

Clerk's Stamp

COURT FILE NO. 2001-05482
COURT COURT OF QUEEN'S BENCH OF ALBERTA
JUDICIAL CENTRE CALGARY
APPLICANTS IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, RSC 1985, c C-36, as amended
AND IN THE MATTER OF THE COMPROMISE OR ARRANGEMENT OF JMB CRUSHING SYSTEMS INC. and 2161889 ALBERTA LTD.
DOCUMENT **AFFIDAVIT**
ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT **Gowling WLG (Canada) LLP**
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File No.: A163514

AFFIDAVIT OF INGRID FITZNER
sworn September 30, 2020

I, Ingrid Fitzner, of the City of Calgary, in the Province of Alberta, **MAKE OATH AND SAY THAT:**

1. I am a Legal Assistant employed with the law firm Gowling WLG (Canada) LLP, solicitors for the Applicants JMB Crushing Systems Inc. (“**JMB**”) and 2161889 Alberta Ltd. (“**216**”) in this action, and as such have personal knowledge of the matters deposed to, save where stated to be based on information and belief in which case I believe the same to be true.
2. I am advised by counsel for the Applicants and do verily believe that:
 - (a) on May 1, 2020, the Applicants commenced proceedings pursuant to the *Companies Creditors' Arrangement Act*, RSC 1985, c C-36, as amended (the

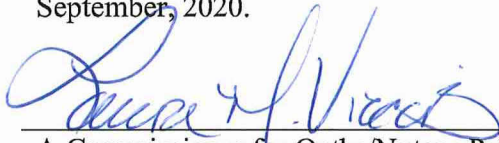
“CCAA”) and were granted an initial order pursuant to the CCAA by Justice Eidsvik of the Court of Queen’s Bench of Alberta (such initial order, as amended, the “**Initial Order**”);

- (b) pursuant to the Initial Order, FTI Consulting Canada Inc., the court-appointed monitor of the Applicants (in such capacity, the “**Monitor**”) was authorized to carry out a sale, re-capitalization and investment solicitation process (the “**SISP**”) with the assistance Sequeira Partners (the “**Sale Advisor**”);
 - (c) on July 20, 2020, Mantle Materials Group, Ltd. (“**Mantle**”) submitted a Phase 2 Bid (as defined in the SISP) to the Sale Advisor and Monitor, pursuant to which Mantle proposed to purchase certain core assets of JMB and 216 and to assume certain liabilities of JMB;
 - (d) on September 28, 2020, Mantle, as purchaser, and JMB and 216, as vendors, entered into an amended and restated asset purchase agreement (the “**APA**”);
 - (e) pursuant to the APA, certain agreements (the “**Unrestricted Agreements**”) entered into by JMB or 216 are to be assigned to Mantle, free and clear of Liabilities (as such term is defined in the APA) arising prior to the date the Applicants obtained the Initial Order;
 - (f) the Unrestricted Agreements do not require the consent of the counterparties thereto to be assigned to Mantle;
 - (g) the Unrestricted Agreements contain terms which are commercially sensitive, such as the financial obligations to be assumed by Mantle, the disclosure of which may prejudice Mantle’s business operations following the close of the transaction set out in the APA;
 - (h) the Applicants are seeking to have the Unrestricted Agreements attached as Confidential Exhibits to this Affidavit sealed on the Court record.
3. I am advised by counsel to the Applicants that the following are the Unrestricted Agreements:


- (a) Surface Material Lease No. 110047 dated March 18, 2015, a copy of which is attached hereto as **Confidential Exhibit “A”**;
- (b) Surface Material Lease No. 120005 dated October 5, 2017, a copy of which is attached hereto as **Confidential Exhibit “B”**;
- (c) Surface Material Lease No. 120006 dated October 5, 2017, a copy of which is attached hereto as **Confidential Exhibit “C”**;
- (d) Surface Material Lease No. 120100 dated October 5, 2017, a copy of which is attached hereto as **Confidential Exhibit “D”**;
- (e) Aggregates Royalty Agreement made as of December 31, 2018 between 302016 Alberta Limited, care of Rose Short and JMB, a copy of which is attached hereto as **Confidential Exhibit “E”**;
- (f) Aggregates Royalty Agreement made as of October 29, 2018 between Jerry Shankowski (945441 Alberta Ltd.) and JMB, a copy of which is attached hereto as **Confidential Exhibit “F”**;
- (g) Aggregates Royalty Agreement made as of December 31, 2018 between Darren Andrychuk, Daphne Andrychuk and JMB, a copy of which is attached hereto as **Confidential Exhibit “G”**; and
- (h) Aggregates Royalty Agreement made as of December 31, 2018 between Helen Havener, Gail Havener and JMB, a copy of which is attached hereto as **Confidential Exhibit “H”**.

4. I swear this Affidavit in support of the Applicants' Application to have the Confidential Exhibits attached hereto sealed on the court record, to be filed, and for no other or improper purpose.

SWORN (OR AFFIRMED) BEFORE ME)
at Calgary, Alberta, this 30th day of)
September, 2020.)



A Commissioner for Oaths/Notary Public)
in and for the Province of Alberta)



INGRID FITZNER

Laura M. Viccars
Commissioner for Oaths
in and for the Province of Alberta
Expires June 23, 2020