

**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 2473304 ONTARIO INC.
(the "Applicant")**

**NOTICE OF MOTION
(Expansion of Monitor's Powers)**

GSO GF Acquisition B.C. Ltd. (the "**Purchaser**") will make a motion to a judge presiding on the Commercial List, on July 18, 2017 at 10:00 a.m., or as soon thereafter as the motion can be heard, at the Courthouse located at 330 University Avenue, Toronto, Ontario, Canada.

PROPOSED METHOD OF HEARING:

The motion is to be heard orally.

THE MOTION IS FOR AN ORDER:

1. if necessary, validating and abridging the time 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;
2. expanding the powers of Richter Advisory Group Inc. ("**Richter**"), in its capacity as court-appointed monitor (the "**Monitor**") in the Applicant's proceedings pursuant to the *Companies' Creditors Arrangement Act* (the "**CCAA**");

3. authorizing and directing the Monitor to distribute to the Purchaser amounts from time to time that the Applicant may have available for distribution;
4. approving the fees and disbursements of the Monitor for the period November 14, 2016 to June 30, 2017 as set out in the affidavit of Andrew Adessky sworn July 7, 2017 plus an amount of up to \$25,000 plus taxes for the Monitor to complete these CCAA proceedings;
5. approving the Fourth Report of the Monitor (to be filed) and the activities, actions, and conduct of the Monitor; and
6. such further and other relief as counsel may advise and this Court may permit.

THE GROUNDS FOR THE MOTION ARE:

Expansion of Monitor's Powers and Future Distributions

1. Grafton-Fraser Inc. ("**GFI**") is the parent company of the Applicant and is subject to its own proceedings pursuant to the CCAA bearing Court File No. CV-17-11677-00CL (the "**GFI CCAA Proceedings**");
2. The Purchaser (formerly, 1104307 B.C. Ltd.) entered into an asset purchase agreement dated January 24, 2017 (as amended, the "**Purchase Agreement**") pursuant to which GFI agreed to sell certain Purchased Assets (as defined therein) to the Purchaser (the "**Transaction**");
3. Pursuant to Orders of the Court dated May 2, 2017 and June 6, 2017 in the GFI CCAA Proceedings, the Court approved the Purchase Agreement and the Transaction;
4. The Purchaser was the successful credit bidder and is an affiliate of GSO Capital Partners LP which is the administrative agent pursuant to an amended and restated credit agreement dated as of June 16, 2009 (as amended, restated or replaced, from time to time) (the "**GSO Credit Agreement**") wherein GFI was the

borrower, the Applicant was the guarantor, and GSO Domestic Capital Funding (Luxembourg) S.a.r.L. and GSO Offshore Multicurrency Facility (Luxembourg) S.a.r.L. were the secured lenders (collectively, the "**GSO Lenders**");

5. The closing of the Transaction occurred on June 28, 2017;

6. In connection with the Transaction, the GSO Lenders assigned to the Purchaser certain amounts owing under the GSO Credit Agreement by both GFI and the Applicant (the "**Assigned Debt**") together with the security interests the GSO Lenders had in all of the assets, property and undertaking of the Applicant (the "**Assigned Security**");

7. On closing of the Transaction, the Purchaser released the Applicant from all of its obligations pursuant to the Assigned Debt other than for the Guarantor Tax Refund Amount (as defined in the Purchase Agreement);

8. Accordingly, the Applicant remains liable to the Purchaser for the Guarantor Tax Refund Amount and such obligations remain secured by the Assigned Security;

9. The Applicant no longer has any employees or assets other than potential tax refunds payable to it and limited cash on hand;

10. The Monitor's counsel has previously provided an opinion to the Monitor supporting the validity of the security granted by the Applicant in favour of the GSO Lenders of which the Assigned Security is a part;

11. Accordingly, the Purchaser is the only remaining secured creditor of the Applicant and the only party with a remaining economic stake in the Applicant;

12. Given the absence of management and the need to tend to final administrative matters in these CCAA proceedings, including the collection and distribution to the Purchaser of any and all tax refunds received by the Applicant from time to time, in an expeditious and efficient manner, it is appropriate and reasonable in

the circumstances to expand the powers of the Monitor so that the Monitor may effect all remaining administrative matters for and on behalf of the Applicant;

Approval of Fees and Activities

13. The Monitor has complied with all orders made in these proceedings and its activities to date have assisted this Court and the Applicant and are fair and reasonable under the circumstances;

14. Taking into account the overall value of the services provided by the Monitor to date, including the knowledge, experience and skill of the Monitor, the degree of responsibility assumed by the Monitor and the time spent by the Monitor, the fees and disbursements of the Monitor are fair and reasonable in the circumstances;

Miscellaneous

15. Sections 11 and 23(1)(k) of the CCAA and this Court's equitable and statutory jurisdiction thereunder;

16. Rules 1.04, 2.03, 3.02, 16.04 and 37 of the Ontario *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194, as amended; and

17. Such further and other grounds as counsel may advise and this Court may permit.

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

1. the Fourth Report of the Monitor (to be filed); and
2. such further material as counsel may advise and this Court may permit.

July 12, 2017

Davies Ward Phillips & Vineberg LLP

155 Wellington Street West
Toronto, ON M5V 3J7

Robin B. Schwill (LSUC #384521)

Tel: 416.863.0900

Fax: 416.863.0871

Lawyers for the Purchaser, GSO GF
Acquisition B.C. Ltd.

TO: The E-Service List found at:

<http://www.richter.ca/Folder/Insolvency-Cases/0-9/2473304-Ontario-Inc>

Court File No. CV-16-11419-00CL

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 2473304 ONTARIO INC.

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

(PROCEEDING COMMENCED AT TORONTO)

NOTICE OF MOTION
(Expansion of Monitor's Powers)

Davies Ward Phillips & Vineberg LLP
155 Wellington Street West
Toronto, ON M5V 3J7

Robin B. Schwill
(LSUC #: 38452I)

Telephone: 416.863.5502
Facsimile: 416.863.0871

**Lawyers for the Purchaser, GSO GF Acquisition
B.C. Ltd.**