

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*,
R.S.C. 1985, c. C-36, AS AMENDED

AND IN THE MATTER OF A PLAN OF COMPROMISE OR
ARRANGEMENT OF 2123101 ONTARIO INC.

Applicant

**NOTICE OF MOTION
(Returnable June 27, 2016)
(Re Appointment of CRO and Stay Extension)**

2123101 Ontario Inc., previously named FirstOnSite G.P. Inc. ("**212**"), the general partner of Former Restoration L.P., previously named FirstOnSite Restoration L.P. ("**Former LP**", collectively with 212, "**FirstOnSite**"), will make a motion to a judge presiding over the Commercial List on June 27, 2016 at 9:30 a.m. or as soon after that time as the motion can be heard, at 330 University Avenue, Toronto, Ontario.

PROPOSED METHOD OF HEARING:

The motion is to be heard orally.

THE MOTION IS FOR:

1. An Order appointing Oriole Advisors Ltd. ("**Oriole**") as Chief Restructuring Officer ("**CRO**"), and approving the CRO Agreement (as defined below) between FirstOnSite and Oriole;

2. An Order among other things,
 - (a) validating and abridging the time and manner of service of the Notice of Motion and Motion Record and directing that any further service of the Notice of Motion and Motion Record be dispensed with such that this Motion is properly returnable on the date scheduled for the hearing of this Motion;

 - (b) approving of the Pre-filing report of the Proposed Monitor dated April 21, 2016, the First Report of FTI Consulting Canada Inc. in its capacity as Court-appointed monitor (the "**Monitor**") dated April 27, 2016, the Second Report of the Monitor dated May 4, 2016, the Supplemental Report to the Second Report of the Monitor dated May 16, 2016 and the Third Report of the Monitor, to be filed, and the activities of the Monitor as set out therein;

 - (c) approving the fees and disbursements of the Monitor and its counsel;
and

(d) extending the stay of proceedings (the “**Stay of Proceedings**”) set out at paragraph 15 of the order of Justice Newbould dated April 21, 2016 to October 30, 2016; and

3. Such further and other relief as this Court deems just.

THE GROUNDS FOR THE MOTION ARE:

4. FirstOnSite carried on business in Canada and, through its subsidiary FirstOnSite Restoration, Inc., the United States, providing remediation, restoration and reconstruction services in the commercial, industrial and residential sectors;

5. FirstOnSite faced severe financial and liquidity issues, and defaulted on its senior secured revolving credit facility - triggering a cascade of cross-defaults with respect to its senior and junior subordinated debt;

6. FirstOnSite did not have the liquidity needed to meet and ceased paying its obligations. Accordingly, FirstOnSite sought and was granted protection from its creditors under the *Companies’ Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the “**CCAA**”) pursuant to the Initial Order;

7. Substantially all of FirstOnSite’s operating assets have been sold (the “**Sale Transaction**”) pursuant to the Asset Purchase Agreement (the “**APA**”) between FirstOnSite and 3297167 Nova Scotia Limited (the “**Purchaser**”) dated April 20, 2016;

8. The Sale Transaction was approved by the Court on May 9, 2016 and closed on June 1, 2016;

Appointment of Chief Restructuring Officer

9. The board of directors of FirstOnSite (the “**Board**”) intend to resign effective on or before June 28, 2016;

10. The resignation of the remaining directors will leave FirstOnSite with no means of instructing legal counsel, or consulting with the Monitor with respect to the completion of these CCAA proceedings and the wind up of FirstOnSite estate. The following matters remain outstanding in these CCAA proceedings (collectively the “**Outstanding Matters**”):

- (a) the performance of the Transition Agreement between FirstOnSite and the Purchaser dated June 1, 2016 in respect of certain contracts, and the delayed vesting of those contracts;
- (b) certain outstanding transition matters with respect to contracts that have been disclaimed by FirstOnSite;
- (c) the post-closing purchase price adjustment based on the determination of the Final Working Capital (as defined in the APA), if any;

- (d) consultation with the Monitor with respect to the distribution of remaining proceeds pursuant to the Distribution Order of Justice Newbould dated May 18, 2016;
- (e) the motion of BDC Capital Inc. ("**Capital**") for an order declaring that Capital is entitled to receive payment of its secured loan in priority to the payments to three former managers of FirstOnSite pursuant to a stub bonus program; and
- (f) the receipt of report(s) of the Purchaser with respect to potential trust claimants as provided for under the APA;

11. The Board has discussed the situation and concluded that it is in the best interests of FirstOnSite to appoint a CRO, subject to approval of this Court, to complete the Outstanding Matters and any other matters that may arise in these CCAA proceedings;

12. Oriole is a qualified and appropriate choice for the role of CRO in these proceedings;

Extension of Stay of Proceedings

13. An extension of the Stay of Proceedings to October 30, 2016 is necessary to give FirstOnSite time to complete the Outstanding Matters;

14. FirstOnSite has acted and continues to act in good faith and with due diligence in these CCAA proceedings;
15. It is just and convenient and in the interests of all creditors and interested parties that the orders sought herein be granted;
16. The provisions of the CCAA and the inherent and equitable jurisdiction of this Court;
17. Rules 1.04, 1.05, 2.03, 3.02 and 37 of the Rules of Civil Procedure, R.R.O. 1990, Reg. 194, as amended; and
18. Such further and other grounds as counsel may advise and this Honourable Court may permit.

THE FOLLOWING DOCUMENTARY EVIDENCE will be used at the hearing of the motion:

1. the Affidavit of Kevin McElcheran to be sworn, 2016;
2. the Third report of the Monitor, to be filed; and
3. such further and other materials as counsel may advise and this Court may permit.

June 21, 2016

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TO: THE SERVICE LIST

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

Proceeding commenced at Toronto

**NOTICE OF MOTION
(RETURNABLE JUNE 27, 2016)**

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