and amending the style of cause accordingly; and
- (d) an order providing advice and directions regarding requests for disclosure of membership information (the “**Member Information Requests**”).

3 On October 2, 2020, this Court granted an order (the “**Sale Approval Order**”) approving a going-concern sale of substantially all of the assets and business of the Petitioners to the Purchaser pursuant to the Sale Agreement, as defined in the first affidavit of Philippe Arrata made September 13, 2020 (the “**First Arrata Affidavit**”). Capitalized terms contained herein that are not otherwise defined have the same meaning ascribed to them in the First Arrata Affidavit.

4 The background to these proceedings, including the circumstances of the Petitioners, the process leading up to the execution of the Sale Agreement, the key terms of that Sale Agreement, and the benefits of the Transaction to the Petitioners’ stakeholders are set out in the First Arrata Affidavit, the Confidential Arrata Affidavit, my first affidavit made September 22, 2020 (the “**First Wallis Affidavit**”) and the First Report of the Monitor.

5 On October 2, 2020, the Court also made an amended and restated initial order (the “**Amended and Restated Initial Order**”).

6 The Transaction closed on October 30, 2020. All of the assets purchased under the Sale Agreement (being the great majority of the Petitioners’ assets) have been conveyed to the Purchaser, and the Petitioners’ financial obligations to the Lenders have been paid subject to customary post-closing adjustments.

7 Since the date of the Sale Approval Order and Amended and Restated Initial Order, the Petitioners have been working diligently and in good faith to, among other things, take the post-

closing steps necessary to complete the Transaction and work with the Monitor and other stakeholders on a proposed claims process.

### **Claims Process**

8 In this section, all capitalized terms not otherwise defined herein have the same meanings as are given to them in the draft Claims Process Order attached to the within notice of application.

9 The Petitioners and the Monitor have engaged in consultations with, and sought feedback from, significant stakeholders when developing the Claims Process, including landlords of disclaimed leases, who the Petitioners expect will be the Petitioners' largest claimants (the "**Disclaimed Landlords**").

10 To date, the Petitioners have issued notices of disclaimers for the Saskatoon Store, the St. Denis Store, the Calgary NW Store, the Laval Store, and the Calgary SW Store. It is likely that the Petitioners will imminently issue a notice of disclaimer for the Head Office. Attached hereto and marked as **Exhibit "A"** to this my Affidavit are true copies of these notices of disclaimer.

11 With the possible exception of the Laval Store, for which the Purchaser entered into a separate agreement with the landlord of that location on different terms from those set out in the disclaimed lease between that landlord and MEC, it is expected that the Disclaimed Landlords will advance significant claims against the Petitioners in the Claims Process.

12 Further, approximately 210 of MEC's employees have been terminated after the commencement of these CCAA proceedings, and it is expected that most of them, and certain other former MEC employees who were terminated prior to the commencement of these CCAA

proceedings but were on salary continuance, will have claims for unpaid severance in the Claims Process.

13 With respect to severance claims brought by employees whose employment has been terminated, most of the Petitioners' employment contracts have clauses confirming that the severance amount payable is the applicable statutory severance amount. The calculations for these employees claims have been completed by the Petitioners, with the assistance of the Monitor.

14 There are approximately 34 employees whose employment has been terminated with contracts that do not limit severance to the applicable statutory amount, and potentially include some additional contractual and/or common law severance entitlement. The Petitioners, with the assistance of the Monitor, have calculated those severance amounts as well.

15 The Petitioners believe the Claims Process will facilitate the determination of claims against the Petitioners in a fair, consultative and expeditious manner, and will allow for a distribution to creditors as quickly as reasonably practicable.

16 I understand the Monitor supports the Claims Process and the granting of the Claims Process Order.

### **Membership Information Requests**

17 The Petitioners have received two requests from individuals for disclosure of personal information regarding MEC's members.

18 On September 22, 2020, an individual named Eugene Kung made a written request, addressed to the MEC registered office and delivered by hand, for "[a] copy of the list of names and addresses of the members of the Mountain Equipment Cooperative, together with their contact details, being email addresses and telephone numbers". He further requested that this

membership list be delivered electronically to his provided email address (the “**Kung Request**”). Attached hereto and marked as **Exhibit “B”** to this my Affidavit is a true copy of this request.

19 MEC’s Governance Office acknowledged receipt of the Kung Request on September 23, 2020 and advised Mr. Kung that it would respond after it reviewed the request. Mr. Kung subsequently followed up on the Kung Request by email in October 2020. Attached hereto and marked as **Exhibit “C”** to this my Affidavit is a true copy of the email chain between Mr. Kung and MEC’s Governance Office.

20 On October 1, 2020, an individual named Andrej Kalesoski made a written request by email to MEC’s general counsel for a “full copy of the Mountain Equipment Cooperative membership list” (the “**Kalesoski Request**”, together with the Kung Request, the “**Member Information Requests**”). Attached hereto and marked as **Exhibit “D”** to this my Affidavit is a true copy of that request.

21 On October 20, 2020, counsel for the Petitioners delivered letters to Mr. Kung and Mr. Kalesoski in respect of each of their requests. Attached hereto and marked as **Exhibit “E”** to this my Affidavit are true copies of those letters.

22 My understanding is that one or both of the Member Information Requests were made in conjunction with the ad hoc “SaveMEC” group.

