

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**

**SUPPLEMENT TO THE SECOND REPORT
OF THE PROPOSAL TRUSTEE**

LERNERS LLP
130 Adelaide Street West, Suite 2400
Toronto, ON M5H 3P5

Domenico Magisano LS#45725E
Tel: 416.601.4121
Fax: 416.601.4123
E-mail: dmagisano@lernalers.ca

Christopher Shorey
Tel: 416.601.2389
Fax: 416.867.2448
E-mail: cshorey@lernalers.ca

Lawyers for the Proposal Trustee

TO THE ATTACHED SERVICE LIST

SERVICE LIST

TO: CHAITONS LLP
500 Yonge Street
Toronto, ON M2N 7E7

Maya Poliak
Tel: 416.218.1161
Fax: 416.218.1844
E-mail: maya@chaitons.com

Lawyers for the Business Development Bank of Canada

AND TO: WILLIAM HARVEY JONES
401 Bay Street, Suite 2702"
Toronto, ON M5H 2Y4

Tel: 416.596.8876
Fax: 416.596.0907
E-mail: whjones@williamjones.ca

Lawyers for the Debtor

AND TO: FOGLER RUBINOFF LLP
77 King Street West, Suite 3000
Toronto, ON M5K 1G8

W. Ross MacDougall
Tel: 416.864.7604
Fax: 416.941.8852
E-mail: rmacdougall@foglers.com

Lawyers for Pacific High Tech Ltd.

AND TO: MANCINI ASSOCIATES LLP
505-7050 Weston Road
Woodbridge, ON L4L 8G7

Angelo Mancini
Tel: 905.851.7717
Fax: 905.851.7718
E-mail: acm@manciniassociates.com

Lawyers for 2306732 Ontario Inc.

AND TO: PALIARE ROLAND
155 Wellington St. West, 35th Floor
Toronto, ON M5V 3H1

Jeffrey Larry
Tel: 416.646.4330
Fax: 416.646.4301
E-mail: jeff.larry@paliareroland.com

Lawyers for First Source Mortgage Corp.

AND TO: ADVOCATES LLP
255 Queens Avenue, 16th Floor
London, ON N6A 5R8

David S. Swift
E-mail: D.Swift@advocatesLLP.com

Angelo D'Ascanio
E-mail: a.DAscanio@AdvocatesLLP.com

Lawyers for SOFII

AND TO: NOVA CHEMICALS (CANADA) LTD.
1086 Modeland Road, Building 1040
Suite 201
Sarnia, ON N7T 8C1

Bruce Davies
Tel: 519.346.3287
E-mail: bruce.davies@novachem.com

AND TO: DEPARTMENT OF JUSTICE
c/o Department of Justice
Ontario Regional Office
the Exchange Tower, Box 36
130 King Street West, Suite 3400
Toronto, ON M5X 1K6

Diane Winters
E-mail: diane.winters@justice.gc.ca

AND TO: MINISTRY OF FINANCE
Legal Services Branch
33 King Street West, 6th Floor
Oshawa, ON L1H 8H5

Kevin J. O'Hara
E-mail: kevin.ohara@fin.gov.on.ca

AND TO: TRAVELERS LEASING LTD.
500-4180 Lougheed Highway
Burnaby, BC V5C 6A7

E-mail: afisher@travelersfinancial.com
bheintz@travelersfinancial.com

AND TO: NORTH SIMCOE COMMUNITY FUTURES DEVELOPMENT CORPORATION
355 Cranston Crescent
Midland, ON L4R 4K6

E-mail: admin@nscfcd.on.ca

INDEX

Tab	Document
1.	Supplement to the Second Report of the Proposal Trustee, dated August 16, 2017
A.	Appendix "A" – Notice of Intention to Make a Proposal and Certificate of Appointment
B.	Appendix "B" – Order of Justice Hainey, dated June 15, 2017
C.	Appendix "C" – First Report of the Proposal Trustee, dated June 9, 2017, without appendices
D.	Appendix "D" – Order of Justice Penny, dated July 31, 2017
E.	Appendix "E" – Second Report of the Proposal Trustee, dated July 28, 2017, without appendices

TAB 1

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

**In the Matter of the Proposal of
Forte EPS Solutions Inc.
of the town of Midland, in the Province of Ontario**

**SUPPLEMENT TO THE SECOND REPORT OF ALBERT GELMAN INC.
IN ITS CAPACITY AS PROPOSAL TRUSTEE**

(Dated August 16, 2017)

I. INTRODUCTION

1. This supplemental report ("**Supplemental Report**") is filed by Albert Gelman Inc. ("**AGI**") in its capacity as proposal trustee (the "**Trustee**") under a Notice of Intention to Make a Proposal ("**NOI**") filed by Forte EPS Solutions Inc. ("**Forte**" or the "**Company**") on May 19, 2017 pursuant to Section 50.4(1) of the *Bankruptcy and Insolvency Act* (Canada) (the "**BIA**"). Attached hereto at **Appendix "A"** is a copy of the NOI and Certificate of Appointment issued by the Office of the Superintendent of Bankruptcy.

2. On June 15, 2017, on motion of the Company, the Honourable Justice Hainey of the Ontario Superior Court of Justice (Commercial List) granted an order (the "**June 15 Order**") approving, among other things, an administrative charge and an extension of the stay of proceedings afforded under the NOI to August 2, 2017 (the "**Stay Extension**"). Attached hereto as **Appendix "B"** is a copy of the June 15 Order.

3. The Trustee prepared a report in respect of the June 15, 2017 motion dated June 9, 2017 (the "**First Report**"). Attached hereto as **Appendix "C"** is a copy of the First Report, without appendices.

4. On July 31, 2017, the Honourable Justice Penny of the Ontario Superior Court of Justice (Commercial List) granted an order (the "**July 31 Order**") approving, among other things, a debtor-in-possession lender's charge, an amendment to the administrative charge granted pursuant to the June 15 Order and an extension of the stay of proceedings

afforded under the NOI to September 18, 2017. Attached hereto as **Appendix "D"** is a copy of the **July 31 Order**.

5. The Trustee prepared a report in respect of the July 31, 2017 motion dated July 28, 2017 (the **"Second Report"**). Attached hereto as **Appendix "E"** is a copy of the Second Report, without appendices.

6. In addition to the relief obtained, the July 31 Order originally contemplated approval of its sale and investment solicitation process (the **"SISP"**), however, the Company received an unsolicited term sheet from a third party (the **"Interested Party"**) which contemplated purchase of both the Company's assets and the Premises (as defined below). The Company (with the Trustee's approval) adjourned approval of the SISP to a 9:30am chambers appointment on August 17, 2017 so that it may further advance negotiations with the Interested Party in order to determine if there was a viable transaction available to the Company.

7. The Company has advised the Trustee that while there have been further discussions with the Interested Party, talks have not resulted in a draft purchase (or investment) agreement, much less an agreement capable of being presented to the Court and/or the Company's creditors for approval.

8. Accordingly, the Company (with the Trustee's consent) is seeking approval of a SISP that is modified from what was presented to the Court as part of the material served in support of the July 31 Order.

II. PURPOSE OF THIS REPORT

9. The purpose of this report is to:

- a. provide the Court with an update regarding the status of the Company's negotiations to sell its assets to the Interested Party;
- b. provide the Court with details regarding the Company's ongoing operations;

- c. provide the Court with an update regarding the Company's use of the DIP Facility;
- d. comment on the proposed SISP; and
- e. provide the Court with the Trustee's recommendations.

III. SCOPE AND TERMS OF REFERENCE

10. In preparing this Supplemental Report, the Trustee has relied upon certain unaudited financial information, Forte's books and records, discussions with Mr. John Cipressi, Mr. Dominic Zita (collectively, the "**Principals**"), the Company's legal counsel, Mr. William Harvey Jones, as well as other employees of the Company.

11. While the Trustee has reviewed various documents provided by the Principals and others, such review does not constitute an audit or verification of such information for accuracy, completeness or compliance with Generally Accepted Accounting Principles ("**GAAP**") or International Financial Reporting Standards ("**IFRS**"). Accordingly, the Trustee expresses no opinion or other form of assurance pursuant to GAAP or IFRS or otherwise with respect to such information except as expressly stated herein.

12. This Supplemental Report has been prepared for the use of this Court and Forte's stakeholders as general information relating to Forte and to assist the Court in making a determination of whether to approve the relief sought by Forte. Accordingly, the reader is cautioned that this Supplemental Report may not be appropriate for any other purpose. The Trustee will not assume responsibility or liability for losses incurred by the reader as a result of the circulation, publication, reproduction or use of this Supplemental Report contrary to the provisions of this paragraph.

13. Any capitalized terms not defined in this Supplemental Report shall have the meaning ascribed to them in the First Report and the Second Report.

