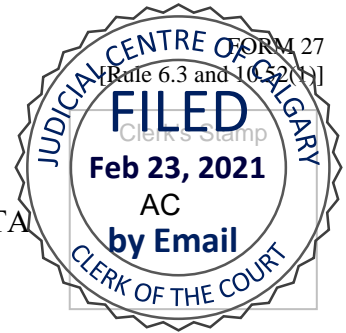


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COURT FILE NUMBER 2001-05482
COURT COURT OF QUEEN'S BENCH OF ALBERTA
JUDICIAL CENTRE CALGARY

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.

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J. Eidsvik

APPLICANTS JMB CRUSHING SYSTEMS INC. and 2161889 ALBERTA LTD.

DOCUMENT **APPLICATION**

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 Kroegers**
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: February 24, 2021
Time: 2:00 PM
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. (“**2161889**”, and together with JMB Crushing, the “**Applicants**”), 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 declaring that the Equipment (as defined below) are not property as defined in the Initial Order granted under the CCAA on May 1, 2020 (as subsequently amended and restated on May 11, 2020, the “**Initial Order**”); and
 - (b) 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.

4. Pursuant to paragraph 4 of the Initial Order, “Property” of the Applicants is defined as “...their current and future assets, undertakings and properties of every nature and kind whatsoever, and wherever situate, including all proceeds thereof (the “**Property**”).”
5. Eastside Rock Products, Inc. (“**Eastside**”) is a company incorporated pursuant to the laws of the State of Washington and is a wholly owned subsidiary of JMB. On or about November 9, 2017, Eastside purchased a Cheetah APS800 Generator set (the “**Generator**”) mounted on a trailer (the “**Trailer**”) and with the Generator, the “**Equipment**”) from NC Power Systems Co.
6. On May 7, 2019, the Equipment was imported into Canada for use by JMB. Pursuant to the *Traffic Safety Act*, RSA 2000, c T-6 (the “**Traffic Act**”), for use in Alberta the Trailer was required to be registered in the name of a corporation registered under the *Business Corporations Act*, RSA 2000, c B-9. Accordingly, on June 4, 2019, the Trailer was registered in Alberta in the name of JMB. The purpose of registration was solely to comply with the Traffic Act.
7. No consideration was paid or advanced by JMB to Eastside for the registration of the Trailer or to obtain title to the Equipment. At all material times, the Equipment has been listed as a fixed asset owned by Eastside in its financial statements.
8. Beneficial title to the Equipment was never transferred to JMB and remains Eastside’s property.
9. Such further and other grounds as counsel may advise and this Honourable Court may permit.

Material or evidence to be relied on:

10. The pleadings and materials filed in the within proceedings;
11. Affidavit of Blake M. Elyea sworn February 23, 2021, filed concurrently with the within Application;
12. Thirteenth Report of the Monitor;
13. Such further and other materials or evidence as counsel may advise and this Honourable Court may permit.

Applicable Rules:

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

Applicable Acts and regulations:

15. *Companies' Creditors Arrangement Act*, RSC 1985, c. C-36, as amended, and this Honourable Court's equitable and statutory jurisdiction thereunder;
16. *Traffic Safety Act*, RSC 2000, T-6;
17. *Business Corporations Act*, RSA 2000, c B-9; and
18. Such further and other authority as counsel may advise and this Honourable Court may permit.

Any irregularity complained of or objection relied on:

19. None.

How this application is proposed to be heard or considered:

20. 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 60 has been assigned for the following matter:

Date: Feb 24, 2021 02:00 PM

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.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"
[Order for Declaration]

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
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ALBERTA LTD.

APPLICANTS JMB CRUSHING SYSTEMS INC. and 2161889 ALBERTA LTD.

DOCUMENT **ORDER**

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

DATE ON WHICH ORDER WAS PRONOUNCED: February 24, 2021

LOCATION AT WHICH ORDER WAS MADE: Calgary Court House

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

UPON THE APPLICATION of JMB Crushing Systems Inc. and 2161889 Alberta Ltd. (collectively, the “**Applicants**”); **AND UPON** reading the Application, the Affidavit of Blake M. Elyea sworn February 23, 2021, the Thirteenth Report of FTI Consulting Canada Inc., the Court-appointed Monitor of the Applicants, and the pleadings and proceedings in this Action, including the Initial Order granted in the within proceedings on May 1, 2020 (the “**Initial Order**”), 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. This Court hereby declares that the assets listed in Schedule "A" to this Order are not Property as defined in the Initial Order.

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

SCHEDULE "A"

1. GS900 – Caterpillar Model APS800 Generator Serial Number: DWB00636
2. Cheetah Chassis Serial Number: 5EF2GC3008B772456