23 On October 15, 2020, an individual and former MEC director named Tamara Paton sent an e-mail to Judi Richardson, the Chair of the MEC Board, regarding, among other things, the Member Information Requests. In that e-mail, Ms. Paton refers to requests for MEC’s membership list under s. 133 of the *Cooperative Association Act* from her “SaveMEC teammates”, and follows up on the Member Information Requests. MEC has not received any

requests for membership lists under s. 133 of the *Cooperative Association Act* aside from the requests from Mr. Kung and Mr. Kalesoski.

24 Ms. Paton also notes in her email that SaveMEC is launching three new projects, one of which has established a non-profit to support co-operative governance in Canada. She indicates that SaveMEC wants to engage MEC members in the work being done by SaveMEC and they only have contact information for approximately 140,000 members. Attached hereto and marked as **Exhibit “F”** to this my Affidavit is a true copy of the e-mail chain between Ms. Paton and Ms. Richardson.

25 Mr. Kung and Ms. Paton are listed as members of the “SaveMEC” Facebook group. Attached hereto and marked as **Exhibit “G”** to this my Affidavit are true copies of screenshots of the SaveMEC Facebook group member list with Mr. Kung and Ms. Paton’s names.

26 Further, Mr. Harding has circulated a message to the SaveMEC mailing list that includes a statement that the SaveMEC group is working to build a co-operative alternative to MEC and an “advocacy non-profit” to support “a more just, more equitable, and more democratic economy – with protected and strengthened co-ops at its centre”. Mr. Harding has also posted in the SaveMEC Facebook group about a project called “Project Phoenix”, which seems to be focused on building a new co-operative. Attached hereto and marked as **Exhibit “H”** to this my Affidavit are true copies of Mr. Harding’s message to the mailing list and Facebook group post.

27 Mr. Harding’s message regarding building a new co-operative and an advocacy non-profit appears consistent with the statement from Ms. Paton in her email to Ms. Richardson. The Petitioners are concerned that the purpose of the Membership Information Requests is to further those aims, as opposed to any “corporate purpose” of MEC, as required by the *Cooperative Association Act*.

28 As of October 29, 2020, MEC had approximately 5,827,318 members. However, many of these members are “dormant” or inactive members. For example, only 0.55% of MEC’s members voted in the 2019 Annual General Meeting (“**AGM**”) for MEC, and over the last 18 years, the percentage of members who voted at MEC’s AGMs has never been higher than 1.52% of total members.

29 The Petitioner 1077 has serious concerns about the Member Information Requests, given that, among other things:

- (a) it has an extremely large number of members;
- (b) the vast majority of members do not actively participate in MEC’s voting, governance or operations;
- (c) the Transaction has closed, and MEC no longer operates as a retail business as it did previously;
- (d) the Kung Request includes a request for e-mail addresses and telephone numbers for members;
- (e) the Kalesoski Request contains only a broad and generic statement that the member list will be used for “corporate purposes”, without any further explanation;
- (f) the costs and logistics of providing a membership list of over 5.8 million names and addresses in a secure manner to ensure restricted use and access are significant and complicated; and

- (g) the proposed use of the requested information by the SaveMEC group, as suggested by Ms. Paton and the SaveMEC Facebook group, does not appear to be consistent with 1077's "corporate purposes".

### **Name Change for MEC**

30 Under the terms of the Sale Agreement, the Purchaser acquired the intellectual property rights and goodwill of MEC, including the rights to the names "Mountain Equipment Co-operative" and "MEC", among others.

31 Accordingly, the co-operative Petitioner 1077 has registered a name change for MEC to "1077 Holdings Co-operative" with the B.C. Registrar of Companies, which change became effective on November 17, 2020. 1077 seeks to amend the style of cause in this proceeding to reflect this change. Attached hereto and marked as **Exhibit "I"** to this my Affidavit is a true copy of the Certificate of Name Change issued by the Registrar of Companies.

### **Annual General Meeting**

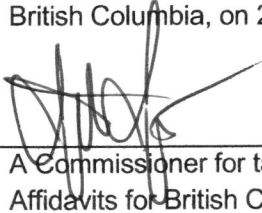
32 MEC's 2020 AGM was originally scheduled for June 23, 2020 to be held in Vancouver. However, as a result of the COVID-19 pandemic, the 2020 AGM was postponed to December 10, 2020. This postponement was authorized by a directive of the B.C. Registrar of Companies that granted an extension for all co-operatives to delay their AGMs for a period of up to six months.

33 Now that the Transaction has closed and MEC no longer has an ongoing business concern, it is expected that the MEC Board will resign in an orderly manner subsequent to the Monitor being granted its enhanced powers, once that application is granted.



34 I understand that if the Monitor is granted the enhanced powers sought in the Petitioners' application, the Monitor may be seeking further relief in respect of the scheduling of the 2020 AGM given the Petitioners' current circumstances.

AFFIRMED BEFORE ME at Vernon,  
British Columbia, on 23/Nov/2020.