14. Unless otherwise noted, all monetary amounts referenced are in Canadian dollars.

IV. BACKGROUND INFORMATION

15. The Company’s manufacturing plant is located at 16567 Highway 12, Midland, Ontario (the “Premises”). The Premises is owned by 16567 Highway 12 Holdings Limited (“16567” or the “Landlord”) which is related to the Company in that John Cipressi and Andrea Zita (Dominic Zita’s wife) are the owners of the Landlord. The Trustee understands that there is a lease agreement between the Landlord and the Company. 16567 is not a debtor in these proceedings.

16. Further background information on the Company, its Directors and the events leading to the filing of the NOI can be found in the First Report and the Second Report which are attached hereto as Appendices C and E, respectively.

V. STATUS OF NEGOTIATIONS WITH INTERESTED PARTY

17. As discussed in the Second Report, the Company received an unsolicited non-binding term sheet in July 2017 (the “Term Sheet”) from the Interested Party which outlined the terms of a potential purchase of the assets of Forte as well as the Premises. The Trustee is advised that the Interested Party provided the Company with a summary of key “milestones” (or tasks), one of which includes the execution of an asset purchase agreement, as well as the anticipated date that each milestone will be completed.

18. The Trustee has been advised by the Company’s management that in or around the first week of August 2017 management of the Interested Party attended at the Premises to conduct further due diligence.

19. Following this initial due diligence counsel for the Debtor asked counsel for the Interested Party when they could advance negotiations. The Interested Party’s counsel advised that it did not have any further instructions to continue to complete the tasks outlined in the summary of key “milestones”.

20. Given the response received from counsel to the Interested Party, the Company has elected to proceed with the SISP and communicated same to the Interested Party.

VI. SALE AND INVESTMENT SOLICITATION PROCESS

21. The Company wishes to carry out a SISP in order to fully assess the restructuring options of the Company, ultimately, for the benefit of its secured and unsecured creditors.

22. The Terms of the original SISP were outlined in the Cipressi Affidavit included with the July 31, 2017 motion materials. The Trustee understands that the Company wishes to amended the terms of the SISP to, among other things, empower the Trustee with further decision making authority. This decision has been made because the Principals have articulated an interest in participating in the SISP, either directly by way of investment in the Company, or indirectly, through a related party offer to purchase the Company's assets.

23. The amended SISP terms are being discussed by the Company and the Trustee and in the coming days the Company hopes to provide a supplementary motion record proposing certain amendments to the SISP (the "Amended SISP").

24. The Company has been involved in this NOI process for three months and has already received two stay extensions. Even if the Company proceeds immediately with the Amended SISP it will likely require a third stay extension from the Court. It is imperative that the Company be fully immersed in the Amended SISP process before the current stay expires on September 18, 2017 or risk insufficient time to complete the process within the legislative confines of an NOI process. Accordingly, the Trustee recommends that the Company's motion to approve the Amended SISP be scheduled at the Court's earliest convenience.

VII. DEBTOR IN POSSESSION FINANCING AND RAW MATERIAL PURCHASES

25. As part of the motion material served in support of the July 31 Order the Company advised of an impending cash flow requirement and that said requirement could be met by the Landlord through the DIP Facility. The July 31 Order approved the DIP Facility, however, limited the priority charge for the DIP Facility to no more than \$200,000, (the "DIP Charge"). The DIP Charge is subordinate to the security of the BDC as well as the Administration Charge. The DIP Facility was not executed at the time that the July 31 Order was made.

26. The material terms of the DIP Facility are outlined in the Second Report.

27. Yesterday, the Company advised the Trustee that it has not needed to draw down on the DIP Facility. This is in part because Flint Hills Resources, one of the Company's suppliers (the "Supplier"), has provided credit for raw materials and the Landlord has provided security to the Supplier in exchange for extending said credit (the "Supplier Credit Facility").

28. The Trustee is still investigating the particulars surrounding the Supplier Credit Facility, including: (i) was it the Landlord or the Company that received the Supplier Credit Facility; (ii) if the Supplier Credit Facility was provided to the Landlord, on what contractual basis are the raw materials supplied being transferred from the Landlord to the Company; and (iii) if the Supplier Credit Facility was provided to the Landlord, was the Supplier advised of the NOI and did the Landlord guarantee the obligations under the Supplier Credit Facility.

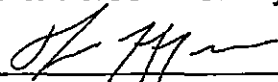
29. The Trustee was not advised of any negotiations with the Supplier, much less invited to attend any such negotiations. At first instance, the Trustee has concerns about the Supplier Credit Facility and whether the Supplier was fully informed of the NOI. The Trustee expects the Company to provide full disclosure of both the negotiations and terms of the Supplier Credit Facility in its motion material describing the Amended SISP.

VIII. TRUSTEE'S RECOMMENDATION

30. For the reasons explained herein the Trustee respectfully recommends that this Honourable Court schedule a hearing on the Company's request to commence a SISP on an expedited basis.

All of which is respectfully submitted this 16th day of August 2017.

**ALBERT GELMAN INC., solely in its
capacity as Trustee of the Proposal of Forte EPS Solutions Inc.
and not in its Personal or any other Capacity**

Per: 
Tom McElroy, CPA, CA, CBV, CIRP, LIT

TAB A

District of:
Division No.
Court No.
Estate No.

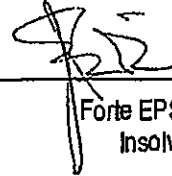
- FORM 33 -
Notice of Intention To Make a Proposal
(Subsection 50.4(1) of the Act)

In the matter of the proposal of
Forte EPS Solutions Inc.
of the city of Midland, in the Province of Ontario

Take notice that: . . .

1. I, Forte EPS Solutions Inc., an insolvent person, state, pursuant to subsection 50.4(1) of the Act, that I intend to make a proposal to my creditors.
2. Albert Gelman Inc. of 100 Simcoe Street, Suite 125, Toronto, ON, M5H 3G2, a licensed trustee, has consented to act as trustee under the proposal. A copy of the consent is attached.
3. A list of the names of the known creditors with claims of \$250 or more and the amounts of their claims is also attached.
4. Pursuant to section 69 of the Act, all proceedings against me are stayed as of the date of filing of this notice with the official receiver in my locality.

Dated at the city of Toronto in the Province of Ontario, this 19th day of May 2017.



Forte EPS Solutions Inc.
Insolvent Person

To be completed by Official Receiver:

Filing Date

Official Receiver

District of: Ontario
 Division No. 03 - Barrie
 Court No. 31-2253654
 Estate No. 31-2253654

- FORM 33 -
 Notice of Intention To Make a Proposal
 (Subsection 50.4(1) of the Act)

In the matter of the proposal of
 Forte EPS Solutions Inc.
 of the city of Midland, in the Province of Ontario

List of Creditors with claims of \$250 or more.			
Creditor	Address	Account#	Claim Amount
2306732 Ontario Inc.	c/o Millenium Disposal Service 2440 Beryl Road Oakville ON L6J 7X4		550,000.00
407 ETR Express Toll Route Marion Richardson/Collections	6300 Steeles Ave W Woodbridge ON L4H 1J1		776.33
Advance Specialties USD	P.O. BOX 349 3735 HIGHWAY 22 GLEASON TN 38232		2,017.40
BASF Canada Inc.	P.O. BOX 15248 STATION A TORONTO ON M5W 1C4		762.60
Bernard Baum, LLB	SUITE 10 & 11 1540 LODESTAR ROAD TORONTO ON M3J 3C5		41,000.00
Business Development Bank of Canada ATT: Maya Pollak	c/o Challons LLP 500 Yonge Street, 10th Floor Toronto ON M2N 7E9		554,785.16
Carlson Construction	725 RUNNINGBROOK DRIVE MISSISSAUGA ON L4Y 2R9		2,475.00
GCH Excavating Inc.	P.O. BOX 159 Port McNicoll ON L0K 1R3		3,835.95
Cdn Business Health Management Inc.	75 MISSISSAUGA STREET WEST ORILLIA ON L3V 3A7		1,440.75
Cheval	P.O. Box 1262 STN B Mississauga ON L4Y 3W4		230,000.00
Domenic Frasca	220 Whitturch Mississauga ON L5A 4B3		439,944.49
Dominic Zita	5063 Summersky Court Mississauga ON L5M 0R3		1,500,000.00
Eisses Enterprises	901 ESSA ROAD BARRIE ON L9J 0B1		4,106.42
Enbridge Gas	P.O. BOX 680 SCARBOROUGH ON M1K 0A9		9,071.87

District of:
 Division No. -
 Court No.
 Estate No.

