

WILLIAM HARVEY JONES

B A R R I S T E R & S O L I C I T O R

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July 26, 2017

Chaitons LLP
Barristers & Solicitors
5000 Yonge Street, 10th. floor
Toronto Ontario
MM2N 7E9
Attention: Maya Poliak

And to the attached service list

Dear Sirs and Mesdames

RE: In the matter of the Notice of intention to Make a Proposal of Forte EPS Solutions Inc.

Please find attached hereto the supplementary motion record returnable on Monday July 31, 2017.

The Debtors is seeking an adjournment of its motions for the SISP pending the settlement of an agreement for the sale of its assets.

Yours very truly



William Harvey Jones

Court File No. 31-2253654

Estate File No. 31-2253654

ONTARIO
SUPERIOR COURT OF JUSTICE
IN BANKRUPTCY AND INSOLVENCY

**IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL OF
FORTE EPS SOLUTIONS INC., A CORPORATION WITH A HEAD OFFICE IN THE
TOWN OF MIDLAND IN THE PROVINCE OF ONTARIO**

Applicant

SUPPLEMENTARY MOTION RECORD
(Motion returnable July 31, 2017)

Date July 28, 2017

William Harvey Jones
Barrister & Solicitor
Suite 2702 – 401 Bay Street
Toronto, Ontario M5H 2Y4
Law Society # 38733J
Tel: (416) 596-8876
Fax: (416) 596-0907

Service List

Business Development Bank of Canada

Care of Chaitons LLP.

5000 Yonge Street

Toronto, Ontario

M2N 7E7

Email: maya@chaitons.com

Department of Justice (Canada)

The Exchange Tower

130 King Street West, Suite 3400

P.O. Box: 36

Toronto, Ontario

M5X 1K6

Email: diane.winners@justice.gc.ca

Ministry of Finance Legal Services Branch

Michael Starr Building

33 King Street West, 6th/ Floor

P.O. Box 627, Station A

Oshawa, Ontario

L1H 8H5

Email: kevin.ohara@ontario.ca

Pacific High Tech Ltd

Care of Folger Rubinoff LLP

77 King Street West, Suite 3000

Toronto, Ontario

M5K 1G8

Attention: W. Ross MacDougall

Email: rmacdougall@foglars.com

Travelers Leasing Ltd.

500-4180 Lougheed Highway

Burnaby, BC V 5C 6A7

Email: AFisher@travelersfinancial.com

First Source Mortgage Corporation
1 Valley Brook Drive, Suite 100
Tonto, Ontario
M3B 2S7

Email:

Western Ontario Mortgage Community Futures Development Corporation
330 West Street, Unit 10,
Brantford, Ontario
N3R 7V5
Attention: David Penton

Email: david@wocfdca.com

North Simcoe Community Futures Development Corporation
P.O. Box 8, 355 Cranston Crescent
Midland Ontario
L4R 4K6

Email: admin@nscfed.on.ca

2306732 Ontario Inc.
Care of Angelo Mancini
Barrister & Solicitor
505 -7050m Weston Road
Woodbridge, Ontario
L4L 8G7

Emil: acm@manciniassociates.com

Court File No. 31-2253654

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ONTARIO
SUPERIOR COURT OF JUSTICE
IN BANKRUPTCY AND INSOLVENCY

**IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL OF
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TOWN OF MIDLAND IN THE PROVINCE OF ONTARIO**

Applicant

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- 1. Revised Draft Order;**
- 2. Affidavit of John Cipressi sworn July 28, 2017**
 - a. Confidential Exhibit "A" – Term Sheet**
 - b. Confidential Exhibit "B" – Milestones to Completion**

Date July 28, 2017

William Harvey Jones
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TAB 1

ONTARIO
SUPERIOR COURT OF JUSTICE
IN BANKRUPTCY AND INSOLVENCY

THE HONOURABLE
JUSTICE

MONDAY, THE 31ST.
DAY OF JULY, 2017

**IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL
OF FORTE EPS SOLUTIONS INC., A CORPORATION WITH A HEAD OFFICE
IN THE TOWN OF MIDLAND IN THE PROVINCE OF ONTARIO**

ORDER

THIS MOTION, made by Forte EPS Solutions Inc. (the “Debtor”) was heard on this 31st. day of July 2017 at 330 University Avenue, Toronto, Ontario.

