

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, R.S.C. 1985, c. C-36, as amended

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

APPLICANT JMB CRUSHING SYSTEMS INC.

DOCUMENT **APPLICATION FOR ORDERS IN RESPECT OF
BUILDERS' LIENS**

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

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 be in Court when the application is heard as shown below:

Date: May 11, 2020
Time: 10:50 am
Where: Calgary Courts Centre
 601 – 5th Street S.W., Calgary
Before: The Honourable Justice K. M. Eidsvik

Go to the end of this document to see what you can do and when you must do it.

Remedy Sought:

1. The Applicant JMB Crushing Systems Inc. (“**JMB**”) seeks two Orders substantially in the form attached as **Schedule “A”** and **Schedule “B”** hereto establishing a process for the orderly payment of amounts owing to certain subcontractors (the “**Subcontractors**”) retained by JMB to provide services in respect of projects (the “**Projects**”) owned or managed by the Municipal District of Bonnyville No. 87 (“**Bonnyville**”) and EllisDon Industrial Inc. (“**EllisDon**”).

Basis for this claim:

2. JMB engaged the Subcontractors to perform certain services in respect of the Projects.
3. JMB has not been able to make payment in full to the Subcontractors for the Services. As a result of this non-payment, a number of liens (the “**Liens**”) have been registered by the Subcontractors against the Projects.
4. Both Bonnyville and EllisDon have advised JMB that they will not pay any amounts owing to JMB until the Liens registered against the Projects have been discharged.
5. In order to address the liens and facilitate timely collection of the Project accounts receivable, JMB, in consultation with the Monitor, has proposed a process whereby:
 - (a) Bonnyville or EllisDon, as the case may be, will remit to the Monitor the full amount owing to JMB in respect of work performed on the Projects;
 - (b) the Monitor, in consultation with its legal counsel, will confirm the validity and quantum of each lien claimed by each Subcontractor; and
 - (c) the Monitor will pay to each Subcontractor the amount validated by the Monitor in respect of the lien registered by that Subcontractor against the Project in exchange for a discharge of the Lien.
6. The proposed process for addressing the Liens will provide for the orderly payment of the applicable Subcontractors, removal of the Liens registered against the Projects and facilitation of timely collection of the accounts receivable payable in respect the Projects.

Affidavit or other evidence to be used in support of this application:

7. Affidavit of Jeff Buck, sworn April 16, 2020;
8. Supplemental Affidavit of Jeff Buck, sworn April 30, 2020;
9. Affidavit of Jeff Buck, sworn May 8, 2020;
10. First Report of the Monitor; and
11. Such further and other materials or evidence as counsel may advise and this Honourable Court may permit.

Applicable Acts and regulations:

12. *Companies' Creditors Arrangement Act*, RSC 1985, c. C-36, as amended.
13. *Builders' Lien Act*, RSA 2000, c B-7, as amended.
14. *Judicature Act*, RSA 2000, c J-2, as amended.
15. *Alberta Rules of Court*, Alta Reg 124/2010.
16. Such further and other acts and regulations as counsel may advise and this Honourable Court may permit.

WARNING

You are named as a respondent because you have made or are expected to make an adverse claim in respect of this originating application. If you do not come to Court either in person or by your lawyer, the Court may make an order declaring you and all persons claiming under you to be barred from taking any further proceedings against the applicant(s) and against all persons claiming under the applicant(s). You will be bound by any order the Court makes, or another order might be given or other proceedings taken which the applicant(s) is/are entitled to make without any further notice to you. If you want to take part in the application, you or your lawyer must attend in Court on the date and the time shown at the beginning of this 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 applicant(s) a reasonable time before the application is to be heard or considered.