- FORM 33 -

Notice of Intention To Make a Proposal
 (Subsection 50.4(1) of the Act)

In the matter of the proposal of
 Forte EPS Solutions Inc.
 of the city of Midland, in the Province of Ontario

List of Creditors with claims of \$250 or more.			
Creditor	Address	Account#	Claim Amount
Essex Energy	2199 BLACKACRE DRIVE SUITE 2 OLD CASTLE ON N0R 1L0		4,409.66
Fastenal Canada, LTD	860 TRILLIUM DRIVE SUITE 117 KITCHENER ON N2R 1K7		3,597.96
First Source Mortgage Corporation	1 VALLEYBROOK DRIVE SOUTH UNIT 100 TORONTO ON M3B 2S10		18,300.00
Fred Hook LTD	BOX 248 MIDLAND Midland ON L4R 4K11		156,041.82
Greywall Coatings INC	165 DRIVE INN ROAD, UNIT 4 SAULT ST MARIE ON P6B 5X8		2,460.33
Ideal Supply Company Limited	869 KING STREET MIDLAND ON L4R 0B10		2,954.11
Jason Pasqualino	417 Lanor Ave Mississauga ON M8W 2R7		25,300.00
JD Hubbert	200 EVANS AVE., UNIT 11 TORONTO ON M8Z 1J10		508.50
John Cipressi	72 Bourgeois Beach Road Victoria Harbour ON L0K 2A0		1,500,000.00
Klenzoid	P.O. BOX 3857 COMMERCE COURT POSTAL STN TORONTO ON M5L 1K4		6,277.24
Kreston GTA LLP	8953 WOODBINE AVE., MARKHAM ON L3R 0J12		7,673.98
Linde Canada Limited	P.O. BOX 4070 STN A TORONTO ON M5W 1M6		653.81
Lino Tonic	2020 Winston Park Drive, Suite 101 Oakville ON L6H 6X7		49,424.22
Maria Pierucci	23 Highview Ave Toronto ON M3M 1C5		205,000.00
MRT Automation Ltd	P.O. BOX 517 MIDLAND ON L4R 4L6		3,765.30

District of:
Division No. -
Court No.
Estate No.

- FORM 33 -

Notice of Intention To Make a Proposal
(Subsection 50.4(1) of the Act)

In the matter of the proposal of
Forte EPS Solutions Inc.
of the city of Midland, in the Province of Ontario

List of Creditors with claims of \$250 or more.			
Creditor	Address	Account#	Claim Amount
NATS	2525 HAINES ROAD MISSISSAUGA ON L4Y 1Y10		270,990.00
NAXXAR Consulting	539 KINGSTON ROAD WEST AJAX ON L1S 6M4		3,359.14
New Electric Enterprises Inc.	3185 DUNDAS STREET WEST OAKVILLE ON L6M 4J7		15,217.56
North Simcoe Community Futures Development Corporation	105 Fourth St., P.O. Box 8 Midland ON L4R 4K9		225,500.00
Nova Chemicals US	P.O BOX 8011 POSTAL STN A TORONTO ON M5W 3W8		158,000.00
Pacific High Tech	4789 Yonge Street Unit 716 Toronto ON M2N 0G6		518,250.89
PBS Freight Systems Inc	8760 JANE ST., UNIT #16 VAUGHAN ON L4K 2M12		10,750.00
Phillip & Fill	33 Hiawatha Pkwy Mississauga ON L5G 3S1		60,000.00
POWER FACTOR SERVICES LTD.	1235 FAIRVIEW STREET SUITE 299 BURLINGTON ON L7S 2K12		937.90
Prestige Property Tax Specialists	1025 KING STREET EAST CAMBRIDGE ON N3H 3P8		6,274.55
Pro Windows and Doors Ltd.	1 GOODMARK PLACE SUITE 3 ETOBICOKE ON M9W 6M4		34,891.00
PUC Midland Power Utility Corporation	P.O. BOX 820 MIDLAND ON L4R 4P7		13,886.21
Regency Plastics Company Ltd	50 BRISBANE ROAD DOWNSVIEW ON M3J 2K5		7,063.78
SCC Electrical	P.O. BOX 444 MIDLAND ON L4R 4L6		1,268.59
SCE Construction	29 MEDVIA AVE TORONTO ON M8Z 5L9		1,000.00

District of:
Division No. -
Court No.
Estate No.

- FORM 33 -

Notice of Intention To Make a Proposal
(Subsection 50.4(1) of the Act)

In the matter of the proposal of
Forte EPS Solutions Inc.
of the city of Midland, in the Province of Ontario

List of Creditors with claims of \$250 or more.

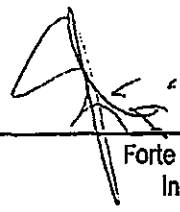
Creditor	Address	Account#	Claim Amount
Slevert Financial Services Inc.	43 COLBORNE STREET TORONTO ON M5E 1E6		15,425.00
SKID - Freight Brokers, Inc.	P.O. BOX 85 SAINTÉ MARTHE SUR LE LAC QC J0N 1P0		2,186.55
Steam Specialties	40 CORSTATE AVE. VAUGHAN ON L4K 4X5		1,966.88
Sunnyside Machine & Hydraulics	1178 EVERTON ROAD MIDLAND ON L4R 5J5		811.95
Telus	P.O. BOX 5300 BURLINGTON ON L4R 4S11		1,277.38
Thermaloc Italy SRL	VIA BONANOMI 3, COMO, IT 22100 IT		904.76
Total Quality Logistics	P.O. BOX 634658 CINCINNATI OH 45263 4561		3,953.92
Travelers Leasing	800-9900 KING GEORGE BLVD. SURREY BC V3T 0K10		399,800.16
Travelers Transportation Services	195 HEART LAKE ROAD S. BRAMPTON ON L6W 3N9		2,926.17
Triple Tech ESJ	1050 KING STREET MIDLAND ON L4R 0B11		1,310.50
Underwriters Laboratories of Canada Inc.	P.O. BOX 15146 STN A TORONTO ON M5W 1C4		15,124.92
United Testing Systems Canada Limited	21-225 BRADWICK DRIVE CONCORD ON L4K 1K10		29,410.73
Western Ontario Community Futures Development Corporation Inc. ATT: David Penton	530 West Street, Unit 10 Branford ON N3R 7V5		440,827.21
WILSON HIGH VOLTAGE	1271 GORHAM STREET UNIT 9 NEWMARKET ON L3Y 8Y10		4,531.66

District of:
Division No. -
Court No.
Estate No.

- FORM 33 -
Notice of Intention To Make a Proposal
(Subsection 50.4(1) of the Act)

In the matter of the proposal of
Forte EPS Solutions Inc.
of the city of Midland, in the Province of Ontario

List of Creditors with claims of \$250 or more.			
Creditor	Address	Account#	Claim Amount
Workplace Safety and Insurance Board c/o Collection Services	200 Front St W Toronto ON M5V 3J1		15,581.87
Total			7,590,012.18



Forte EPS Solutions Inc.
Insolvent Person

TAB B

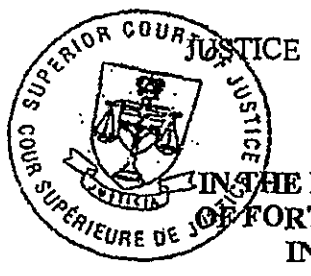
Court file No. 31-2253654
Estate File No. 31-2253554

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

THE HONOURABLE

W. HAINES THE 14th

DAY OF JUNE, 2017



HAINES

**IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL
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 14th day of June 2017 at 330 University Avenue, Toronto, Ontario.

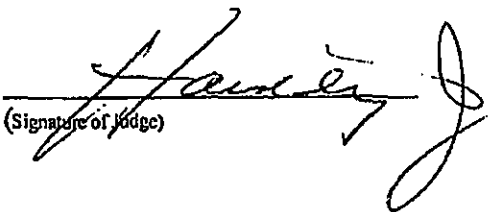
ON READING the affidavit of John Cipressi sworn June 5, 2017 and filed, the first report of Albert Gelman Inc., in its capacity as a proposal trustee (the "Proposal Trustee") dated June 9, 2017, (the "First Report") and on hearing submissions by counsel for the Debtor and counsel for the Proposal Trustee, and all others present, no others appearing although duly served as evidenced by the affidavit of William Harvey Jones, sworn June 6, 2017, 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 First Report and the activities of the Proposal Trustee and its counsel be and are hereby approved.
3. **THIS COURT AUTHORIZES AND APPROVES** a charge over the property, assets and undertaking of the Debtor (the "Property"), in the maximum amount of \$100,000

which shall be held as security for the fees and disbursements of the Proposal Trustee and its counsel and counsel for the Debtor, regardless of whether said fees and disbursements were incurred before or after the making of this Order in respect of these proceedings (the "Proposal Trustee's Charge"), and the Proposal Trustee's Charge shall form a first charge over the Property in priority to all security interests, trusts, liens, charges, and encumbrances, statutory or otherwise, in favour of any person, with the exception of the security interest granted by the Debtor in favour of Business Development Bank of Canada ("BDC") in and over the Property as security for the loan facilities made available by BDC to the Debtor (the "BDC Security"). For greater clarity, the Proposal Trustee's Charge shall be subordinate to the BDC Security.