ON READING the affidavit of John Cipressi sworn July 23, 2017 and filed, (the Cipressi Affidavit”), the second report of Albert Gelman Inc., in its capacity as a proposal trustee (the “Proposal Trustee”) dated July ne, 2017, (the “Second Report”) and on hearing submissions by counsel for the Debtor and counsel for the Proposal Trustee, and all others present, no others appearing although duly served as evidenced by the affidavit of William Harvey Jones, sworn July 24, 2019, and filed.

1. **THIS COURT ORDERS** that, if necessary, the time for service of the Notice of Motion and the Motion Record is hereby abridged and validated so that this motion is properly returnable today and hereby dispenses with further service thereof.
2. **THIS COURT ORDERS** that the Second Report and the activities of the Proposal Trustee and its counsel be and are hereby approve
3. **THIS COURT ORDERS** that the motion of the Debtor for an order authorizing the Debtor to undertake a sales and investment solicitation process be and the same is hereby adjourned *sine die*.

4. **THIS COURT ORDERS** that the Proposal Trustee be and it is hereby authorized to take all steps required or in its opinion necessary and desirable to assist the Debtor to undertake the DIP Financing (as hereinafter defined) and to create the DIP Charge (as hereinafter defined) and to undertake the SISP including without limitation to:
- a. To assist the Debtor in the preparation of and dissemination to interested buyers of all material necessary to implement the SISP;
 - b. To assist the Debtor in preparing necessary financial statements including cash flow statements; and
 - c. To assist the Debtor in the preparation and implementation of necessary documents related to the creation of DIP Finance as hereinafter defined and the preparation and delivery of the Definitive Documents as hereafter defined a DIP Charge as hereinafter defined.

THIS COURT ORDERS that the execution and delivery by the Debtor of the DIP Loan Agreement as defined in the Cipressi Affidavit is hereby approved *nunc pro tunc*, and the Debtor is hereby authorized and empowered to perform its obligations under the DIP Loan Agreement (subject to obtaining such Court and other approvals as may be required in connection with any step or transaction contemplated therein) and to obtain and borrow under the DIP Loan Agreement between the Debtor and borrower and 16567 Highway 12, Holdings Limited as lender (the DIP lender”) to finance the Debtor’s working capital requirements (including occupational rent payable) , the SISP and other general corporate purposes ad capital; expenditures provided that the borrowing under such credit facility shall; not exceed \$450,000.00.

5. **THIS COURT ORDERS** that the Debtor and the DIP Lender are hereby authorized and empowered to execute and deliver such credit agreements, mortgages, charges general security agreements , together with the DIP Loan Agreement (collectively the “Definitive Documents”) as contemplated by the DIP Loan Agreement or as may be reasonably required by the DIP Lender together with such modification thereto as may be reasonably required and as may be agreed to by the Debtor, the DIP Lender and

consented to by the Proposal Trustee. The Debtor is hereby authorized and directed to pay and perform all its indebtedness, interest, fees, liabilities and obligations due and owing to the DIP Lender under and pursuant to the Definitive Documents as and when the same become due and are to be performed, notwithstanding the provisions of any other order.

6. THIS COURT ORDERS the DIP Lender shall be entitled to the benefit of and is hereby granted a charge (the “DIP Lender’s Charge”) upon all the property assets and undertaking of the Debtor (hereinafter the “Property”). The DIP Lenders Charge and any contractual interests granted by the Debtor pursuant to the definitive Documents shall attach to the Property and secure the obligations under the Definitive Documents. The DIP Lender’s Charge shall have the priority set out in paragraph 8 below.