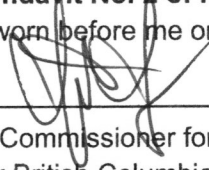
A Commissioner for taking  
Affidavits for British Columbia

**JONATHAN JONES**  
*Barrister and Solicitor*  
#301 2706-30 Avenue  
Vernon BC V1T 2B6  
Telephone (250) 542-5353



Robert Wallis

This **Exhibit "A"** referred to in the  
**Affidavit No. 2 of Robert Wallis**  
Sworn before me on 23/Nov/2020



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A Commissioner for Taking Affidavits  
for British Columbia

## FORM 4

## NOTICE BY DEBTOR COMPANY TO DISCLAIM OR RESILIAE AN AGREEMENT

To: Midtown Plaza Inc. c/o Cushman & Wakefield Asset Services ULC and Alvarez & Marsal Canada Inc. in its capacity as the court-appointed monitor (the "Monitor") of Mountain Equipment Co-operative ("MEC") and 1314625 Ontario Limited ("131", and together, the "Petitioners")

Take notice that:

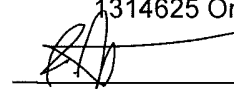
1. Proceedings under the *Companies' Creditors Arrangement Act* (the "Act") in respect of the Petitioners were commenced on the 14<sup>th</sup> day of September, 2020.
2. In accordance with subsection 32(1) of the Act, MEC gives you notice of its intention to disclaim or resiliate the following agreement:

**Retail Space Lease in respect of Store No: 68 at Midtown Plaza, Saskatoon, Saskatchewan, dated October 1, 2018, as amended by lease amending agreement dated February 21, 2020**

3. In accordance with subsection 32(2) of the Act, any party to the agreement may, within 15 days after the day on which this notice is given and with notice to the other parties to the agreement and to the Monitor, apply to court for an order that the agreement is not to be disclaimed or resiliated.
4. In accordance with paragraph 32(5)(a) of the Act, if no application for an order is made in accordance with subsection 32(2) of the Act, the agreement is disclaimed or resiliated on the 16<sup>th</sup> day of October, 2020, being 30 days after the day on which this notice has been given.

Dated at the City of Vancouver, in the Province of British Columbia, on September 15, 2020

Mountain Equipment Cooperative and  
1314625 Ontario Limited



Philippe Arrata  
Chief Executive Officer

The Monitor approves the proposed disclaimer or resiliation.

Dated at the City of Vancouver, in the Province of British Columbia, on September 15, 2020



Monitor's representative responsible  
for the proceedings

TODD M. MARTIN  
SENIOR VICE PRESIDENT  
ALVAREZ & MARSAI CANADA INC.

## FORM 4

## NOTICE BY DEBTOR COMPANY TO DISCLAIM OR RESILIAE AN AGREEMENT

To: 169159 Canada Inc. and Alvarez & Marsal Canada Inc. in its capacity as the court-appointed monitor (the "Monitor") of Mountain Equipment Co-operative ("MEC") and 1314625 Ontario Limited ("131", and together, the "Petitioners")

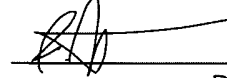
Take notice that:

1. Proceedings under the *Companies' Creditors Arrangement Act* (the "Act") in respect of the Petitioners were commenced on the 14<sup>th</sup> day of September, 2020.
2. In accordance with subsection 32(1) of the Act, MEC gives you notice of its intention to disclaim or resiliate the following agreement:  
  

**Lease, dated December 28, 2012, between 169159 Canada Inc. (as landlord) and MEC (as tenant) in respect of certain lands and premises located at 4394 St-Denis Street, Montreal, Québec**
3. In accordance with subsection 32(2) of the Act, any party to the agreement may, within 15 days after the day on which this notice is given and with notice to the other parties to the agreement and to the Monitor, apply to court for an order that the agreement is not to be disclaimed or resiliated.
4. In accordance with paragraph 32(5)(a) of the Act, if no application for an order is made in accordance with subsection 32(2) of the Act, the agreement is disclaimed or resiliated on the 16<sup>th</sup> day of October, 2020, being 30 days after the day on which this notice has been given.

Dated at the City of Vancouver, in the Province of British Columbia, on September 15, 2020

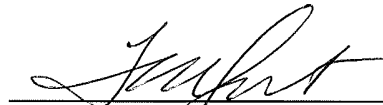
Mountain Equipment Cooperative and  
1314625 Ontario Limited



Philippe Arrata  
Chief Executive Officer

The Monitor approves the proposed disclaimer or resiliation.

Dated at the City of Vancouver, in the Province of British Columbia, on September 15, 2020



Monitor's representative responsible  
for the proceedings

TODD M. MARTIN  
SENIOR VICE PRESIDENT  
ALVAREZ & MARSAL CANADA INC.

## FORM 4

## NOTICE BY DEBTOR COMPANY TO DISCLAIM OR RESILIAE AN AGREEMENT

To: Plateau Village Properties Inc. and Alvarez & Marsal Canada Inc. in its capacity as the court-appointed monitor (the "Monitor") of Mountain Equipment Co-operative ("MEC") and 1314625 Ontario Limited ("131", and together, the "Petitioners")

Take notice that:

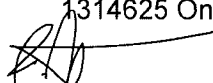
1. Proceedings under the *Companies' Creditors Arrangement Act* (the "Act") in respect of the Petitioners were commenced on the 14<sup>th</sup> day of September, 2020.
2. In accordance with subsection 32(1) of the Act, MEC gives you notice of its intention to disclaim or resiliate the following agreement:

**Lease in respect of premises located at 460 Na'a Drive SW, Calgary, Alberta, dated for reference July 20, 2017, between Plateau Village Properties Inc. (as landlord) and MEC (as tenant), as amended by lease amending agreement dated October 5, 2018**

3. In accordance with subsection 32(2) of the Act, any party to the agreement may, within 15 days after the day on which this notice is given and with notice to the other parties to the agreement and to the Monitor, apply to court for an order that the agreement is not to be disclaimed or resiliated.
4. In accordance with paragraph 32(5)(a) of the Act, if no application for an order is made in accordance with subsection 32(2) of the Act, the agreement is disclaimed or resiliated on the 16<sup>th</sup> day of October, 2020, being 30 days after the day on which this notice has been given.