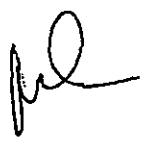
- 4. **THIS COURT ORDERS** that nothing in this Order shall affect the rights of BDC or obligations owing to BDC under the BDC Security including, without limitation, the enforcement rights thereunder.

- 5. **THIS COURT ORDERS** that the time for the Debtor to file its proposal to its creditors be and the same is hereby extended to August 2, 2017.


 (Signature of Judge)

ENTERED AT / INSCRIT A TORONTO
 ON / BDOK NO:
 LE / DANS LE REGISTRE NO:

JUN 14 2017

PER / PAR: 

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
Barrister and Solicitor
Suite 2702 – 401 Bay Street
Toronto, Ontario
M5H 2Y4
LSUC # 38733J

(416) 596-8876
Fax: (416) 596-0907

Solicitor for the Debtor

TAB C

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

**In the Matter of the Proposal of
Forte EPS Solutions Inc.
of the town of Midland, in the Province of Ontario**

**FIRST REPORT OF ALBERT GELMAN INC.
IN ITS CAPACITY AS PROPOSAL TRUSTEE**

(Dated June 9, 2017)

I. INTRODUCTION

1. This first report ("**First Report**") is filed by Albert Gelman Inc. ("**AGI**") in its capacity as proposal trustee (the "**Trustee**") in connection with a Notice of Intention to Make a Proposal ("**NOI**") filed by Forte EPS Solutions Inc. ("**Forte**" or the "**Company**") on May 19, 2017 under Section 50.4(1) of the *Bankruptcy and Insolvency Act* (Canada) (the "**BIA**"). Attached hereto at **Appendix "A"** is a copy of the NOI and Certificate of Appointment issued by the Office of the Superintendent of Bankruptcy.

2. The Company advises that it had attempted to informally restructure its affairs for several months prior to filing the NOI, however, a series of events made the NOI filing a necessity so that it could negotiate with its creditors on a fair and equitable basis. The events that gave rise to the NOI filing included:

- a. on May 8, 2017, the Company's operating lender, the Business Development Bank of Canada ("**BDC**"), commenced a motion to appoint a receiver over the assets, undertakings and properties of the Company (the "**Receivership Motion**"). The Receivership Motion was adjourned with the Company and BDC entering into a forbearance agreement shortly after the NOI filing (the "**Forbearance Agreement**"). It is the Trustee's understanding that while the Receivership Motion was adjourned, BDC wanted the Company to present a structured process that would see its debt repaid;

- b. the Company had judgment creditors that were seeking to execute on their judgments;
- c. Travelers Leasing Ltd. ("Travelers"), a lessor of certain machinery and equipment that are integral to the Company's operations (the "Leased Equipment"), "tagged" the Leased Equipment and expressed its intention to repossess the Leased Equipment; and
- d. some of the Company's utility providers, which it depended on to operate its business, were threatening to stop supplying to the Company.

3. The Company has brought a motion seeking, amongst other things, an Order extending the initial stay of proceedings afforded to it under the NOI until August 2, 2017 (the "Stay Extension"), and an Order granting an administrative charge in the maximum aggregate amount of \$100,000 (the "Administrative Charge"). Of note, the Administrative Charge will be subordinate only to BDC's security in the Company's assets, but in priority to all other claims against the Company's assets.

4. The Company has served the affidavit of John Cipressi sworn June 5, 2017 (the "Cipressi Affidavit"), in support of its motion.

5. For the reasons explained herein the Trustee supports the relief sought by the Company in its motion and further detailed in the Cipressi Affidavit.

II. PURPOSE OF THIS REPORT

6. The purpose of this report is to:

- a. provide the Court with information pertaining to the Company, including the objectives of the Company's restructuring proceedings, which is not otherwise described in the Cipressi Affidavit;
- b. provide information to the Court regarding the actions and activities of both the Trustee and the Company subsequent to the filing of the NOI;

- c. provide information to the Court regarding the Company's Cash Flow Projections (defined below);
- d. discuss the Company's request for the Stay Extension and the Administrative Charge; and
- e. provide the Court with the Trustee's recommendations.

III. SCOPE AND TERMS OF REFERENCE

7. In preparing this First Report, the Trustee has relied upon certain unaudited financial information, Forte's books and records, discussions with Mr. John Cipressi, Mr. Dominic Zita (collectively, the "Principals"), the Company's legal counsel, Mr. William Harvey Jones, as well as other employees of the Company.

8. While the Trustee has reviewed various documents provided by the Principals and others, such review does not constitute an audit or verification of such information for accuracy, completeness or compliance with Generally Accepted Accounting Principles ("GAAP") or International Financial Reporting Standards ("IFRS"). Accordingly, the Trustee expresses no opinion or other form of assurance pursuant to GAAP or IFRS or otherwise with respect to such information except as expressly stated herein.

9. This First Report has been prepared for the use of this Court and Forte's stakeholders as general information relating to Forte and to assist the Court in making a determination of whether to approve the relief sought by Forte. Accordingly, the reader is cautioned that this First Report may not be appropriate for any other purpose. The Trustee will not assume responsibility or liability for losses incurred by the reader as a result of the circulation, publication, reproduction or use of this First Report contrary to the provisions of this paragraph.

10. Any capitalized terms not defined in this First Report shall have the meaning ascribed to them in the Cipressi Affidavit.

11. Unless otherwise noted, all monetary amounts referenced are in Canadian dollars.

IV. BACKGROUND INFORMATION

12. The Company is owned by the Principals and is in the business of manufacturing and distributing expanded polystyrene products primarily used in the construction industry.

13. The Company employs 15 people, all located in its manufacturing plant located at 16567 Highway 12, Midland, Ontario (the "Premises"). The Premises is owned by 16567 Highway 12 Holdings Limited (the "Landlord") which is related to the Company in that John Cipressi and Andrea Zita (Dominic Zita's wife) are the owners of the Landlord. The Trustee understands that there is a lease agreement between the Landlord and the Company.

14. The Landlord has entered into an agreement of purchase and sale to sell its premises to 2306732 Ontario Inc. which is anticipated to close in late July, 2017 (the "APS"). The APS contemplates the Company remaining as a Tenant of the Premises and, as a result, the Company believes it will be able to maintain operations after the APS closes.

15. As described above, prior to the NOI filing the Company's ability to operate was negatively affected by various factors which included:

- a. demand and receivership proceedings commenced by its operating lender;
- b. an equipment lessor threatening to repossess the Leased Equipment;
- c. judgment creditors seeking to enforce on their judgments; and
- d. utility companies threatening to cease supplying to the Company .

16. The Company advises that it could not continue to negotiate with its creditors while under constant threat of enforcement proceedings that effectively closed the business, much less continue to satisfy existing clients and attract new business.

17. The significant tangible assets of the Company consist of manufacturing equipment which the Company uses to manufacture its products. A portion of the manufacturing equipment is leased from Travelers (defined as Leased Equipment above). The balance of the equipment is owned by the Company. It is the Trustee's understanding that the Company is in the process of obtaining an appraisal of its machinery and equipment.

18. The Company's secured creditors are as listed at paragraph 7 of the Cipressi Affidavit.

19. North Simcoe has provided the Trustee with a postponement agreement which purports to subordinate and postpone North Simcoe's security in favour of BDC's security. Attached hereto at Appendix "B" is a copy of the Postponement.

20. Of note, the Landlord has guaranteed the Company's debts to two of its secured creditors (namely BDC and Western Ontario Community Futures Development Corporation Association ("SOFFI")) with said guarantees being secured by mortgages on the Premises. Accordingly, the Company's indebtedness to BDC and SOFFI will likely be satisfied from the sale proceeds when the APS closes, or alternatively, assumed by a third party who is prepared to release the Landlord's guarantees.

21. The Company has listed approximately \$6 Million of unsecured claims in its NOI which includes \$3 Million owing to the Principals. Therefore, there are approximately \$3 Million of arm's length unsecured claims listed by the Company.

22. The Principals have advised the Trustee that the Company has never had proper financial statements prepared by an external accounting firm. Therefore, the Trustee has not been able to review any recent externally generated financial information prepared for the Company. It is the Trustee's understating that the Company will be engaging an external accounting firm to bring its financial reporting up to date.

V. ACTIVITIES OF THE COMPANY

23. Since the date of the filing of the NOI the Company has undertaken, among other things, the following activities:

- a. entered into the Forbearance Agreement;
- b. advised various stakeholders, including management, relevant employees and important suppliers of the restructuring proceedings;
- c. enhanced their marketing efforts to prospective customers;
- d. held preliminary discussions with one party who had approached the Company and was interested in purchasing the Company's assets;
- e. had informal discussions with various secured and unsecured creditors in respect of the restructuring proceedings;
- f. attended meetings with the Trustee and its legal counsel to discuss its objectives and options in respect of these restructuring proceedings;
- g. prepared its Cash Flow Forecast (defined below) with the assistance of the Trustee;
- h. provided the Trustee, on an ongoing basis, with financial and other information in order to allow the Trustee to monitor its cash receipts and disbursements; and
- i. started to consider options for recapitalizing and/or marketing the Company and its business.

