

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, 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.

APPLICANTS JMB CRUSHING SYSTEMS INC. and 2161889 ALBERTA
LTD.

DOCUMENT **APPLICATION (Conditional Stay Extension)**

ADDRESS FOR SERVICE AND CONTACT
INFORMATION OF PARTY FILING THIS
DOCUMENT **Gowling WLG (Canada) LLP**
1600, 421 – 7th Avenue SW
Calgary, AB T2P 4K9

Attn: **Tom Cumming/Caireen E. Hanert/Stephen
Kroeger**
Phone: 403.298.1938/403.298.1992/403.298.1018
Fax: 403.263.9193
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: March 5, 2021
Time: 10:00 am
Where: Calgary Courts Centre – via Webex. Videoconference details are enclosed as **Appendix “A”** to this Application
Before: The Honourable Justice K.M. Eidsvik – 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**”), 2161889 Alberta Ltd. (“**216**”, and with JMB, the “**Applicants**”), and Mantle Materials Group, Ltd. (“**Mantle**”) seek an order pursuant to the *Companies’ Creditors Arrangement Act*, RSC 1985, c C-36, as amended, (the “**CCAA**”), as follows:
 - (a) An Order, substantially in the form attached as **Schedule “A”** hereto, extending the Stay Period, as defined in the Initial Order up to and including April 2, 2021, or such other date as this Honourable Court may deem appropriate;
 - (b) An abridgement of the time for service of notice of this Application and supporting materials, an abridgement of the time for service to the time provided, a provision deeming service good and sufficient, and a declaration that no other person is required to have been served with notice; and
 - (c) 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 the 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 the SISP; and
 - (d) Appointing FTI Consulting Canada Inc. as Monitor of the Applicants in these proceedings.

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 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.

Stay Extension Order

4. The Stay Period granted by the Initial Order and subsequently extended currently expires on March 12, 2021.
5. The Applicants are seeking a further extension of the Stay Period pursuant to the Stay Extension Order to and including April 2, 2021, or such further date as this Honourable Court may deem appropriate.
6. An Application seeking various amended and restated Orders in relation to the amended and restated asset purchase agreement dated March 3, 2021 between JMB and 216, as vendors, and Mantle Materials Group, Ltd. (“**Mantle**”), as purchaser, and the amended plan of arrangement dated March 3, 2021.
7. Mantle, JMB and 216 have been engaged in discussions with Alberta Environment and Parks (the “**AEP**”) in an effort to resolve outstanding issues relating to the proposed orders. On March 4, 2021, counsel for the AEP requested a short adjournment of the March 5th Application. The Applicants have consented.
8. However, in light of the adjournment, the Applicants require an extension of the Stay Period in order to continue those discussions with the AEP and obtain Court approval of the Amended Transactions (as defined in the Affidavit of Byron Levkulich sworn March 4, 2021). Given the cash flows of the Applicants, the Order being proposed is conditional on one or more of the following conditions being met:

- (a) the Applicants, Mantle, ATB Financial (“**ATB**”), and Fiera Private Debt Fund VI LP, by its general partner Fiera Private Debt Fund GP Inc. (“**Fund VI**”) and Fiera Private Debt Fund V LP, by its general partner Fiera Private Debt Fund GP Inc., acting in its capacity as collateral agent for and on behalf of and for the benefit of Fund VI (collectively, “**Fiera**”), have entered into, a funding agreement (the “**Funding Agreement**”) that provides for additional liquidity of least \$300,000 Canadian Dollars to the Applicants on or before 4:00 p.m. on March 12, 2021, which liquidity shall be used in connection with the general operating and corporate purposes of the Applicants; or
 - (b) the Applicants have otherwise obtained an injection of funds, or the agreement of each of Mantle, ATB, and Fiera to the release of previously restricted funds, on or before 4:00 p.m. on March 12, 2021, in which such persons may have a financial, legal, or equitable interest (whether such funds were previously held in trust by the Monitor or otherwise), in either case, in the amount of at least \$300,000 Canadian Dollars, for use in connection with the general operating and corporate purposes of the Applicants; or
 - (c) any other person has provided funds in the amount of at least \$300,000 Canadian Dollars to the Applicants, on or before 4:00 p.m. on March 12, 2021, for use in connection with the general operating and corporate purposes of the Applicants; or
 - (d) the Monitor, on or before 4:00 p.m. on March 12, 2021, delivered the Monitor’s certificate, substantially in the form attached as Schedule “A” to the Amended Sale Approval and Vesting Order, as contemplated in the Applicant’s Application, originally returnable on March 5, 2021.
9. The Applicants believe that the stakeholders will not be prejudiced by the proposed extension of the Stay Period to and including April 2, 2021.
 10. The Applicants have acted 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.