Dated at the City of Vancouver, in the Province of British Columbia, on September 15, 2020

Mountain Equipment Cooperative and  
1314625 Ontario Limited

  
Philippe Arrata  
Chief Executive Officer

The Monitor approves the proposed disclaimer or resiliation.

Dated at the City of Vancouver, in the Province of British Columbia, on September 15, 2020

  
Monitor's representative responsible  
for the proceedings

TODD M. MARLOW  
SENIOR VICE PRESIDENT  
ALVAREZ & MARSAL CANADA INC.

## FORM 4

## NOTICE BY DEBTOR COMPANY TO DISCLAIM OR RESILiate AN AGREEMENT

To: Le Carrefour Laval (2013) Inc. and Alvarez & Marsal Canada Inc. in its capacity as the court-appointed monitor (the "Monitor") of Mountain Equipment Co-operative ("MEC") and 1314625 Ontario Limited ("131", and together, the "Petitioners")

Take notice that:

1. Proceedings under the *Companies' Creditors Arrangement Act* (the "Act") in respect of the Petitioners were commenced on the 14<sup>th</sup> day of September, 2020.
2. In accordance with subsection 32(1) of the Act, MEC gives you notice of its intention to disclaim or resiliate the following agreement:  
  
**Lease in respect of premises located at 2615 Boulevard Daniel-Johnson, Laval, Quebec, dated for reference August 5, 2016, between Le Carrefour Laval (2013) Inc. (as landlord) and MEC (as tenant), as supplemented, amended, restated or replaced from time to time**
3. In accordance with subsection 32(2) of the Act, any party to the agreement may, within 15 days after the day on which this notice is given and with notice to the other parties to the agreement and to the Monitor, apply to court for an order that the agreement is not to be disclaimed or resiliated.
4. In accordance with paragraph 32(5)(a) of the Act, if no application for an order is made in accordance with subsection 32(2) of the Act, the agreement is disclaimed or resiliated on the 29<sup>th</sup> day of November, 2020, being 30 days after the day on which this notice has been given.

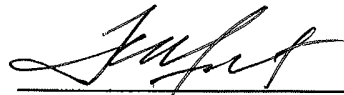
Dated at the City of Vancouver, in the Province of British Columbia, on October 30, 2020

Mountain Equipment Co-operative and  
1314625 Ontario Limited

  
Philippe Arrata  
Chief Executive Officer

The Monitor approves the proposed disclaimer or resiliation.

Dated at the City of Vancouver, in the Province of British Columbia, on October 30, 2020

  
Monitor's representative responsible  
for the proceedings

Todd M. Martin  
SENIOR VICE PRESIDENT

## FORM 4

## NOTICE BY DEBTOR COMPANY TO DISCLAIM OR RESILIAE AN AGREEMENT

To: Brookfield Residential (Alberta) LP, by its general partner, Carma Ltd. and Alvarez & Marsal Canada Inc. in its capacity as the court-appointed monitor (the "Monitor") of Mountain Equipment Co-operative ("MEC") and 1314625 Ontario Limited ("131", and together, the "Petitioners")

Take notice that:

1. Proceedings under the *Companies' Creditors Arrangement Act* (the "Act") in respect of the Petitioners were commenced on the 14<sup>th</sup> day of September, 2020.
2. In accordance with subsection 32(1) of the Act, MEC gives you notice of its intention to disclaim or resiliate the following agreement:  
  
**Lease in respect of premises located at 710-19587 Seton Crescent SE, Calgary, Alberta, dated May 19, 2016, between Brookfield Residential (Alberta) LP, by its general partner, Carma Ltd. (as landlord) and MEC (as tenant), as supplemented, amended, restated or replaced from time to time**
3. In accordance with subsection 32(2) of the Act, any party to the agreement may, within 15 days after the day on which this notice is given and with notice to the other parties to the agreement and to the Monitor, apply to court for an order that the agreement is not to be disclaimed or resiliated.
4. In accordance with paragraph 32(5)(a) of the Act, if no application for an order is made in accordance with subsection 32(2) of the Act, the agreement is disclaimed or resiliated on the 29<sup>th</sup> day of November, 2020, being 30 days after the day on which this notice has been given.

Dated at the City of Vancouver, in the Province of British Columbia, on October 30, 2020

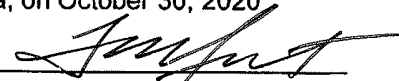
Mountain Equipment Co-operative and  
1314625 Ontario Limited



Philippe Arrata  
Chief Executive Officer

The Monitor approves the proposed disclaimer or resiliation.