24. As of the date of this report it is the Trustee's understanding that the Company has not made a determination as to how it will proceed with respect to its restructuring plan and, therefore, the Company is respectfully requesting an extension of time to file its proposal.

VI. ACTIVITIES OF THE TRUSTEE

25. Since the date of the filing of the NOI the Trustee has undertaken, among other things, the following activities:

- a. on May 26, 2017, the Trustee mailed to every known creditor a copy of the NOI as required under subsection 50.4(6) of the BIA. A copy of the affidavit of mailing is attached as **Appendix "C"**;
- b. subsequent to the filing of the NOI the Trustee provided a copy of the Notice of Stay of Proceedings (the "**Stay Notice**") to all known litigation claimants. Attached hereto at **Appendix "D"** is a copy of the Stay Notice;
- c. assisted the Company with the preparation of the Cash Flow Forecast (defined below);
- d. implemented procedures with the company's management and employees in order to allow the Trustee to consistently monitor the receipts and disbursements of the Company and compare same to the Cash Flow Forecast for variances;
- e. met with management and its counsel, Mr. William Harvey Jones, on several occasions to discuss, among other things, the following:
 - i. The status of the current business operations and prospects for the future;
 - ii. The potential for a sale of all or part of the business assets as part of the restructuring proceedings; and,
 - iii. How the company would finance a proposal to its creditors.
- f. communicated extensively with the Principals and the Company's legal counsel; and,
- g. communicated with several creditors and other stakeholders who contacted the Trustee directly regarding the status of the restructuring proceedings.

VII. CASH FLOW

26. On May 29, 2017 the Company filed with the Trustee its statement of forecasted cash flows prepared on a weekly basis for the period of May 22 to September 3, 2017 ("Cash Flow Forecast"), along with management's report on the reasonableness of the Cash Flow Forecast, in accordance with subsection 50.4(2) of the BIA. Attached hereto as Appendix "E" is a copy of the Cash Flow Forecast along with managements report thereon, which are prepared on the assumption that the Company continues as a going concern.

27. The Cash Flow Forecast does not include payments to any secured creditors during the forecast period. However, the Company has advised the Trustee that it will continue to make payments to Travelers in accordance with its lease agreement as the Company requires the leased equipment in order to maintain its business operations. The Company has further advised that it will be preparing a revised cash flow forecast in due course to reflect this omission.

Shareholder Advances

28. The Cash Flow Forecast indicates that the Company will require additional working capital funds in the aggregated sum of approximately \$300,000 during the period from June 12 to July 16, 2017 to fund continuing operations during the NOI period. The Principals have advised the Trustee that they will be advancing funds into the Company personally in order the fund working capital requirements during this period.

VIII. ADMINISTRATIVE CHARGE

29. The Company is seeking an Order of the Court charging the property, assets and undertakings of Forte in priority to all other security interests, trusts, liens, charges and encumbrances, claims of secured creditors, or statutory or otherwise, pursuant to section 64.2(1) of the BIA in an amount not to exceed \$100,000 to secure the fees and disbursements of the Trustee, the Trustee's legal counsel and legal counsel for the Company (defined as the Administrative Charge above).

30. Administration Charges are common in proceedings such as this and are necessary to secure the fees and disbursements of the professionals involved to enable the company to successfully complete its restructuring proceedings.

31. The Administration Charge being sought will be subordinated to the secured interests of BDC and without prejudice to Travelers' ability to argue that its security interest in the Leased Equipment is in fact a Purchase Money Security Interest.

32. Pursuant to the Forbearance Agreement, Forte and BDC agreed that any Administration Charge requested by the Company would be subordinated to BDC. Further, by virtue of the Postponement, BDC appears to be the Company's senior lender and is not subject to the stay of proceedings granted by the NOI.

33. Counsel to the Trustee has provided the Trustee with an opinion (the "Security Review") that, subject to certain standard qualifications and assumptions contemplated therein, the security of both BDC and Travelers is valid and enforceable in accordance with its terms. Attached hereto as Appendix "F" is a copy of the security opinion.

34. However, the Security Review questions whether Travelers interest in the Leased Equipment is, in fact, a valid Purchase Money Security Interest (a "PMSI"). Specifically, the Security Review notes that Travelers' lease in the Leased Equipment appears to be the result of a sale/leaseback transaction. Of note, section 2 of the Personal Property Security Act defines a "purchase money security interest" as:

- a. a security interest taken or reserved in collateral, other than investment property, to secure payment of all or part of its price,
- b. a security interest taken in collateral, other than investment property, by a person who gives value for the purpose of enabling the debtor to acquire rights in or to the collateral, to the extent that the value is applied to acquire the rights, or

- c. the interest of a lessor of goods under a lease for a term of more than one year,

but does not include a transaction of sale by and lease back to the seller
[emphasis added]

35. Attached hereto as **Appendix "G"** is a copy of the security documents received from Travelers.

36. If Travellers does not have a PMSI, it would still have a valid and enforceable security interest in the Leased Equipment, however, priority would then be determined by date of perfection. The Trustee notes that according to the search conducted of the personal property security registration database (the "**PPSR Database Search**"), Travelers registration was completed after the registrations completed by BDC, North Simcoe and SOFFI. The Trustee is not aware of a priorities agreement between Travelers and any of BDC, North Simcoe or SOFFI. Attached hereto as **Appendix "H"** is a copy of the PPSR Database Search of the Debtor.

37. Given the foregoing, the Trustee recommends that the Administration Charge only be subordinate to BDC's security. However, the Administration Charge given should be without prejudice to Travelers' ability to bring a motion within 30 days for an Order declaring that they have a valid PMSI and an Order further subordinating the Administration Charge to their PMSI in the Leased Equipment (if Travelers in fact has a valid PMSI over the Leased Equipment).

38. The Trustee has been made aware that a related third party may acquire or take an assignment of BDC's debt and security position. If that occurs, the Proposal Trustee may seek an amendment to the Administrative Charge Order such that the Administration Charge ranks in priority to BDC's security.

IX. REQUEST FOR EXTENSION

39. The Company is seeking the Stay Extension pursuant to subsection 50.4(9) of the BIA. The Company has advised that it will likely return to Court during the

Stay Extension to seek court approval for a sale and investment solicitation process (the "SISP") designed to attract funding so that the Company can make a proposal to its creditors. The Principals further advise that they are considering investing additional funds into the Company through a proposal. Notwithstanding the potential SISP, the Trustee understands that the Principals may still have opportunity to make a proposal to their creditors without selling the Company or seeking an external investment in the Company.

40. The Trustee supports the Stay Extension as it is of the opinion that:

- a. the Company has acted, and is acting, in good faith and with due diligence;
- b. the Company would likely be able to make a viable Proposal if the extension being applied for were granted; and,
- c. no creditor would be materially prejudiced if the extension being applied for were granted.

41. The Trustee is also of the opinion that a Proposal developed by the Company would likely result in a higher distribution to creditors than if the extension is denied thereby resulting in a deemed bankruptcy and forced liquidation of the Company's assets.

X. TRUSTEE'S RECOMMENDATION

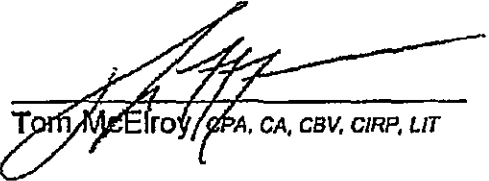
42. For the reasons explained herein the Trustee respectfully recommends that this Honourable Court make an Order approving:

- a. the Administration Charge; and
- b. the Stay Extension.

* * *

All of which is respectfully submitted this 9th day of June, 2017.

**ALBERT GELMAN INC., solely in its
capacity as Trustee of re the Proposal of Forte EPS Solutions Inc.
and not in its Personal or any other Capacity**

Per: 
Tom McElroy, CPA, CA, CBV, CIRP, LIT

4554813.1

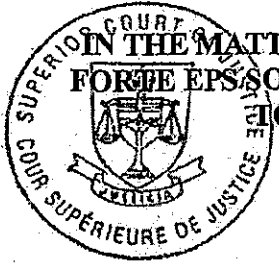
TAB D

Court file No. 31-2253654
Estate File No. 31-2253554

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

THE HONOURABLE *Mr.*
JUSTICE *Renny*

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 supplementary affidavit of John Cipressi sworn July 28, 2017 and filed (the "Supplementary Cipressi Affidavit"), the second report of Albert Gelman Inc., in its capacity as a proposal trustee (the "Proposal Trustee") dated July 28, 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 affidavits of William Harvey Jones, sworn July 24, 2017 and July 28, 2017, and filed.

