

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*, 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. AND 2161889 ALBERTA  
LTD.

DOCUMENT                **APPLICATION (SEALING ORDER)**

ADDRESS FOR SERVICE    **Gowling WLG (Canada) LLP**  
AND CONTACT              1600, 421 – 7<sup>th</sup> Avenue SW  
INFORMATION OF         Calgary, AB T2P 4K9  
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

**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:                      October 1, 2020  
Time:                      2:00pm  
Where:                    Calgary Courts Centre, via Webex  
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 Applicants JMB Crushing Systems and 2161889 Alberta Ltd. (the “**Applicants**”) seek an Order (the “**Sealing Order**”), substantially in the form attached as Schedule “A” hereto:
  - (a) abridging the time for service of this Application and declaring that this Application is properly returnable today and further service is dispensed with;
  - (b) temporarily sealing Confidential Exhibits “A” through “H”, inclusive, to the Affidavit of Ingrid Fitzner sworn September 30, 2020 (the “**Fitzner Affidavit**”) until further Order of this Court; and
  - (c) such further and other relief as the Applicants may request and this Honourable Court may grant.

**Basis for this claim:**

2. The Confidential Exhibits “A” through “H”, inclusive, to the Fitzner Affidavit attach copies of agreements to which the Applicants are party (the “**Agreements**”) that contain information that is confidential and commercially sensitive relating to the amount payable by the Applicants to such counterparties on account of royalties payable from sales of aggregate (the “**Confidential Information**”). The Confidential Information was important to the business operations of the Applicants, and will be important to the business operations that will be carried on by Mantle Materials Group, Ltd following its purchase of certain assets of the Applicants pursuant to an amended and restated asset purchase agreement dated September 28, 2020. The Confidential Information is also commercially sensitive to the counterparties to the Agreements.
3. The Applicants believe that the Confidential Information should not be made publically available.
4. The proposed sealing order sought is the least restrictive and prejudicial alternative in the circumstances.
5. Such further and other grounds as counsel may advise and this Court may permit.

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

6. Affidavit of Byron Levkulich, sworn September 30, 2020;

7. Affidavit of Ingrid Fitzner, sworn September 30, 2020;
8. Pleadings, affidavits and other materials previously filed in these proceedings; and
9. Such further and other material or evidence as counsel may advise and this Honourable Court may permit.

**Applicable rules:**

10. *Alberta Rules of Court*, Alta Reg. 124/2010.

**Applicable Acts and regulations:**

11. *Companies' Creditors Arrangement Act*, RSC 1985, c. C-36, as amended.
12. 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.

Schedule "A"

SEALING ORDER

Clerk's Stamp

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DOCUMENT **SEALING ORDER**

ADDRESS FOR  
SERVICE AND  
CONTACT  
INFORMATION  
OF PARTY  
FILING THIS  
DOCUMENT

Gowling WLG (Canada) LLP  
1600, 421 – 7<sup>th</sup> 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

**DATE ON WHICH ORDER WAS PRONOUNCED:** October 1, 2020

**LOCATION OF HEARING OR TRIAL:** Calgary Court House

**NAME OF JUDGE WHO MADE THIS ORDER:** Madam Justice K.M. Eidsvik

**UPON THE APPLICATION** of the Applicants JMB Crushing Systems Inc. and 2161889 Alberta Ltd.; **AND UPON** having read the Affidavit of Byron Levkulich sworn September 30, 2020 (the "**Levkulich Affidavit**") and the Affidavit of Ingrid Fitzner sworn September 30, 2020

(the “**Fitzner Affidavit**”); **AND UPON** hearing from counsel for the Applicants and from the parties present; **IT IS HEREBY ORDERED THAT:**

### **SERVICE AND DEFINITIONS**

1. The time for service of the notice of application for this Order (the "**Order**") is hereby abridged and deemed good and sufficient.
2. The capitalized terms used in this Order and not otherwise defined shall have the meanings ascribed to them in the Levkulich Affidavit.

### **SEALING**

3. Until further order of this Honourable Court, the Confidential Exhibits A through H inclusive attached to the Fitzner Affidavit shall be sealed on the Court file, kept confidential and not form part of the public record, notwithstanding Division 4 of Part 6 of the *Alberta Rules of Court*.
4. The Clerk of the Court shall file the Confidential Affidavit in a sealed envelope attached with a notice that sets out the style of cause in these proceedings and states that:

**THIS ENVELOPE CONTAINS CONFIDENTIAL MATERIALS FILED IN COURT FILE NO. 2001-05482. THE CONFIDENTIAL MATERIALS ARE SEALED PURSUANT TO THE SEALING ORDER ISSUED BY THE HONOURABLE MADAM JUSTICE K.M. EIDSVIK ON OCTOBER 1, 2020.**

5. Leave is hereby granted to any person, entity or party affected by this Order to apply to this Honourable Court for a further Order vacating, substituting, modifying or varying the terms of this Order, with such application to be brought on notice to the Applicants, the Monitor and any other affected party in accordance with the *Alberta Rules of Court*.

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J.C.C.Q.B.A