

COURT FILE NUMBER 2001-05482
COURT COURT OF QUEEN'S BENCH OF ALBERTA
JUDICIAL CENTRE CALGARY

Clerk's Stamp

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

AND IN THE MATTER OF THE COMPROMISE OR
ARRANGEMENT OF JMB CRUSHING SYSTEMS INC. and
2161889 ALBERTA LTD.

APPLICANT JMB CRUSHING SYSTEMS INC.

DOCUMENT **APPLICATION FOR STAY EXTENSION ORDER**

ADDRESS FOR SERVICE AND CONTACT
INFORMATION OF PARTY FILING THIS
DOCUMENT **Gowling WLG (Canada) LLP**
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File No.: A163514

NOTICE TO THE RESPONDENTS

This application is made against you. You are a respondent.

You have the right to state your side of this matter before the Court.

To do so, you must attend Court by videoconference or phone when the application is heard as shown below:

Date: September 11, 2020
Time: 11:00 am
Where: Calgary Courts Centre – via Webex. Videoconference details are enclosed as **Appendix “A”** to this Application
Before: The Honourable Justice D.B. Nixon – Commercial List

Go to the end of this document to see what you can do and when you must do it.

Remedy claimed or sought:

1. The Applicants, JMB Crushing Systems Inc. (“**JMB Crushing**”) and 2161889 Alberta Ltd. (“**2161889**”, and together with JMB Crushing, “**JMB**”) seek an order pursuant to the *Companies’ Creditors Arrangement Act*, RSC 1985, c C-36, as amended, (the “**CCAA**”) substantially in the form attached as **Schedule “A”** hereto:
 - (a) Abridging the time for service of this Application to the time actually given, if necessary;
 - (b) Deeming service of this Application good and sufficient;
 - (c) Extending the Stay Period, as defined in the Initial Order granted in these proceedings by the Honourable Justice K.M. Eidsvik on May 1, 2020 (the “**Initial Order**”) up to and including September 18, 2020, or such further and other date as determined by the Court; and
 - (d) Such further and other relief as counsel requests and this Honourable Court may grant.

Grounds for making this application:

2. On May 1, 2020, the Applicants were granted an Initial Order under the CCAA, among other things:
 - (a) Declaring that the Applicants are companies to which the CCAA applies;
 - (b) Granting a stay of proceedings up to and including May 11, 2020 (the “**Stay Period**”);
 - (c) Approving a sale and investment solicitation process (the “**SISP**”); and
 - (d) Appointing FTI Consulting Canada Inc. as monitor of the Applicants in these proceedings (in such capacity, the “**Monitor**”).
3. On May 11, 2020, the Applicants sought and obtained an Amended and Restated Initial Order, *inter alia*:
 - (a) Extending the Stay Period to July 31, 2020;
 - (b) Appointing Sequeira Partners (the “**Sale Advisor**”) as Sale Advisor for the SISP; and

- (c) Authorizing the Monitor, the Sale Advisor, and the Applicants to conduct the SISP and carry out their obligations thereunder.
- 4. On July 28, 2020, the Applicants sought and obtained an extension of the Stay Period to September 4, 2020.
- 5. On August 26, 2020, the Applicants sought and obtained a further extension of the Stay Period to September 11, 2020.
- 6. The Monitor and Sale Advisor have received a number of binding bids received pursuant to Phase 2 of the SISP and, in consultation with certain secured creditors of the Applicants and the Chief Restructuring Advisor, have engaged in discussions with the bidders to:
 - (a) clarify certain aspects of the bids;
 - (b) negotiate additional consideration in order to select one or more preferred bids; and
 - (c) apportion and segregate assets with multiple bids to maximize value and recoveries for the Applicants' estates.
- 7. On August 26, 2020, the Monitor sought and obtained a sale approval and vesting order approving the sale of certain pieces of crushing equipment to the McDonald Aggregates Inc. free and clear of any security interests or other claim.
- 8. The Monitor has engaged in ongoing discussions with other bidders and the Applicants' secured creditors to determine the preferred approach to the remaining bids. The Monitor and JMB have also had discussions with the Applicants' secured creditors regarding possible methods for allocating the costs of these CCAA proceedings to the Applicants' various stakeholders.
- 9. The Applicants require an extension of the Stay Period to continue to:
 - (a) allow the Monitor and Sale Advisor sufficient time to negotiate the details of the remaining bids and select one or more additional bids to maximize value and recoveries for the Applicants' estates through Court-approved sales;
 - (b) distribute the proceeds of such sales to creditors of the Applicants in accordance with applicable law;

- (c) allow the Monitor additional time to finalize the allocation of the costs of these CCAA proceedings with the Applicants' secured creditors;
 - (d) advance potential restructuring alternatives; and
 - (e) manage and operate the Applicants' business pending completion of the SISP.
10. The Applicants have acted and continue to act in good faith and with due diligence.
 11. No creditor will suffer any material prejudice if the Stay Period is extended as requested.
 12. Such further and other grounds as counsel may advise and this Honourable Court may deem just.

