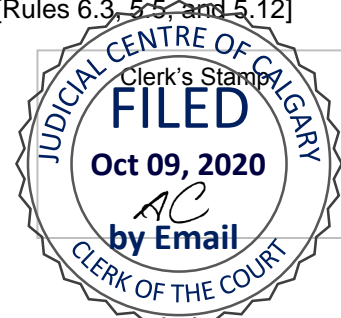


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Form 27
[Rules 6.3, 5.5, and 5.12]

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

COM Oct 16 2020
J. Eidsvik

AND IN THE MATTER OF A PLAN OF
ARRANGEMENT OF JMB CRUSHING
SYSTEMS INC. and 2161889
ALBERTA LTD.

APPLICANTS JMB CRUSHING SYSTEMS INC. and
2161889 ALBERTA LTD.

DOCUMENT **APPLICATION BY JERRY
SHANKOWSKI and 954441 ALBERTA
LTD.**

ADDRESS FOR SERVICE AND
CONTACT INFORMATION OF
PARTY FILING THIS DOCUMENT HAJDUK GIBBS LLP
Barristers & Solicitors
#202 Platinum Place
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Fax. (780) 425-9439
File No.: 5448 RBH

NOTICE TO RESPONDENT(S)

This application is made against you. You are a respondent.

You have the right to state your side of this matter before the master/judge.

To do so, you must be in Court when the application is heard as shown below:

Date	October 16, 2020
Time	9:45 A.M.
Where	Calgary Courts Centre
Before Whom	The Honourable Madam Justice K.M. Eidsvik in Chambers

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

Remedy claimed or sought:

1. An Order declaring invalid the Builders' Lien registered on or about May 15, 2020, as Instrument No. 202 106 447 ("RBEE Lien") by RBEE Aggregate Consulting Ltd. ("RBEE") against the lands owned by the Applicants, Jerry Shankowski ("Shankowski") and 945441 Alberta Ltd. ("945441"), against the Lands legally described as:

FIRST
MERIDIAN 4 RANGE 7 TOWNSHIP 56
SECTION 21
QUARTER NORTH WEST
CONTAINING 64.7 HECTARES (160 ACRES) MORE OR LESS
EXCEPTING THEREOUT: HECTARES (ACRES) MORE OR LESS
A) PLAN 1722948 - ROAD 0.417 1.03
EXCEPTING THEREOUT ALL MINES AND MINERALS
AND THE RIGHT TO WORK THE SAME
SECOND
MERIDIAN 4 RANGE 7 TOWNSHIP 56
SECTION 21
QUARTER SOUTH WEST
CONTAINING 64.7 HECTARES (160 ACRES) MORE OR LESS
EXCEPTING THEREOUT: HECTARES (ACRES) MORE OR LESS
A) PLAN 1722948 - ROAD 0.417 1.03
EXCEPTING THEREOUT ALL MINES AND MINERALS
AND THE RIGHT TO WORK THE SAME
(the "Shankowski Lands");

2. An Order declaring invalid the Builders' Lien registered on or about May 13, 2020, as Instrument No. 202 104 972 ("J.R. Paine Lien") by J.R. Paine & Associates Ltd. ("J.R. Paine") against the Shankowski Lands;
3. An Order directing the Registrar of the Land Titles Office for the North Alberta Registration District to remove and discharge the Builders' Liens registered as Instrument No. 202 106 447 and Instrument No. 202 104 972 from the Title to the Shankowski Lands forthwith notwithstanding s. 191(1) of the *Land Titles Act*, pursuant to s. 191(3) of the *Land Titles Act*.

4. Such other and further relief as may be required and as this Honourable Court deems appropriate and just; and
5. Costs of this Application in any event of the cause, payable forthwith, on a scale as between a solicitor and client or on such other scale or in such other amounts as this Honourable Court deems appropriate and just.

Grounds for making this application:

6. On May 20, 2020, in this Action, an Order (“Eidsvik May 20 Order”) was granted by the Honourable Madam Justice K.M. Eidsvik (“Eidsvik J.”) establishing a protocol for any builders’ liens registered or capable of being registered in respect of the Contract between JMB Crushing Systems Inc. (“JMB”) and the Muncipal District of Bonnyville No. 87 (“MD of Bonnyville”), and discharging any builders’ liens then registered against certain lands (“MD of Bonnyville Lands”) stipulated in the Eidsvik May 20 Order and owned by the MD of Bonnyville.
7. On or about May 13, 2020, J.R. Paine caused the J.R. Paine Lien to be registered against the Shankowski Lands.
8. On or about May 15, 2020, RBEE caused the RBEE Lien to be registered against the Shankowski Lands.
9. Neither Shankowki or 954441 requested, expressly or impliedly, any work or services to be provided on or in respect of an improvement on the Shankowski Lands by either RBEE or J.R. Paine, and any such work or services were requested, expressly or impliedly, by JMB and provided on behalf of JMB, on the credit of JMB, and for the direct benefit of JMB.
10. RBEE and J.R. Paine, or either of them, could have registered a builders’ lien against the MD of Bonnyville Lands prior to the granting of the Eidsvik May 20 Order, and could have had their lien claims dealt with pursuant to the Eidsvik May 20 Order, but neither of them did so up to the present time.

11. Each of the RBEE Lien and the J.R. Paine Lien are invalid as regards the fee simple interest of Shankowski (and / or 945441) in the Shankowski Lands as either being contrary to the spirit and intent of the Eidsvik May 20 Order, or as being in respect of work or services that were not requested, expressly or impliedly, by either Shankowski or 945441, and as not being provided for or in respect of an improvement to the Shankowski Lands, but were provided in respect of an improvement to the MD of Bonnyville Lands.
12. Neither of the RBEE Lien or the J.R. Paine Lien specifies or alleges that any work or services were requested, expressly or impliedly, by either Shankowski or 945441, contrary to s. 34(2)(a)(ii) and s. 34(2)(a)(iii) of the *Builders' Lien Act*, being c. B-7 of the Revised Statutes of Alberta 2000, and any amendments thereto ("*BLA*"), and therefore does not allege that either Shankowski or 945441 is an "owner" of the Shankowski Lands within the meaning of the *BLA*, and further fails to specify the estate or interest in the Shankowski Lands in which a builder's lien is claimed, contrary to s. 34(2)(b) of the *BLA*.
13. The Eidsvik May 20 Order provides a separate protocol for builders' lien claims against any interest of JMB in any lands in relation to the Contract between JMB and the MD of Bonnyville.
14. The deadline for registering each of the RBEE Lien and the J.R. Paine Lien has expired and neither of the RBEE Lien nor the J.R. Paine Lien can be amended or saved by an Order of the Court under s. 37 of the *BLA*.
15. Such further and other grounds as may appear from the evidence.

Material or evidence to be relied on:

16. The Affidavit of Jerry Shankowski, sworn October 9, 2020, filed concurrently with this Application; and,

17. The Affidavit of Jerry Shankowski, sworn August 10, 2020, filed.

Applicable rules:

18. Rules 1.1, 1.2, 1.3, 1.4, 1.5, 6.3, 7.3 of the *Alberta Rules of Court* and generally all other applicable provisions of the *Alberta Rules of Court*.

Applicable Acts and regulations:

19. *Alberta Rules of Court*,

20. *Builders' Lien Act (Alberta)*;

21. *Companies' Creditors Arrangements Act (Canada)*.

Any irregularity complained of or objection relied on:

22. Not applicable.

How the application is proposed to be heard or considered:

23. Orally, in person or in such other manner as may be directed by the Court, before the presiding Justice in Chambers.

WARNING

If you do not come to Court either in person or by your lawyer, the Court may give the applicant(s) 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 at the time shown at the beginning of the form. If you intend to rely on an affidavit or other evidence when the application is heard or considered, you must reply by giving reasonable notice of the material to the applicant.