1. **THIS COURT ORDERS** that, if necessary, the time for service of the Notice of Motion, the Motion Record and the Second Report are 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 approved.

3. **THIS COURT ORDERS** that the motion of the Debtor for an order authorizing the Debtor to undertake sales and investment solicitation process as further described in the Cipressi Affidavit and the Second Report (the “SISP”) is hereby adjourned to a 9:30am chambers appointment on August 17, 2017.

DIP FINANCING

4. **THIS COURT ORDERS** that the execution and delivery by the Debtor of the DIP Loan Agreement as defined in the Cipressi Affidavit and substantially in the form attached as Exhibit “G” to the Cipressi Affidavit is hereby approved 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 contemplated therein) and to obtain and borrow under the DIP Loan Agreement to finance the Debtor’s working capital requirements (including occupation rent payable), provided that borrowings under the DIP Loan Agreement shall not exceed \$200,000.

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 (collectively the “Definitive Documents”) as contemplated by the DIP Loan Agreement together with such modification thereto as may be reasonably required and as may be agreed to by the Debtor and the DIP Lender after consultation with the Proposal Trustee. The Debtor is hereby authorized and directed to pay all its indebtedness, interest, fees, liabilities and obligations due and owing to the DIP Lender under and pursuant to the Definitive Documents and the DIP Loan Agreement as and when the same become due, 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 7 and 8 below.

7. **THIS COURT ORDERS** that paragraph 3 and 4 of the Order of the Honourble Justice Hainey dated June 14, 2017 (the "**June 14 Order**"), be and are hereby amended and restated, as follows:

3. **THIS COURT ORDERS AND APPROVES** a charge over the property, assets and undertaking of the Debtor (the "**Property**"), in the maximum amount of \$100,000 which shall be held as security for the fees and disbursements of the Proposal Trustee and its counsel and counsel for the Debtor, regardless of whether said fees and disbursements were incurred before or after making of this Order in respect of these proceedings (the "**Proposal Trustee's Charge**")

4. **THIS COURT ORDERS** that the Proposal Trustee's Charge shall enjoy the following priority over the Property:

a. With respect to the Property listed at Schedule "A" to this Order the Proposal Trustee's Charge shall form a first charge in priority to all security interests, trusts, liens, charges, and encumbrances, statutory or otherwise, in favour of any person; and


b. With respect to the balance of the Property, the Proposal Trustee's Charge shall form a second charge in priority to all security interest, trusts, liens, charges, and encumbrances of any person, save and except for the security interest granted by the Debtor in favour of Business Development Bank of Canada ("**BDC**") in and over the Property as security for the loan and facilities made available by BDC to the Debtor

WAP
(the "BDC Security")

8. **THIS COURT ORDERS** that for greater certainty, the DIP Lender's Charge shall be subordinate in all respects to the BDC Security and the Proposal Trustee's Charge.

9. **THIS COURT ORDERS** that the Confidential Exhibits "A" and "B" to the Supplementary Cipressi Affidavit be and are hereby sealed until further Order of the Court.

10. **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.



SCHEDULE A

This schedule is in addition to Lease Agreement number E0195 between TRAVELERS LEASING LTD. (as Lessor) and Forte EPS Solutions Inc. (as Lessee) and forms part of the contract.


Equipment Description:

- (1) Used Infra Model 3000-A Universal Automatic Moulding & Laminating Machine S/N 288
 - (1) Technodinamica Contour TD400/1 Cutter S/N 20133500
 - (1) Micro Recycling "In-A-Box" S/N 14012467
 - (1) EPS Machine Greenmax A-C100 S/N 131108
 - (1) United "Smart 1" Table Model Electromechanical Testing Machine S/N 0714548
 - (1) Hirsch Movicon X Monolith E4 Platform S/N 1W1360022634
- and all parts, attachments and accessories

TRAVELERS LEASING LTD.



Forte EPS Solutions Inc.



Dominic Zita, Director

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
Barrister and Solicitor
Suite 2702 – 401 Bay Street
Toronto, Ontario
M5H 2Y4
LSUC # 38733J

(416) 596-8876
Fax: (416) 596-0907

Solicitor for the Debtor

TAB E

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

**In the Matter of the Proposal of
Forte EPS Solutions Inc.
of the town of Midland, in the Province of Ontario**

**SECOND REPORT OF ALBERT GELMAN INC.
IN ITS CAPACITY AS PROPOSAL TRUSTEE**

(Dated July 28, 2017)

I. INTRODUCTION

1. This second report ("**Second Report**") is filed by Albert Gelman Inc. ("**AGI**") in its capacity as proposal trustee (the "**Trustee**") in connection with a Notice of Intention to Make a Proposal ("**NOI**") filed by Forte EPS Solutions Inc. ("**Forte**" or the "**Company**") on May 19, 2017 under Section 50.4(1) of the *Bankruptcy and Insolvency Act* (Canada) (the "**BIA**"). Attached hereto at **Appendix "A"** is a copy of the NOI and Certificate of Appointment issued by the Office of the Superintendent of Bankruptcy.

2. On June 15, 2017, on motion of the Company, the Honourable Justice Hainey of the Ontario Superior Court of Justice (Commercial List) granted an order (the "**June 15 Order**") approving, among other things, an administrative charge and an extension of the stay of proceedings afforded under the NOI to August 2, 2017 (the "**Stay Extension**"). Attached hereto as **Appendix "B"** is a copy of the June 15 Order.

3. The Trustee prepared a report in respect of the June 15, 2017 motion dated June 9, 2017 (the "**First Report**"). Attached hereto as **Appendix "C"** is a copy of the First Report, without appendices:

4. The Company has served the affidavit of John Cipressi, sworn July 23, 2017 (the "**Cipressi Affidavit**"), and the supplementary affidavit of John Cipressi, sworn July 28, 2017 (the "**Supplementary Affidavit**"), in support of its motion.

5. For the reasons explained herein the Trustee supports the relief sought by the Company in its motion and further detailed in the Cipressi Affidavit and Supplementary Affidavit.

II. PURPOSE OF THIS REPORT

6. The purpose of this report is to:

- a. provide information to the Court regarding the actions and activities of both the Trustee and the Company subsequent to date of the First Report;
- b. discuss the proposed SISP (defined below) and the subsequent request to adjourn this relief;
- c. provide information to the Court regarding the Company's Revised Cash Flow Projection (defined below);
- d. discuss the Company's request for the Second Stay Extension (defined below);
- e. provide information to the Court regarding the DIP Facility and DIP Charge (both terms defined below);
- f. discuss the Company's request for an amendment and restatement of the June 15 Order, specifically with respect to the priority ranking of the Administrative Charge as granted on June 15, 2017; and,
- g. provide the Court with the Trustee's recommendations.

III. SCOPE AND TERMS OF REFERENCE

7. In preparing this Second Report, the Trustee has relied upon certain unaudited financial information, Forte's books and records, discussions with Mr. John Cipressi, Mr. Dominic Zita (collectively, the "Principals"), the Company's legal counsel, Mr. William Harvey Jones, as well as other employees of the Company.

8. While the Trustee has reviewed various documents provided by the Principals and others, such review does not constitute an audit or verification of such information for accuracy, completeness or compliance with Generally Accepted Accounting Principles ("GAAP") or International Financial Reporting Standards ("IFRS"). Accordingly, the Trustee expresses no opinion or other form of assurance pursuant to GAAP or IFRS or otherwise with respect to such information except as expressly stated herein.

9. This Second Report has been prepared for the use of this Court and Forte's stakeholders as general information relating to Forte and to assist the Court in making a determination of whether to approve the relief sought by Forte. Accordingly, the reader is cautioned that this Second Report may not be appropriate for any other purpose. The Trustee will not assume responsibility or liability for losses incurred by the reader as a result of the circulation, publication, reproduction or use of this Second Report contrary to the provisions of this paragraph.

10. Any capitalized terms not defined in this Second Report shall have the meaning ascribed to them in the First Report.

11. Unless otherwise noted, all monetary amounts referenced are in Canadian dollars.

IV. BACKGROUND INFORMATION

12. The Company's manufacturing plant is located at 16567 Highway 12, Midland, Ontario (the "Premises"). The Premises is owned by 16567 Highway 12 Holdings Limited ("16567" or the "Landlord") which is related to the Company in that John Cipressi and Andrea Zita (Dominic Zita's wife) are the owners of the Landlord. The Trustee understands that there is a lease agreement between the Landlord and the Company. 16567 is not a debtor in these proceedings.

13. Of note, the Landlord has guaranteed the Company's debts to two of its secured creditors, namely Business Development Bank of Canada ("BDC") and Western Ontario Community Futures Development Corporation Association ("SOFFI"), with said guarantees being secured by mortgages on the Premises.

14. The Trustee understands that in May 2017, the Landlord entered into an agreement of purchase and sale to sell its premises to 2306732 Ontario Inc. (the "Premises Purchaser") (collectively, the "APS") with a closing date of July 25, 2017 (the "Closing Date"). The APS was conditional on the Premises Purchaser waiving certain conditions thus the transaction did not close on the Closing Date.

15. The Company received an unsolicited non-binding term sheet on July 2017 (the "Term Sheet") from a prospective purchaser (the "Interested Party") which outlined the terms of a potential purchase of the assets of Forte as well as the Premises. As of the date of this Second Report, the Trustee understands that the company has not entered into an agreement of purchase and sale with the Interested Party. However, the Interested Party has provided the Debtor with a summary of key "milestones" (or tasks), one of which includes the execution of an asset purchase agreement, as well as the anticipated date that each milestone will be completed. It appears to the Trustee that the Interested Party proposes to undertake good faith efforts to perform its due diligence with the ultimate goal of entering into a binding agreement to purchase the Debtor's assets.

16. Further background information on the Company, its Directors and the events leading the filing of the NOI can be found in the First Report which is attached as Appendix C.

V. ACTIVITIES OF THE COMPANY

17. Since the date of the First Report the Company has undertaken, among other things, the following activities:

- a. attended a meeting, along with the Trustee and its counsel, with the Interested Party;
- b. received and began negotiations on a term sheet received from the Interested Party;
- c. continued to market its products to existing and new consumers in an effort to increase revenues;

- d. attended meetings with the Trustee and its legal counsel to discuss its objectives and options in respect of these restructuring proceedings;
- e. obtained an Appraisal of its machinery and equipment;
- f. prepared the Revised Cash Flow Projection with the assistance of the Trustee; and,
- g. provided the Trustee, on an ongoing basis, with financial and other information in order to allow the Trustee to monitor its cash receipts and disbursements.

18. Since the date of the First Report the Principals decided to proceed with a SISP (defined below). However, with the receipt of the Term Sheet, Forte wishes to first negotiate with the Interested Party with a view to maximizing recovery and minimizing expense to its creditors

VI. ACTIVITIES OF THE TRUSTEE

19. Since the date of the First Report the Trustee has undertaken, among other things, the following activities:

- a. assisted the Company with the preparation of the Revised Cash Flow Projection;
- b. continued to monitor the receipts and disbursements of the Company and compare same to the Cash Flow Forecast for variances;
- c. met with management and its counsel, Mr. William Harvey Jones, as well as representatives of the Interested Party to discuss the potential sale of the Company's assets to the Interested Party;
- d. communicated extensively with the Principals and the Company's legal counsel; and,

- e. communicated with several creditors and other stakeholders who contacted the Trustee directly regarding the status of the restructuring proceedings.

VII. SALE AND INVESTMENT SOLICITATION PROCESS

20. The Company wishes to carry out a sale and investment solicitation process (the "SISP") in order to fully assess the restructuring options of the Company, ultimately, for the benefit of its secured and unsecured creditors. The administrative functions of the SISP shall be carried out by the Trustee, however, it will not be responsible for making any decisions with respect to which LOIs to pursue and/or, ultimately, which offer to accept, if any. The role of the Trustee shall be limited to that of an administrator of the SISP in so far as it shall contact interested parties, provide those interested parties with information and present any LOIs received to the Company.

21. The Company has requested that the Trustee carry out the administrative function of the SISP because Mr. Dominic Zita and/or Mr. John Cipressi, the shareholders and directors of the Company, are contemplating either directly or indirectly making an offer in accordance with the SISP. Therefore, the Trustee shall undertake the administrative duties of the SISP in order to ensure the integrity of the SISP is maintained throughout the process.

22. The terms of the proposed SISP are set out below:

- a. the Trustee, with the assistance of the Company and its legal counsel, will use commercially reasonable efforts to identify prospective purchasers and send a teaser letter to each party identified;
- b. each prospective purchaser identified will be required to execute a non-disclosure agreement ("NDA"). Upon execution of the NDA the prospective purchaser will be given access to confidential corporate information for the purposes of performing any necessary due diligence;
- c. each prospective purchaser who wishes to make an offer to either purchase the assets or make an investment in the Company must provide the Trustee

with a non-binding letter of intent ("LOI") on or before August 25, 2017. The LOI shall include basic information about the contemplated transaction as well as the Interested Party's ability to fund the transaction;

- d. the Debtor and the Trustee will review each LOI received and the Company will determine which LOIs it would like to pursue;
- e. the deadline for a binding agreement is August 30, 2017 at 5:00 p.m. eastern standard time;
- f. all offers received must include standard insolvency terms and conditions as well as various other conditions outlined in the SISP;
- g. all offers received must include a deposit of fifteen (15%) per cent of the purchase price;
- h. the Company will have the right to reject any and all offers, including the best offer; and,
- i. any transaction is subject to approval of the Court.

23. The SISP provides that the Debtor may accept offers received outside of the SISP. The Trustee wishes to clarify that any attempts by the Company to accept offers outside the SISP will be of concern to the Trustee and will, at a minimum, require both creditor and court approval.

VIII. CASH FLOW

24. On July 28, 2017 the Company filed with the Trustee its revised statement of forecasted cash flows prepared on a weekly basis for the period of July 24 to November 5, 2017 ("Revised Cash Flow Projection"), along with management's report on the reasonableness of the Cash Flow Projection, in accordance with subsection 50.4(2) of the BIA. Attached hereto as Appendix "D" is a copy of the Revised Cash Flow Projection along with managements report thereon, which are prepared on the assumption that the Company continues as a going concern.

25. The Revised Cash Flow Forecast includes an injection of \$200,000 during the week ended August 6, 2017 from 16567. The Debtor is requesting that this Honourable Court grant an Order approving the DIP Facility and DIP Charge (both terms defined below) and, if the Order is granted, the advance from 16567 will form part of the DIP Charge.

IX. ASSETS

26. As was noted in the First Report, the significant tangible assets of the Company consist of manufacturing equipment which the Company uses to manufacture its products. A portion of the manufacturing equipment is leased from Travelers Leasing Ltd. ("Travelers") (the "Leased Equipment"). The Leased Equipment is integral to the Company's continuing operations. Prior to the filing of the NOI by the Company Travelers "tagged" the Leased Equipment and expressed its intention to repossess the Leased Equipment.

27. The balance of the manufacturing equipment is owned by the Company.

28. The Company obtained an appraisal of its machinery and equipment prepare on a gross forced liquidation value basis by Asset Services with an effective date of June 19, 2017 (the "Appraisal"). The Appraisal has not been included with this Second Report as it contains sensitive commercial information regarding the value of the Company's machinery and equipment which may, if made public, negatively affect the quantum of any offer(s) made pursuant to the SISP.

X. SECURED CREDITORS

29. Pursuant to a Ontario Personal Property Lien search conducted by the Trustee (file currency date July 24, 2017) (the "PPL Search") the following registration were identified:

Creditor	Registration Date	Collateral Classification
North Simcoe Community Futures Development Corporation	May 10, 2012	Equipment
Business Development Bank of Canada	January 29, 2013	Inventory, Equipment, Accounts, Other, Motor Vehicle
Western Ontario Community Futures Development Corporation	February 1, 2013	Inventory, Equipment, Accounts, Other, Motor Vehicle
Travelers Leasing Ltd.	July 29, 2014	Equipment

30. Attached hereto as **Appendix "E"** is a copy of the PPL Search.

31. Counsel to the Trustee has provided the Trustee with an opinion (the "**Security Review**") that, subject to certain standard qualifications and assumptions contemplated therein, the security of both BDC and Travelers is valid and enforceable in accordance with its terms. Attached hereto as **Appendix "F"** is a copy of the security opinion.

32. The Security Opinion did not consider the validity and enforceability of the security of SOFFI, North Simcoe (defined below) or First Source Mortgage Corporation. The Trustee will likely obtain an expanded security opinion at the time the Company makes its proposal to its creditors.

North Simcoe Community Futures Development Corporation ("**North Simcoe**")

33. North Simcoe has provided the Trustee with a postponement agreement which purports to subordinate and postpone North Simcoe's security in favour of BDC's security (the "**North Simcoe Postponement**"). Attached hereto at **Appendix "G"** is a copy of the North Simcoe Postponement.

34. As a result of the North Simcoe Postponement it appears that the BDC has first ranking secured charge over the Company's assets, including the Leased Equipment as explained in further detail below.

BDC

35. The Company entered into a forbearance agreement with BDC which extends to August 30, 2017 (the "**Forbearance Agreement**"). The Forbearance Agreement was

conditional on the APS closing on July 25, 2017. The Trustee understands that there are continuing negotiations with BDC about extending the forbearance.

SOFFI

36. On June 19, 2017 counsel for SOFFI, Advocates LLP, contacted counsel for the Trustee, Lerners LLP, and provided copies of their clients Notice of Intention to Enforce Security dated August 26, 2015 (the "SOFFI NITES") which were issued pursuant to section 244 of the BIA. Attached hereto as Appendix "H" is a copy of the SOFFI NITES.

37. The Trustee notes that the SOFFI NITES were issued almost two years ago. The Trustee expresses no opinion at this time as to whether SOFFI would be subject to the stay of proceedings in this matter. The Trustee has been advised that the Company did not enter into a forbearance agreement or any other tolling agreement subsequent to the issuance of the SOFFI NITES and that the Principals are not aware of any enforcement actions taken by SOFFI subsequent to the issuance of the SOFFI NITES.

38. Subsequent to June 19, 2017, neither the Trustee nor its counsel has been contacted by SOFFI's counsel.

Travelers Leasing Ltd. ("Travelers")

39. The Security Review noted above questions whether Travelers interest in the Leased Equipment is, in fact, a valid Purchase Money Security Interest (a "PMSI"). Specifically, the Security Review notes that Travelers' lease in the Leased Equipment appears to be the result of a sale/leaseback transaction. Of note, section 2 of the *Personal Property Security Act* defines a "purchase money security interest" as:

- a. a security interest taken or reserved in collateral, other than investment property, to secure payment of all or part of its price,
- b. a security interest taken in collateral, other than investment property, by a person who gives value for the purpose of enabling the debtor to acquire rights in or to the collateral, to the extent that the value is applied to acquire the rights, or

c. the interest of a lessor of goods under a lease for a term of more than one year,

but does not include a transaction of sale by and lease back to the seller. [emphasis added]

40. Attached hereto as Appendix "I" is a copy of the security documents received from Travelers.

41. If Travellers does not have a PMSI, it would still have a valid and enforceable security interest in the Leased Equipment, however, priority would then be determined by date of perfection. The Trustee notes that according to the PPL Search, Travelers registration was completed after the registrations completed by each of BDC, North Simcoe and SOFFI. The PPL Search is attached as Appendix E.

42. The BDC and Travelers entered into a priority agreement dated July 28, 2017 in respect of the Leased Equipment (the "BDC Priority Agreement"). The Trustee is not aware of any priorities agreement between Travelers and either North Simcoe or SOFFI.

43. As a result of the BDC Priority Agreement the relative priority positions with respect to the Leased Equipment are uncertain and will likely require further legal interpretation. This legal matter is not relevant with respect to the relief being sought at this time and, therefore, has not been further investigated by either the Company or the Trustee as of the date of this Second Report.

44. Pursuant to the June 15 Order the Administration Charge was granted without prejudice to Travelers' ability to bring a motion within 30 days for an Order declaring that they have a valid PMSI and an Order further subordinating the Administration Charge to their PMSI in the Leased Equipment (if Travelers in fact has a valid PMSI over the Leased Equipment). As of the date of this report the Trustee is not aware of any motion having been brought by Travelers in respect of these restructuring proceedings.

Canada Revenue Agency (the "CRA")

45. The Trustee has been advised by the Company's internal bookkeeper that there is an outstanding balance owing the CRA in respect of unpaid employee source deductions (the "Deemed Trust Claim"), however, this balance could not be quantified. It is the Trustee's understanding that the Deemed Trust Claim will rank in priority to the claims of each of the secured creditors noted above.

46. The Trustee has been advised by the Principals that the Company is in the process of engaging an external accountant for the purposes of preparing financial statements, preparing unfiled corporate income tax returns and reconciling the Company's tax account balances.

XI. DEBTOR IN POSSESSION FINANCING

47. In order to fund the immediate working capital requirements of the Company during its restructuring efforts the company requires additional funding. Pursuant to the Cipressi Affidavit 16567 has proposed to provide the Company with a debtor-in-possession facility (the "DIP Facility"). The proposed DIP Facility is conditional on this Honourable Court granting a charge in favour of 16567 over the Company's assets (the "DIP Charge").

48. The terms of the proposed DIP Facility are set out in a Debtor in Possession Loan Agreement which is included with Forte's motion material and is attached hereto as **Appendix "J"**. The Trustee notes that this agreement is not signed. The Trustee has been advised by the Debtor's counsel that the agreement will be executed if the Court grants the DIP Charge. The material terms of the proposed DIP Facility are outlined below:

- a. permits the Debtor to borrow the aggregate sum of up to a maximum of \$450,000;
- b. shall be repayable upon the sale of the assets of the Debtor; and,
- c. shall bear interest at a rate of fifteen (15%) percent per annum compounded semi-annually.

49. The Company is requesting that this Court make an Order that the DIP Charge shall be in priority to the secured claims of all secured creditors of Forte but subordinated only to the Administration Charge and the security of the BDC.

50. As previously noted, the Landlord is providing the DIP Facility. The Trustee notes that the Landlord appears to be a single purpose entity who owns the Premises. The Premises has mortgages registered on title and, to date, the Trustee has not been provided with evidence that the Landlord can fund the DIP facility.

XII. ADMINISTRATIVE CHARGE

51. The Company is seeking an Order to amend and restate paragraphs 3 and 4 of the June 15 Order. The June 15 Order granted an Administrative Charge over the property of the Debtor. The property of the debtor includes certain Leased Equipment. The Administration Charge granted on June 15, 2017, was subordinated to the BDC in respect of the Leased Equipment.

52. Subsequent to the issuance of the June 15 Order the BDC agreed to allow an administration charge pursuant to section 64.2(1) of the BIA in an amount not to exceed \$100,000 to be obtained by the Company in priority to its secured interest in and to the Leased Equipment and that said administration charge would not represent a default and/or violation of the Forbearance Agreement.

53. Therefore, given the BDC's consent as well as the expiry of the 30 day period granted to Travelers, the Company is seeking an Order of the Court charging the Leased Equipment in priority to *all* [emphasis added] other security interests, trusts, liens, charges and encumbrances, claims of secured creditors, statutory or otherwise, pursuant to section 64.2(1) of the BIA in an amount not to exceed \$100,000 to secure the fees and disbursements of the Trustee, the Trustee's legal counsel and legal counsel for the Company.

54. For clarification, if Ordered by this Honourable Court, the Administration Charge will continue to be subordinated to the BDC in respect to all of the assets owned by the company not otherwise considered to be part of the Leased Equipment.

55. The Company is further requesting that the Administration Charge, if granted, be in priority to any debtor-in-possession facility or loan secured by the DIP Charge, if also granted.

XIII. REQUEST FOR EXTENSION

56. The Company is seeking a second extension pursuant to subsection 50.4(9) of the BIA (the "Second Stay Extension"). The purpose of the Second Stay Extension would be to, among other things, provide the Debtor with sufficient time to negotiate with the Interested Party a binding agreement of purchase and sale in respect of the Company's assets and, if unsuccessful in this regard, allow the Company to undertake the SISP.

57. The Trustee supports the Second Stay Extension as it is of the opinion that:

- a. the Company has acted, and is acting, in good faith and with due diligence;
- b. the Company would likely be able to make a viable Proposal if the extension being applied for were granted; and,
- c. no creditor would be materially prejudiced if the extension being applied for were granted.

58. The Trustee is also of the opinion that a Proposal developed by the Company would likely result in a higher distribution to creditors than if the extension is denied thereby resulting in a deemed bankruptcy and forced liquidation of the Company's assets.

59. The Trustee's recommendation is subject to confirmation from the Landlord of its ability to fund the DIP Facility. The Trustee will advise the creditors if the Landlord fails to fund the DIP Facility.

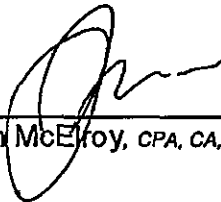
XIV. TRUSTEE'S RECOMMENDATION

60. For the reasons explained herein the Trustee respectfully recommends that this Honourable Court make an Order approving:

- a. an adjournment of the SISP to a 9:30 a.m. chambers appointment on the week of August 14, 2017;
- b. the DIP Charge;
- c. the amendments to the June 15 Order; and
- d. the Second Stay Extension.

All of which is respectfully submitted this 28th day of July, 2017.

ALBERT GELMAN INC., solely in its capacity as Trustee of the Proposal of Forte EPS Solutions Inc. and not in its Personal or any other Capacity

Per: 
Tom McElroy, CPA, CA, CBV, CIRP, LIT

**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**

Court File No. 31-2253654
Estate File No. 31-2253654

**ONTARIO
SUPERIOR COURT OF JUSTICE
IN BANKRUPTCY AND INSOLVENCY**
Proceeding commenced at TORONTO

**SUPPLEMENT TO THE SECOND REPORT OF THE
PROPOSAL TRUSTEE**

LERNERS LLP
130 Adelaide Street West, Suite 2400
Toronto, ON M5H 3P5

Domenico Magisano LS#45725E
Tel: 416.601.4121
Fax: 416.601.4123
E-mail: dmagisano@lernalers.ca

Lawyers for the Proposal Trustee