



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 **AFFIDAVIT OF BYRON LEVKULICH**

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/Alex Matthews**
Phone: 403.298.1938/403.298.1992/403.298.1018
Fax: 403.263.9193
File No.: A163514

AFFIDAVIT OF BYRON LEVKULICH
sworn September 23, 2020

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

1. I am a Director 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.
2. I swear this Affidavit further to my Affidavits sworn July 24, August 21, and September 9, 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 September 25, 2020.
8. Since September 11, 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) continuing to collect outstanding receivables owed to JMB; and

- (c) providing information and support to the Monitor in its negotiations with bidders pursuant to the SISP and with other potential purchasers identified during and after the SISP period.
9. I am advised by counsel for the Applicants and believe that at the application for a stay extension heard on September 11, 2020 by Justice D.B. Nixon, this Honourable Court was advised that:
- (a) The stay extension was required to provide sufficient time to complete the negotiations for a proposed purchase of a substantial portion all of the core assets of the Applicants (the “**Core Assets Bid**”) and prepare the required documentation;
 - (b) If the Core Assets Bid transaction (the “**Transaction**”) could have been completed within a couple of days of September 15, 2020, it was anticipated that the Transaction would have an effective date of September 15, 2020;
 - (c) Discussions were continuing with respect to the allocation of costs after the effective date of the Transaction as between the various parties involved, including the two senior secured lenders, ATB Financial and Fiera, as well as with respect to other key issues;
 - (d) The allocation of costs is a significant issue for the parties that must be addressed before the transaction can be finalized; and
 - (e) It was anticipated that the remaining details of the Transaction would be finalized by the middle of the week of September 14, 2020, which would have allowed the Monitor to bring an application for the approval of the Transaction to this Honourable Court by no later than September 25, 2020.
10. Since the September 11, 2020 application, the parties have continued to negotiate and work towards finalizing the details of the Transaction and completing the necessary documentation. Although progress has been made in both the negotiations and the preparation of documentation, key issues have not yet been resolved and are still being discussed.

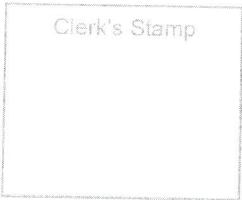
- 11. Given the status of negotiations and the progress made to date, the Applicants believe that a deal can be reached for the Transaction to proceed if a further stay extension is granted.
- 12. Based on my discussions with the Monitor and my review of the Applicants' cash flow statement provided as Appendix A to the Monitor's Fifth Report dated September 10, 2020, the Applicants have sufficient funds through to October 23, 2020 to allow for the completion of the steps outlined above.
- 13. 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.
- 14. 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 23rd day of)
 September, 2020.)
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 Notary Public in and for the State of)
 Colorado)

Byron Levkulich

BYRON LEVKULICH



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sworn September 23, 2020

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A handwritten signature in blue ink, appearing to be "SW".

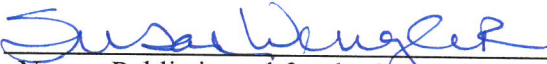
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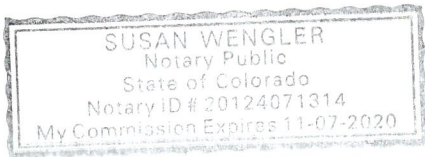
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SWORN (OR AFFIRMED) BEFORE ME)
at Denver, Colorado, this 23rd day of)
September, 2020.)
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Notary Public in and for the State of)
Colorado)

BYRON LEVKULICH





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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 **CERTIFICATE OF REMOTE COMMISSIONING FOR THE AFFIDAVIT OF BYRON LEVKULICH**

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/Alex Matthews**
Phone: 403-298-1938 / 403-298-1992 / 403-298-1018
Fax: 403-263-9193
File No.: A163514

I, Susan Wengler, a Commissioner for Oaths in and for the State of Colorado, certify that the requirements outlined in the Court of Queen's Bench of Alberta, Notice to the Profession and Public, "Remote Commissioning of Affidavits for Use in Civil and Family Proceedings During the COVID-19 Pandemic" dated March 25, 2020 (the "Notice"), has been complied with as follows:

1. I met with Byron Levkulich on September 23rd, 2020, using video technology.
2. While connected to video technology, I undertook the following steps in accordance with the Notice:
 - (a) verified and retained "screenshot" copies of the front and back of Byron Levkulich's government issued photo identification;
 - (b) verified that both parties had a paper copy of the Affidavit and all Exhibits before them during the video conference;

- (c) reviewed every page of the Affidavit and Exhibits with Byron Levkulich, with both parties initialing the lower right corner of each page to verify the pages are identical; and
 - (d) administered the oath at the end of the review and observed Byron Levkulich sign his name to the Affidavit.
3. I received the signed Affidavit with Exhibits from Byron Levkulich electronically, and upon receipt, verified that this copy was identical to the one I initialed during the video conference, and signed the jurat. Both copies are attached to this Certificate.
4. I believe that remote commissioning is necessary because it is impossible or unsafe, for medical reasons, to physically meet with Byron Levkulich to commission the Affidavit.

SIGNED at the City of Denver, Colorado,
this 23rd day of September, 2020.

Susan Wenigler
Commissioner for Oaths in and for the State
of Colorado