7. THIS COURT ORDERS that the Proposal Trustee’s Charge granted by order of Justice Hainey made June 14, 2017 herein, the DIP Lender’s Charge shall as among them be entitled to the following priorities:

- a. First - The Proposal Trustee’s Charge to a maximum of \$100,000;
- b. Second- The DIP Lender’s Charge to a maximum of \$450,000.

8. THIS COURT ORDERS that subject to the provisions of paragraph 8 hereof, each of the Proposal Trustee’s Charge, the DIP Lender’s Charge and the BDC Security.

9. THIS COURT ORDERS that the time for the Debtor to file its proposal to its creditors be and the same is hereby extended to September 18, 2017.

10. THIS COURT ORDERS Confidential Exhibits “A and “B” to the Supplementary Affidavit of John Cipressi sworn July 28, 2017 be sealed pending any application of the Debtor for the approval of any sale of its assets by this Court or further order of this Court.

(Signature of Judge)

IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL OF FORTE EPS INC.

(Short title of proceeding)

Court file no. 31-2253654
Estate File no. 31-2253654

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL DIVISION

ORDER

William Harvey Jones
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Solicitor for the Debtor

TAB 2

Court File No. 31-2253654

Estate File No. 31-2253654

ONTARIO
SUPERIOR COURT OF JUSTICE
IN BANKRUPTCY AND INSOLVENCY
IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL OF
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Applicant

SUPPLEMENTARY AFFIDAVIT OF JOHN CIPRESSI SWORN JULY 28, 2017

I, John Cipressi, businessman, of the City of Mississauga, Province of Ontario, make oath and say as follows:

1. I am a shareholder, director and the vice president and chief executive officer of Forte EPS Solutions Inc. the applicant herein (hereinafter the "Debtor") and as such I have personal knowledge of the facts and matters hereinafter deposed to except where such facts and matters are stated to be based upon information and belief and where so stated I verily believe the same to be true.

Orders Sought

2. In its motion returnable July 31, 2017, the Debtor was seeking an order authorising the Debtor and empowering the Proposal Trustee to undertake a sales and investment solicitation program as described in my affidavit of July 23, 2017 (the "July 23 Affidavit").

3. In my July 23 Affidavit at paragraph 16, I advised the court that the Debtor had received and entered into an unsolicited "Term Sheet" concerning the potential sale of the assets of the Debtor to a significant commercial enterprise (the "Proposed Purchaser"). Since July 23, 2017 discussions between the Debtor and the Proposed Purchaser have advanced. Amongst other things, Counsel for the Debtor and counsel for the Proposed Purchaser have established an estimated timeline to proceed the settlement of the terms of the acquisition by the Proposed

Purchaser and considered a number of technical issues surrounding the potential transaction that might emerge from the Term Sheet.

4. Annexed to this affidavit as Confidential Exhibit "A" is a true copy of the Term Sheet between the Debtor and the Proposed Purchaser. The terms of the Term Sheet are stated to be confidential. The Debtor believes that Confidential Exhibit "A" should remain sealed because the information contained therein is commercially sensitive to both the Debtor and the Proposed Purchaser. The Debtor is seeking an order sealing the details of Confidential Exhibit "A" including the identity of the Proposed Purchaser and the terms of the Term Sheet until such time as the Proposed Purchaser and the Debtor may come to the Court to seek approval of any resulting agreement of purchase and sale or further order of this Court.

5. The Debtor and the Proposed Purchaser estimate that they will require several weeks to permit the Proposed Purchaser to complete the necessary due diligence and to allow the parties to settle the terms of any agreements. Annexed hereto and marked as Confidential Exhibit "B" to this affidavit is a true copy of a "Milestones to Completion" prepared by counsel for the Proposed Purchaser. The Debtor believes that Confidential Exhibit "B" should remain sealed because the information contained therein is commercially sensitive to both the Debtor and the Proposed Purchaser. The Debtor is seeking an order sealing the details of Confidential Exhibit "B" including the identity of the Proposed Purchaser and the terms of the Milestones to Completion until such time as the Proposed Purchaser and the Debtor may come to the Court to seek approval of any resulting agreement of purchase and sale or further order of this Court.

6. The transactions contemplated in the Term Sheet is unusual and beneficial to various parties including secured creditors because it involves the sale of the Debtor's assets at reasonable price as well as the sale of the lands owned by the Debtors landlord, 16567 Highway 12, Holdings Corporation, the Proposed DIP Lender described in my affidavit of July 23, 2017. The Proposed DIP Lender has guaranteed the obligations of two of the secured creditors of the Debtor, Business Development Bank of Canada ("BDC" - which is owed approximately \$554,785.00) and Western Ontario Community Futures Development Corporation Association ("SOFFI" - which is owed approximately \$440,427.00).

7. The Debtor wishes to proceed to advance its negotiations with the Proposed Purchaser

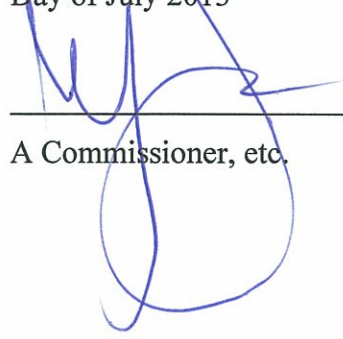
and to attempt to settle the terms of an agreement pursuant to the terms of the Term Sheet. However, the unusual terms of the Term Sheet involving the parallel acquisition of the DIP Lender's property are therefore not suitable to a SISP process. Accordingly, the Debtor is seeking an order in the form annexed hereto as Schedule "A" adjourning *sine die* the Debtor's proposed motion authorizing the Debtor and empowering the Proposal Trustee to undertake a SISP, subject to attendance at a 9:30 scheduling hearing before his court in the last week of August 2017.

8. I believe that by proceeding in this suggested manner, there exists a substantial likelihood for the Debtor to obtain a sale of the Debtor's assets and a beneficial price and on beneficial terms that will satisfy the obligations of the secured creditors and provide significant recovery to the unsecured creditors. In addition the employees of the Debtor would appear to benefit through the sale of the Debtor's assets as a going concern. Such a sale would have the additional benefit of avoiding the costs associated with the SISP process and the incurring of additional debt through the DIP Loan proposed herein. If successful there is a substantial likelihood that any resulting sale would occur sooner than any sale arising pursuant to the SISP process.


9. I swear this affidavit in support for an order:

- (a) Approving a second extension of time for the Debtor to file its proposal until September 18, 2017;
- (b) Granting a priority DIP charge in favour of 16567 Highway 12 Holdings Limited;
- (c) approving the second report of the Proposal Trustee;
- (d) adjourning the Debtors motion for authority to undertake a SISP *sine die*; and
- (e) Sealing the confidential Exhibits "A" and "B" as described herein; and
- (f) Such further and other relief as counsel may advise and as the Court may approve.

SWORN BEFORE ME at the)
City of Toronto, in the)
Province of Ontario this 28)
Day of July 2013)



A Commissioner, etc.



John Cipressi

TAB A

Confidential Exhibit "A" to the Affidavit of John Cipressi sworn July 28, 2017

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TAB B

Confidential Exhibit "B" to the Affidavit of John Cipressi sworn July 28, 2017

**IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL OF
FORTE EPS SOLUTIONS INC.**

(Short title of proceeding)

Court file no. 31-2253654
Estate File no. 31-2253654

ONTARIO
**SUPERIOR COURT OF JUSTICE
IN BANKRUPTCY AND INSOLVENCY**

Supplementary Motion Record

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Lawyer for the DEBTOR/APPLICANT