Material or evidence to be relied on:

13. Affidavits of Jeff Buck sworn April 16 and April 30, 2020, filed;
14. Affidavit of Byron Levkulich sworn September 9, 2020, filed;
15. Pleadings in the within Action; and
16. Such further and other materials or evidence as counsel may advise and this Honourable Court may permit.

Applicable Rules:

17. Rules 1.3, 1.4 and 6.3 of the *Alberta Rules of Court*, Alta Reg 124/2010.

Applicable Acts and regulations:

18. *Companies' Creditors Arrangement Act*, RSC 1985, c. C-36, as amended and this Honourable Court's equitable and statutory jurisdiction thereunder; and
19. Such further and other authority as counsel may advise and this Honourable Court may permit.

Any irregularity complained of or objection relied on:

20. None.

How this application is proposed to be heard or considered:

21. By Webex.

WARNING

If you do not come to Court either in person or by your lawyer, the Court may give the applicants what they want in your absence. You will be bound by any order that the Court makes. If you want to take part in this application, you or your lawyer must attend in Court on the date and time shown at the beginning of the form. If you intend to give evidence in response to the application, you must reply by filing an affidavit or other evidence with the Court and serving a copy of that affidavit or other evidence on the applicants a reasonable time before the application is to be heard or considered.

APPENDIX "A"
(Webex instructions)

Virtual Courtroom 60 has been assigned for the following matter:

Date: Sep 11, 2020 11:00 AM

Style of Cause: JMB CRUSHING SYSTEMS INC v. COMPANIES CREDITORS ARRANGEMENT ACT, 2001 05482

Presiding Justice: NIXON (D.B.), J

Virtual Courtroom Link:

<https://albertacourts.webex.com/meet/virtual.courtroom60>

Instructions for Connecting to the Meeting

1. Click on the link above or open up Chrome or Firefox and cut and paste it into your browser address bar.
2. If you do not have the Cisco Webex application already installed on your device, the site will have a button to install it. Follow installation instructions. Enter your full name and email address when prompted
3. Click on the **Open Cisco Webex Meeting**.
4. You will see a preview screen. Click on **Join Meeting**.

Key considerations for those attending:

1. Please connect to the courtroom **15 minutes prior** to the start of the hearing.
2. Please ensure that your microphone is muted and remains muted for the duration of the proceeding, unless you are speaking. Ensure that you state your name each time you speak.
3. If bandwidth becomes an issue, some participants may be asked to turn off their video and participate by audio only.
4. **Note: Recording or rebroadcasting of the video is prohibited.**
5. **Note: It is highly recommended you use headphones with a microphone or a headset when using Webex. This prevents feedback.**

If you are a non-lawyer attending this hearing remotely, **you must** complete the undertaking located here:

<https://www.albertacourts.ca/qb/resources/announcements/undertaking-and-agreement-for-non-lawyers>

For more information relating to Webex protocols and procedures, please visit:

<https://www.albertacourts.ca/qb/court-operations-schedules/webex-remote-hearings-protocol>

SCHEDULE “A”

[Stay Extension Order]

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DOCUMENT **ORDER**

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DATE ON WHICH ORDER WAS PRONOUNCED: September 11, 2020

LOCATION AT WHICH ORDER WAS MADE: Calgary Court House

NAME OF JUSTICE WHO MADE THIS ORDER: The Honourable Justice D.B. Nixon

UPON THE APPLICATION of JMB Crushing Systems Inc. and 2161889 Alberta Ltd. (collectively, the “**Applicants**”); **AND UPON** hearing read the Application, the Affidavit of Byron Levkulich sworn September 9, 2020, the Fifth Report of FTI Canada Consulting Inc., the Court-appointed Monitor of the Applicants (the “**Monitor**”), and the pleadings and proceedings in this Action, including the Initial Order granted in the within proceedings on May 1, 2020, all filed; **AND UPON** hearing the submissions of counsel for the Applicants, counsel for the Monitor and counsel for those parties present; **IT IS HEREBY ORDERED THAT:**

1. Service of this Application and supporting materials is hereby deemed to be good and sufficient, the time for notice is hereby abridged to the time provided, this application is properly returnable today, and no other person is required to have been served with notice of this Application.
2. The Stay Period as ordered and defined in paragraph 13 of the Initial Order, is hereby extended until and including September 18, 2020.

J.C.C.Q.B.A.