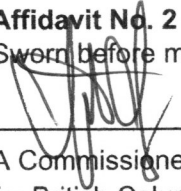
Dated at the City of Vancouver, in the Province of British Columbia, on October 30, 2020



Monitor's representative responsible  
for the proceedings

Todd M. Martin  
SENIOR VICE PRESIDENT

This **Exhibit "B"** referred to in the  
**Affidavit No. 2 of Robert Wallis**  
Sworn before me on 23 /Nov/2020



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A Commissioner for Taking Affidavits  
for British Columbia



**Eugene Kung**

403-2023 Franklin Street  
Vancouver, B.C. V5L 1R4

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September 22, 2020

Mountain Equipment Co-operative  
Registered Office  
1077 Great Northern Way  
Vancouver, B.C.  
V5T 1E1

Dear Sir/Madam:

Pursuant to Section 133 of the Cooperative Association Act, I, Eugene Kung (MEC Membership #9048547) of 403-2023 Franklin Street, Vancouver, B.C., V5L 1R4, apply for a copy of the list of the names and addresses of the members of the Mountain Equipment Co-operative, together with their contact details, being e-mail addresses and telephone numbers. I would be grateful if the membership list could be sent to me electronically. My e-mail address is

[REDACTED]

Accompanying this application is an affidavit pursuant to Section 133(2) of the Cooperative Association Act.

Please inform me of the cost for providing the membership list as soon as possible.

Yours truly,



Eugene Kung


Enclosure

IN THE MATTER of an application pursuant to Section 133 of the Cooperative Association Act:

I, Eugene Kung, of 403-2023 Franklin Street, Vancouver, B.C., V5L 1R4, lawyer, Mountain Equipment Co-operative Membership #9048547, SWEAR (OR AFFIRM) THAT:

1. I am applying to Mountain Equipment Co-operative ("MEC") for a list of the members of MEC, together with their addresses and, if possible, their e-mail addresses and telephone numbers.
2. The list is required and will be used only for corporate purposes pertaining to MEC as defined in S1(1) of the Cooperative Association Act. The purposes are with respect to the calling of a Special General Meeting of MEC and for proposing a resolution or resolutions at that meeting.

SWORN (OR AFFIRMED) BEFORE ME at  
Vancouver,  
British Columbia on 22 September, 2020

  
A commissioner for taking affidavits for British  
Columbia

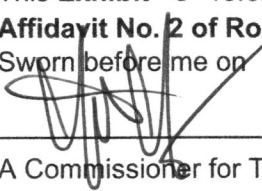
[print name or affix stamp of commissioner]



Eugene Kung

Neil M.G. Chantler  
Barrister and Solicitor  
Suite 650 - 375 Water Street  
Vancouver, BC V6B 5C6  
(604) 424-8454

This **Exhibit "C"** referred to in the  
**Affidavit No. 2 of Robert Wallis**  
Sworn before me on 23 /Nov/2020



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A Commissioner for Taking Affidavits  
for British Columbia

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**From:** [REDACTED] >  
**Sent:** Wednesday, October 14, 2020 3:23 PM  
**To:** Governance <Governance@mec.ca>  
**Subject:** Re: Member request

Hi there,

I'm writing to follow up on my request for the MEC membership list pursuant to section 133 of the Cooperative Association Act. I hand delivered my request to the head office on Great Northern Way on September 22, 2020. Confirmation of receipt was sent on September 23, 2020 (see below). The 14 day deadline for responding passed on October 7th, 2020, one week ago, and I have not heard anything from your office. Is MEC refusing to provide the list and comply with the relevant legislation?

Thank you,

Eugene

On Wed, Oct 7, 2020 at 1:15 PM eugene <[REDACTED]> wrote:

Thank you for your response. I note that yesterday, the 14 day deadline to provide the records pursuant to s. 135(1)(b) of the *Cooperative Association Act* passed.

Eugene

On Wed, Sep 23, 2020 at 5:05 PM Governance <[Governance@mec.ca](mailto:Governance@mec.ca)> wrote:

Dear Mr. Kung,

We acknowledge receipt of your request for certain information about our members. We will be responding shortly after we complete our review of your request to ensure that your request, and our response, comply with applicable laws. As you requested, we will also consider and provide you with our estimate of the costs to respond to your request.

Best,

MEC Governance Office

**MEC**

Head Office  
1077 Great Northern Way  
Vancouver, BC Canada V5T 1E1

**MEC.CA**


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This message is intended only for the use of the individual or entity to which it is addressed and may contain information which is privileged, confidential or proprietary. If the reader of this e-mail is not the intended recipient or the employee or agent responsible for delivering it to the intended recipient, any dissemination, publication or copying of this e-mail is strictly prohibited. If you have received this message in error, please notify us immediately by return e-mail and destroy and delete all copies of the message. Internet communications cannot be guaranteed to be secure or error-free as information can be intercepted, corrupted, lost, arrive late or contain viruses. The sender does not accept any responsibility for any loss, disruption or damage to your data or computer system that may occur while using data contained in, or transmitted with, this e-mail.

Contact us at [info@mec.ca](mailto:info@mec.ca). Call us at 1.604.707.3300 (Vancouver area or international). 1077 Great Northern Way Vancouver, BC Canada V5T 1E1. View our privacy policy at <http://www.mec.ca/privacy>

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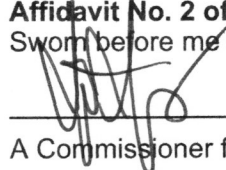
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This **Exhibit "D"** referred to in the  
**Affidavit No. 2 of Robert Wallis**  
Sworn before me on 23 /Nov/2020



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A Commissioner for Taking Affidavits  
for British Columbia

---

**From:** Andrej K  
**Sent:** Thursday, October 1, 2020 8:33 AM  
**To:** Catherine Lau  
**Subject:** Request pursuant to s133 of the Cooperative Association Act  
**Importance:** High

Dear Catherine Lau –

This is a formal request made pursuant to s133 of the Cooperative Association Act (“Act”). I am requesting a full copy of the entirety of the Mountain Equipment Co operative member list. This list will be used for reasons in accordance with s134 of the Act.

I have attached to this email my sworn affidavit pursuant to the Act. Given the urgency of the matter before us, I look forward to minimal delay with regards to fulfilling this request.

Regards,  
Andrej

**AFFIDAVIT PURSUANT TO SECTION 133 OF THE  
COOPERATIVE ASSOCIATION ACT, SBC 1999**

I, **ANDREJ KALESOSKI** of the City of **TORONTO** and **AJAX** of the province of **ONTARIO**  
hereby solemnly declare that:

1. My address is 190-71 Old Kingston Rd, Ajax, ON L1T 3A6.
2. I am a member of the Mountain Equipment Co-operative ("MEC").
3. My membership number is 62976865.
4. The list of members or the information contained in the register of members obtained  
under section 133 and in accordance to section 134, is required and will be used only for  
corporate purposes pertaining to that association.

DATED the 30<sup>th</sup> of Sept  
2020

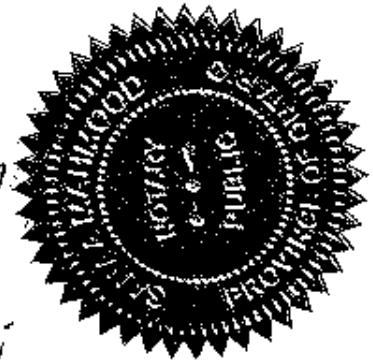
DECLARED BEFORE ME, at the City  
of **TORONTO** in the province of  
**ONTARIO**.



**SANAA MAHMOOD**

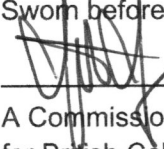
Barrister, Solicitor & Notary Public  
In and for the Province of Ontario.  
My commission is of unlimited duration.

  
ANDREJ KALESOSKI





This **Exhibit "E"** referred to in the  
**Affidavit No. 2 of Robert Wallis**  
Sworn before me on 23/Nov/2020



---

A Commissioner for Taking Affidavits  
for British Columbia

October 20, 2020

**Sent By E-mail** [REDACTED]

Mr. Eugene Kung  
403-2023 Franklin St.  
Vancouver, B.C. V5L 1R4

Norton Rose Fulbright Canada LLP  
400 3rd Avenue SW, Suite 3700  
Calgary, Alberta T2P 4H2 Canada

F: +1 403.264.5973  
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**Howard A. Gorman, Q.C.**  
+1 403.267.8144  
[howard.gorman@nortonrosefulbright.com](mailto:howard.gorman@nortonrosefulbright.com)

Assistant  
+1 403.267.8194  
[roberta.savard@nortonrosefulbright.com](mailto:roberta.savard@nortonrosefulbright.com)

Your reference

Our reference  
1001118436

Dear Sir:

## Mountain Equipment Co-operative

We are counsel for Mountain Equipment Co-operative ("**MEC**"). We are in receipt of your letter and emails to MEC and your request for a copy of the names, addresses, telephone numbers and emails of all of MEC's members. As you are no doubt aware, MEC is insolvent and under *Companies' Creditors Arrangement Act* ("**CCAA**") protection. Therefore, the British Columbia Supreme Court currently has significant control and oversight of MEC. In light of these unusual circumstances, direction from the Court as to MEC's response may be sought before MEC provides you with a formal response.

As an aside, in your email of October 14, 2020 to MEC, you indicated that you believed there was a 14 day deadline under the *Cooperative Association Act* by which a cooperative must respond to such a request but we respectfully note that is incorrect. Section 135 of that Act refers to the currency of the list if provided (i.e. that the information on the list cannot be out of date by more than 14 days prior to the date of the request) not the time within the list is to be provided.

Yours very truly,



Howard Gorman, Q.C.  
Senior Partner

CAN\_DMS: \135938907\1

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October 20, 2020

E-mail [REDACTED]

Mr. Andrej Kalesoski  
190-71 Old Kingston Road  
Ajax, Ontario L1T 3A6

Norton Rose Fulbright Canada LLP  
400 3rd Avenue SW, Suite 3700  
Calgary, Alberta T2P 4H2 Canada

F: +1 403.264.5973  
[nortonrosefulbright.com](http://nortonrosefulbright.com)

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Assistant  
+1 403.267.8194  
[roberta.savard@nortonrosefulbright.com](mailto:roberta.savard@nortonrosefulbright.com)

Our reference  
1001118436

Dear Sir:

## MEC

We are counsel for Mountain Equipment Co-operative ("**MEC**"). We are in receipt of your email of October 1, 2020 and your request for a "full copy of the entirety of" the MEC member list. As you are no doubt aware, MEC is insolvent and under *Companies' Creditors Arrangement Act* ("**CCAA**") protection. Therefore, the British Columbia Supreme Court currently has significant control and oversight of MEC. Your request is being considered in light of these unusual circumstances and direction from the Court as to MEC's response may be sought before MEC provides you with a formal response.

Yours very truly,

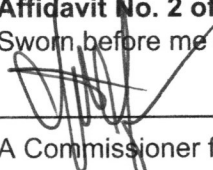
Howard Gorman, Q.C.  
Senior Partner

CAN\_DMS: \135939828\1

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This **Exhibit "F"** referred to in the  
**Affidavit No. 2 of Robert Wallis**  
Sworn before me on 23/Nov/2020



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A Commissioner for Taking Affidavits  
for British Columbia

---

**From:** Tamara Paton <[REDACTED]>  
**Subject:** Re: Questions about MEC  
**Date:** October 17, 2020 at 2:09:20 PM PDT  
**To:** Judi Richardson <[REDACTED]>

Thanks for your reply, Judi.

Perhaps my questions might inform the board's forward-looking communications strategy. I'm always here if you have interest in collaborating with members on the future of MEC.

I hope you enjoy your weekend,  
Tamara

On Sat, Oct 17, 2020 at 3:37 PM Judi Richardson <[REDACTED]> wrote:

Tamara,

It is and continues to be busy. As you are no doubt aware, MEC and the Board made considerable efforts to canvass many options to address the very difficult financial situation we were and are facing in these unprecedented times. I am heartened that Kingswood has confirmed that it is retaining 21 of the 22 current stores and that 85% of the active employees will have continued employment. Our focus and energy has been and remains devoted to closing the transaction so the those benefits to the business, our employees (also members) and our community are ensured.

With respect to your questions, as I am sure you can appreciate given your experience serving on boards, it is not appropriate for me to respond to your questions or comment on anything beyond what has been made public.

My delayed response is simply a reflection of everything on my plate.

Take care, Judi



Judi Richardson MBA ICD.D CEC  
[REDACTED] [www.r-m-i.ca](http://www.r-m-i.ca)

Office: [REDACTED] Cell: [REDACTED]

On Oct 15, 2020, at 2:31 PM, Tamara Paton <[REDACTED]> wrote:

Hi Judi,

I hope things have calmed down for you since the CCAA ruling came through. Although I was hoping the SaveMEC team would have a shot at presenting another solution, I can imagine that less uncertainty is helpful to you. The past few months cannot have been easy for the board.


The SaveMEC team is looking ahead to where we go from here. I'm hoping you might have some thoughts to help our work. If you'd be willing to chat about any of the following, I'd really appreciate your input.

1. I'm curious about what will remain in place at the end of the CCAA process. Will the co-op continue to exist without assets or will CCAA dissolve the organization? If we do continue to have a co-op, will any assets and/or liabilities remain?
2. Has the board discussed whether the rescheduled AGM will take place in December?
3. The SaveMEC team is launching three new projects, one of which has established a nonprofit to support co-op governance in Canada. We'd like to engage MEC members in our work and we only have contact information for ~140,000 members at this stage. My SaveMEC teammates have requested the membership list as per section 133(1) of the Act, but we haven't made progress on this front. Do you have suggestions for us?

Thanks in advance for any guidance you can share on the above. I can't imagine how much you have on your plate right now, so I appreciate your considering my questions.

Appreciatively,  
Tamara

This **Exhibit "G"** referred to in the  
**Affidavit No. 2 of Robert Wallis**  
Sworn before me on 23/Nov/2020



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A Commissioner for Taking Affidavits  
for British Columbia



# SaveMEC / SauvonsMEC

Public group · 11.3K members

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 Eugene Kung

## Search Results



**Eugene Kung**

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# SaveMEC / SauvonsMEC

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## Members · 11,258

New people and Pages who join this group will appear here. [Learn More](#)

 Tamara Paton

## Search Results




**Tamara Paton**

Joined about 2 months ago

 [Add Friend](#)

This **Exhibit "H"** referred to in the  
**Affidavit No. 2 of Robert Wallis**  
Sworn before me on 23/Nov/2020



---

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for British Columbia

Kevin Harding shared a link.

**SaveMEC / SauvonsMEC - Update/Mise à jour - 23 Oct 2020**

*Version française plus bas*

Hi everyone -

It's Friday, and we've got news about a lot of things that are going on. As you read through this update, please make sure you go to [savemec.ca](https://savemec.ca) and sign up for email updates - you're going to want to stay up to date, and the email list will provide regular updates directly to you that you can share widely. We'd also like you to share this update, and that link, with everyone you know who is an MEC member and who cares about what happens with MEC.

**First - we're appealing part of the MEC court decision.** In consultation with our lawyers, we've decided to seek declaratory relief through the BC Court of Appeal. The basis of the appeal will address that members ought to be permitted to participate in decisions about the co-op that they own, appeal how this case was conducted, and the application of the CCAA in a way that overrules the BC Cooperative Association Act.

It's important to note that this appeal won't stop the sale. MEC and their lawyers have worked really hard to construct a sale process that would be next to impossible to overturn. An appeal of a sale order like this would almost definitely not be approved. And if we lost the appeal, we'd actually be setting a precedent that this pathway - bad law as it is - was endorsed by two levels of courts. We can't take that risk.

What we *can* do is challenge the entire process, and ask the Court of Appeal to declare that the co-op structure and decision-making rules weren't respected, that our rights as members and owners were infringed, and that the CCAA should not be used to remove the rights of co-op members/owners to be involved in major decisions about the future of their co-op. A decision in our favour could safeguard every other co-op in Canada - and it could possibly set the scene for further action to take back our co-op.

As we go down this road, we need to keep you informed - and demonstrate that MEC's members want their rights to be respected and upheld. Make sure you sign up to our mailing list here - [savemec.ca](https://savemec.ca) - for updates on this incredibly important case.

**Second - MEC has officially refused our demand for a special general meeting.** In an email from MEC's counsel to the Save MEC campaign, MEC denied our request for a special general meeting. MEC's counsel claimed that we didn't have enough signatures. We knew that MEC would likely do this, which is why we submitted a petition signed by more than 14,000 MEC members - with member numbers. We called on the Board to do the ethically and morally right and responsible thing and call a meeting - and they said no.

We're now concerned that the MEC board is actually going to try to skip their re-scheduled annual general meeting - the one that they pushed back from this summer to December - and deny members the right to make decisions on the future of our co-op for even longer. We need you to sign up to our mailing list at [savemec.ca](https://savemec.ca) so that we can keep you informed if and when the Board allows it to happen, or we force it to happen.

**Third - MEC continues to refuse to give us the member register.** At the same time MEC told us that we didn't have enough signatures to force a members' meeting, they also said that they wouldn't be turning over the member register. How can they tell us we don't have enough signatures without providing us with the accurate number of members, or giving us access to information that would let us contact members?

MEC's lawyers said that they would seek the court's advice and guidance on whether they have to release the member register. That request will be made at the end of November, though we don't know when any decision will be made. Sign up to our mailing list here - [savemec.ca](http://savemec.ca) - and invite all your friends who are also MEC members to sign up. We'll keep you informed about the case and all our other work.

**Fourth - we're continuing our work to build a cooperative alternative to MEC.** I'm excited about the tremendous work that's going on behind the scenes, with volunteers exploring tech solutions, naming options, product mixes, and more. All of this is the first step in building a new co-op that is ours and is truly cooperative. We'll have more to share on this soon - along with the ways you can be part of it. Make sure you're signed up to our mailing list at [savemec.ca](http://savemec.ca) to get the latest and fastest news.

We're also working on building an advocacy non-profit to support a more just, more equitable, and more democratic economy - with protected and strengthened co-ops at its centre.

**Finally - MEC's new owners are assuming we'll continue to have loyalty, while tearing up recognitions of that loyalty.** This week, CEO Eric Claus (or COO, the emails are confusing) sent a form letter to people who had "honorary lifetime discounts" with MEC because of their service to the co-op - longtime board members, founders, staff who had worked for decades, and others. This form letter cancelled those discounts. No reason was given - just that MEC had been sold. This program - a tiny recognition for years of service - was destroyed. After telling us during the sale that he would respect MEC's values, Eric Claus has the gall to thank people for their "continued loyalty" and then cancel a tangible recognition of that loyalty, for no good reason. This is why people want to build a new co-op, because Eric Claus and MEC are breaking our trust in what MEC was built to represent, and they are selling off our loyalty. People are seeking community-owned alternatives to something we created as a co-op, which is now owned by an American investment fund that paid pennies on the dollar for the assets built and sustained by MEC members. I don't know if all MEC members are going to have any kind of loyalty to what's left of MEC. **But we, here, are definitely not going away.**

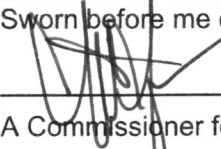
More to come - but the key info for today is that: we're appealing the court's decision; we're still fighting for the meeting that members are legally entitled to request; and we're starting to build a new co-op. Please sign up for our mailing list and stay informed at [savemec.ca](http://savemec.ca).



In the meantime, I wanted to share slides from the event! This is input information - volunteers will work together to craft a draft mission/vision statement that we'll look for broader community input into.

[illegible]

This **Exhibit "I"** referred to in the  
**Affidavit No. 2 of Robert Wallis**  
Sworn before me on 23/Nov/2020



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NUMBER: CP-852

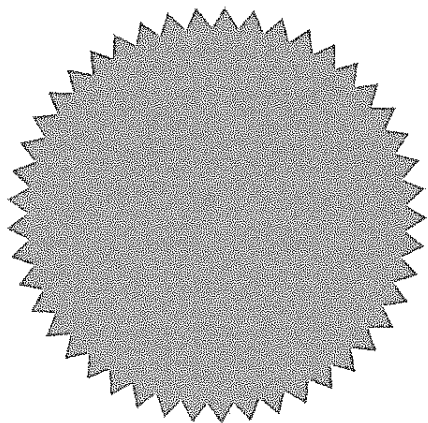
**CERTIFICATE  
OF  
CHANGE OF NAME**  
*COOPERATIVE ASSOCIATION ACT*

*I Hereby Certify that*

MOUNTAIN EQUIPMENT CO-OPERATIVE

has this day changed its name to

**1077 HOLDINGS CO-OPERATIVE**



*Issued under my hand at Victoria, British Columbia  
on November 17, 2020*

CAROL PREST  
*Registrar of Companies*  
PROVINCE OF BRITISH COLUMBIA  
CANADA

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 MOUNTAIN EQUIPMENT CO-OPERATIVE  
AND 1314625 ONTARIO LIMITED

Petitioners

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**AFFIDAVIT**

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**NORTON ROSE FULBRIGHT CANADA LLP**

Barristers & Solicitors  
1800 – 510 West Georgia Street  
Vancouver, BC V6B 0M3  
Attention: Howard A. Gorman, Q.C.

SCB/ker

Matter# 1001118436