Miscellaneous

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

Material or evidence to be relied on:

12. The pleadings and materials filed in the within proceedings;
13. The Thirteenth Report, filed February 23, 2021;
14. The Fourteenth Report, to be filed;
15. Affidavit of Blake M. Elyea sworn March 5, 2021, filed concurrently with the within Application;
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, 11.27 and Part 6 Division 4 of the *Alberta Rules of Court*, Alta Reg 124/2010; and
18. Such further and other rules as counsel may advise and this Honourable Court may permit.

Applicable Acts and regulations:

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

Any irregularity complained of or objection relied on:

21. None.

How this application is proposed to be heard or considered:

22. By Webex.

AFFIDAVIT EVIDENCE IS REQUIRED IF YOU WISH TO OBJECT.**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 61 has been assigned for the following matter:

Date: Mar 05, 2021 10:00 AM

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

Presiding Justice: EIDSVIK, J

Virtual Courtroom Link: <https://albertacourts.webex.com/meet/virtual.courtroom61>

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.
5. **Note: Recording or rebroadcasting of the video is prohibited.**
6. **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>

You can also join the meeting via the “Cisco Webex Meetings” App on your smartphone/tablet or other smart device. You can download this via the App marketplace and join via the link provided above.

SCHEDULE "A"
[Conditional Stay Extension Order]

Clerk's Stamp

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

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 **CONDITIONAL STAY EXTENSION ORDER**

ADDRESS FOR SERVICE AND CONTACT
Gowling WLG (Canada) LLP
1600, 421 – 7th Avenue SW
Calgary, AB T2P 4K9

INFORMATION OF PARTY FILING THIS DOCUMENT
Attn: **Tom Cumming/Caireen E. Hanert/Stephen Kroeger**
Phone: 403.298.1938/403.298.1992/403.298.1018
Fax: 403.263.9193
File No.: A163514

DATE ON WHICH ORDER WAS PRONOUNCED: March 5, 2021

LOCATION AT WHICH ORDER WAS MADE: Calgary, Alberta

NAME OF JUSTICE WHO MADE THIS ORDER: Honourable Justice K.M. Eidsvik

UPON THE APPLICATION (the “**Application**”) of JMB Crushing Systems Inc. and 2161889 Alberta Ltd. (collectively, the “**Applicants**”); **AND UPON** reading the Application, the Affidavit of Byron Levkulich, sworn on March 4, 2021, the Thirteenth Report of FTI Consulting Canada 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, as subsequently amended and restated pursuant to an order granted on May 11, 2020 (as so amended and restated, the “**Initial Order**”), all filed; **AND UPON** reading the Fourteenth Report of the Monitor, dated March 4, 2021 (the “**Fourteenth Report**”), 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, the Fourteenth Report, and all 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. Upon the delivery of a Monitor's certificate, substantially in the form set out in Schedule "A" hereto (the "**Monitor's Certificate**"), certifying that one or more of the Stay Extension Conditions (as set out and defined in Recital "B" of the Monitor's Certificate) have been satisfied on or before the Conditions Date (as defined in the Monitor's Certificate), the Stay Period (as ordered and defined in paragraph 13 of the Initial Order), shall immediately be extended until and including April 2, 2021, without further order of this Court.
3. The Monitor may rely on written notice or correspondence from the Applicants or their counsel regarding the fulfillment of the conditions set out in the Monitor's Certificate and shall incur no liability, whatsoever, with respect to reliance upon such written notice or correspondence, or the filing of the Monitor's Certificate.

