



COURT FILE NO. 2001-05482
 COURT COURT OF QUEEN'S BENCH OF ALBERTA
 JUDICIAL CENTRE CALGARY

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

JS
 Nov. 27 2020
 Justice Eidsvik

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

APPLICANTS JMB CRUSHING SYSTEMS INC. and 2161889 ALBERTA LTD.

DOCUMENT **AFFIDAVIT OF BYRON LEVKULICH**

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT
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AFFIDAVIT OF BYRON LEVKULICH
sworn November 11, 2020

I, **BYRON LEVKULICH**, of the City of Denver, in the State of Colorado, **MAKE OATH AND SAY THAT:**

- I am a Director of Canadian Aggregate Resources Corporation, the direct and indirect parent of the Applicants JMB Crushing Systems Inc. ("**JMB**") and 2161889 Alberta Ltd. ("**216**", and with JMB, the "**Applicants**"). As such, I have personal knowledge of the matters herein deposed to, except where stated to be based upon information and belief, in which case I verily believe same to be true.
- I swear this Affidavit further to my Affidavits sworn July 24, August 21, September 9, September 23, September 30, and October 13, 2020 in these proceedings.

3. In preparing this Affidavit, I have consulted with legal, financial and other advisors of the Applicants and members of the Applicants' management team. I have also reviewed the business records of the Applicants relevant to these proceedings and have satisfied myself that I am possessed of sufficient information and knowledge to swear this Affidavit.
4. I am authorized to swear this Affidavit as corporate representative of the Applicants.
5. The background to these proceedings is described in detail in the Affidavit of Jeff Buck sworn April 16, 2020.
6. On May 1, 2020, the Honourable Justice K.M. Eidsvik granted the Initial Order in favour of the Applicants which, among other things:
 - (a) granted the Applicants protection from their creditors under the *Companies' Creditors Arrangement Act*, RSC 1985, c C-36, as amended, up to and including May 11, 2020 (the "**Stay Period**");
 - (b) appointed FTI Consulting Canada Inc. as monitor of the Applicants in these proceedings (in such capacity, the "**Monitor**");
 - (c) approved a debtor-in-possession interim revolving credit facility to be provided by ATB Financial and an alternate interim revolving credit facility to be provided by Canadian Aggregate Resources Corporation, the Applicants' parent; and
 - (d) approved a sale and investment solicitation process (the "**SISP**").
7. Since May 11, 2020, the Stay Period has been extended upon the application of the Applicants, most recently to November 13, 2020.
8. Since October 16, 2020, when the Stay Period was most recently extended by this Honourable Court, the Applicants have continued to act diligently and in good faith in these proceedings by:
 - (a) continuing to maintain the Applicants' property and assets;

- (b) securing a Sale and Vesting Order (the “**Vesting Order**”) for the core assets of the Applicants with Mantle Materials Group Ltd. (“**Mantle**”) (the “**Transaction**”);
- (c) working with the Monitor and the senior secured creditors to close the sale of the core assets (the “**Transaction**”) of the Applicants to Mantle Materials Group, Ltd. (“**Mantle**”) pursuant to the Amended and Restated Approval and Vesting Order granted October 16, 2020 (the “**Vesting Order**”), including working with Alberta Environment and Parks (“**AEP**”) to secure regulatory approval and transfer of certain licences;
- (d) working to advance other matters, including the upcoming lien determination appeals and the trust claims, and taking the required steps leading up to the application brought by Kalinko Enterprises Ltd. in respect of certain aggregate (the “**Kalinko Application**”).

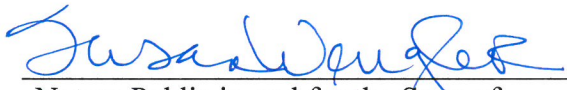
9. I am advised by counsel for the Applicants and believe that:

- (a) Both counsel for the Applicants and Tyler Pell, Land & Resources Manager of Mantle, have been attempting to contact and obtain updates from the AEP on a regular basis for updates on the progress of the regulatory approvals required for the Transaction to close, and although AEP personnel for the public and private pits have promised responses, no response has been provided with respect to the public pits and only tentative responses have been provided with respect to the private pits. Further, they have not been able to provide firm timelines for their responses;
- (b) Mantle and the Monitor have been negotiating the terms of an interim lease arrangement as contemplated by the Asset Purchase Agreement between Mantle and JMB; and
- (c) The Applicants have made document production requests as part of the Kalinko Application, and have been working to respond to the document production requests received from the other parties to the Kalinko Application.

10. There are two matters that JMB wishes to draw to this Honourable Court's attention. The first relates to the trust claims being advanced by a number of parties. As required by this Honourable Court's direction, six parties served their application materials, which seek a declaration that a trust was created by the provisions of an agreement between the MD of Bonnyville No. 87 and JMB dated November 1, 2013 (the "**Trust Applications**"). Two of those parties, Jerry Shankowski and 945441 Alberta Ltd. (collectively, "**Shankowski**"), are seeking to have Gowling WLG (Canada) LLP, Tom Cumming, Caireen Hanert, Alison Gray, FTI Consulting Canada Inc., McCarthy Tétrault LLP, Sean Collins, Pantelis Kyriakakis, Nicole Fitz-Simon and Nathan Stewart (collectively, the "**Proposed Respondents**") named as respondents to the Shankowski Trust Application, and are seeking an order requiring that the Proposed Respondents indemnify Shankowski and the other actual or potential beneficiaries to the extent that any of the Funds (as defined in the May 20, 2020 Order) are unrecoverable from JMB.
11. Because counsel for the Applicants have been named as respondents to the Shankowski Trust Application, I am advised by counsel for the Applicants and believe that they have been required to report this matter to the Alberta Lawyers' Insurance Association ("**ALIA**") and to retain counsel to handle at least a portion of the Shankowski Trust Application. Unfortunately, the scheduling of the Trust Applications may be affected by the availability of counsel retained to handle the allegations raised against the Proposed Respondents to the Shankowski Trust Application. Scheduling information is not available as of the date of my Affidavit.
12. I am further advised by counsel for the Applicants and believe that 848875 Alberta Ltd. o/a Al's Contracting ("**Al's Contracting**") has not yet provided its Affidavit in support of its application for a possessory lien, currently scheduled to be heard concurrently with the Kalinko Application in January 2021. Although the Affidavit was promised to be delivered early during the week of October 26th by counsel for Al's Contracting, it has not yet been provided and there has been no response to the requests made by counsel for the parties involved in the Kalinko Application.
13. Given the foregoing, additional time will be needed to deal with these outstanding matters,

- 14. Based on my discussions with the Monitor and my review of the Applicants' cash flow statement appended to the Monitor's Ninth Report, the Applicants have sufficient funds through to December 11, 2020 to allow for the completion of the steps outlined above.
- 15. Having regard to the circumstances, I believe that the granting of an extension of the Stay Period to a date determined by this Honourable Court is necessary and in the best interests of the Applicants and their stakeholders.
- 16. The Monitor is supportive of the extension of the Stay Period sought by the Applicants.
- 17. The Applicants have and continue to act in good faith and with due diligence in respect of all matters relating to the CCAA proceedings, and no creditor will be prejudiced by the proposed extension of the Stay Period.

SWORN (OR AFFIRMED) BEFORE ME)
 at Denver, Colorado, this 11th day of)
 November, 2020.)


 _____)
 Notary Public in and for the State of)
 Colorado)


 _____)
BYRON LEVKULICH)