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

SCHEDULE “A”

FORM OF MONITOR’S CERTIFICATE

Clerk's Stamp

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

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

DOCUMENT **MONITOR’S CERTIFICATE
(CONDITIONAL STAY EXTENSION)**

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT
McCarthy Tétrault LLP
4000, 421 – 7th Avenue SW
Calgary, Alberta T2P 4K9
Attention: Sean Collins / Pantelis Kyriakakis
Tel: 403 260 3531 / 3536
Fax: 403 260 3501
Email: scollins@mccarthy.ca / pkyriakakis@mccarthy.ca

RECITALS

- A. Pursuant to an Order of the Honourable Justice K.M. Eidsvik of the Court of Queen’s Bench of Alberta, Judicial District of Calgary (the “**Court**”), dated May 1, 2020, as subsequently amended and restated on May 11, 2020 (as so amended and restated, the “**Initial Order**”), FTI Consulting Canada Inc. was appointed as the monitor (the “**Monitor**”) of JMB Crushing Systems Inc. and 2161889 Alberta Ltd. (collectively, the “**Applicants**”).
- B. Pursuant to an Order of the Court, dated March 5, 2021 (the “**Conditional Stay Extension Order**”), the Court granted an extension of the Stay Period, as ordered and defined in paragraph 13 of the Initial Order, until and including April 2, 2021 (such extension is referred to as, the “**Stay Extension**”), subject to the satisfaction of any one or more of the

following conditions precedent on or before 4:00 p.m. (Calgary time) on March 12, 2021 (such time and date being, the “**Conditions Date**”):

- a. the Applicants, Mantle Materials Ltd. (“**Mantle**”), ATB Financial (“**ATB**”), and Fiera Private Debt Fund VI LP, by its general partner Fiera Private Debt Fund GP Inc. (“**Fund VI**”) and Fiera Private Debt Fund V LP, by its general partner Fiera Private Debt Fund GP Inc., acting in its capacity as collateral agent for and on behalf of and for the benefit of Fund VI (collectively, “**Fiera**”), have entered into, a funding agreement (the “**Funding Agreement**”), which provides for additional liquidity of least \$300,000 Canadian Dollars to the Applicants on or before 4:00 p.m. on March 12, 2021, which liquidity shall be used in connection with the general operating and corporate purposes of the Applicants; or
- b. the Applicants have otherwise obtained an injection of funds, or the agreement of each of Mantle, ATB, and Fiera to the release of previously restricted funds, on or before 4:00 p.m. on March 12, 2021, in which such persons may have a financial, legal, or equitable interest (whether such funds were previously held in trust by the Monitor or otherwise), in either case, in the amount of at least \$300,000 Canadian Dollars, for use in connection with the general operating and corporate purposes of the Applicants; or
- c. any other person has provided funds in the amount of at least \$300,000 Canadian Dollars to the Applicants, on or before 4:00 p.m. on March 12, 2021, for use in connection with the general operating and corporate purposes of the Applicants; or
- d. the Monitor, on or before 4:00 p.m. on March 12, 2021, delivered the Monitor’s certificate, substantially in the form attached as Schedule “A” to the Amended Sale Approval and Vesting Order, as contemplated in the Applicant’s Application, originally returnable on March 5, 2021,

(the conditions set out in Recitals B(a), B(b), B(c), and B(d) of this certificate are, collectively, the “**Stay Extension Conditions**”).

- C. Pursuant to the Conditional Stay Extension Order, the Stay Extension is to become effective immediately upon the delivery by the Monitor of a certificate confirming that one or more of the Stay Extension Conditions was met on or before the Conditions Date.

THE MONITOR CERTIFIES the following:

1. One or more of the Stay Extension Conditions has been satisfied, on or before the Conditions Date, in accordance with and as contemplated by the terms of the Conditional Stay Extension Order.

This Certificate was executed by the Monitor at **[Time]** on **[Date]**.

FTI CONSULTING CANADA INC., in its capacity as the monitor of **JMB CRUSHING SYSTEMS INC. and 2161889 ALBERTA LTD.**, and not in its personal or corporate capacity.

Per: _____
Name:
Title: