

**ONTARIO
SUPERIOR COURT OF JUSTICE
(IN BANKRUPTCY AND INSOLVENCY)
(COMMERCIAL LIST)**

THE HONOURABLE MADAM) FRIDAY, THE 15TH
)
JUSTICE CONWAY) DAY OF MAY, 2020

**IN THE MATTER OF THE *BANKRUPTCY AND
INSOLVENCY ACT*, RSC 1985, c B-3, AS AMENDED**

**AND IN THE MATTER OF THE PROPOSAL OF JMX CONTRACTING INC.
OF THE TOWN OF UXBRIDGE IN THE PROVINCE OF ONTARIO**

**AND IN THE MATTER OF THREE RELATED INTENDED
PROPOSALS (JMX NATIONAL INC., BRND PROPERTIES INC.,
and JMX LEASING INC.)**

**ORDER
(Re Extension of Time to File a Proposal and
Expansion of Proposal Trustee's Powers)**

THIS MOTION, made by JMX Contracting Inc. (the "**Company**") and together with JMX National Inc., BRND Properties Inc., and JMX Leasing Inc. (collectively, the "**JMX Group**"), pursuant to the *Bankruptcy and Insolvency Act*, RSC 1985, c B-3, as amended (the "**BIA**"), was heard this day by way of video conference due to the COVID-19 crisis.

ON READING the Affidavit of Charlie Dahl sworn May 12, 2020, the First Report of the Proposal Trustee dated May 13, 2020, the Affidavit of Vinnie Ussia, sworn May 13, 2020, and the Affidavit of Daniel P. Stevens sworn May 14, 2020 and, on hearing the submissions of counsel for the Company, Crowe Soberman Inc., in its capacity as Proposal Trustee (the "**Proposal Trustee**"), and Royal Bank of Canada ("**RBC**") and such other counsel as appearing on the counsel slip, no one appearing for any other person on the service list, although properly

served as appears from the affidavit of service of Christel Paul sworn May 12, 2020, filed:

SERVICE

1. **THIS COURT ORDERS** that the time for service of the Notice of Motion and the Motion Record is hereby abridged and validated so that this Motion is properly returnable today and hereby dispenses with further service thereof.

ADMINISTRATIVE CONSOLIDATION

2. **THIS COURT ORDERS** that the proposal proceedings of the JMX Group, bearing Court and Estate file numbers **31-2639614**, **31-2639615**, **31-2639875**, and **31-2639876** (collectively, the “**Proposal Proceedings**”) be and are hereby administratively consolidated and the Proposal Proceedings are hereby authorized and directed to continue under the following joint title of proceedings:

Court File No.	31-2639875
Estate No.	31-2639875

**IN THE MATTER OF THE *BANKRUPTCY AND
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**AND IN THE MATTER OF THE PROPOSAL OF JMX CONTRACTING INC.
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and JMX LEASING INC.**

3. **THIS COURT ORDERS** that all further materials in the Proposal Proceedings shall be filled only in the JMX Contracting Inc. estate and court file (file no. **31-2639875**) and hereby dispenses with further filing thereof in the estate and court files of the other JMX Group entities.

EXTENSION OF TIME TO FILE A PROPOSAL

4. **THIS COURT ORDERS** that pursuant to Section 50.4(9) of the BIA, the time for the JMX Group entities to file proposals with the Official Receiver be and is hereby extended to July 1, 2020.

ENHANCED POWERS OF THE PROPOSAL TRUSTEE

5. **THIS COURT ORDERS** that the Proposal Trustee is hereby authorized and directed to take all necessary steps to obtain custody of any equipment removed from JMX Group sites and/or projects by third parties after the commencement of the Proposal Proceedings.

6. **THIS COURT ORDERS** that the Proposal Trustee, in addition to its prescribed rights and obligations under the BIA, is hereby directed and empowered to:

- (a) monitor the JMX Group's receipts and disbursements and approve all payments made by the JMX Group;
- (b) report to this Court at such times and intervals as the Proposal Trustee may deem appropriate with respect to matters relating to the Property, the business, and such other matters as may be relevant to the proceedings herein;
- (c) advise the JMX Group in the preparation of its cash flow statements and reporting, which information shall be reviewed with the Proposal Trustee;
- (d) have full and complete access to the Property, including the premises, books, records, data, including data in electronic form, and other financial documents of the JMX Group to the extent that is necessary to adequately assess the JMX

Group's business and financial affairs or to perform its duties arising under this Order; and

- (e) perform such other duties as are required by this Order or by this Court from time to time.

7. **THIS COURT ORDERS** that the Proposal Trustee shall not take possession of the Property and shall not, by fulfilling its obligations hereunder, be deemed to have taken or maintained possession or control of the business or Property, or any part thereof.

8. **THIS COURT ORDERS** that nothing herein contained shall require the Proposal Trustee to occupy or to take control, care, charge, possession or management (separately and/or collectively, "**Possession**") of any of the Property that might be environmentally contaminated, might be a pollutant or a contaminant, or might cause or contribute to a spill, discharge, release or deposit of a substance contrary to any federal, provincial or other law respecting the protection, conservation, enhancement, remediation or rehabilitation of the environment or relating to the disposal of waste or other contamination including, without limitation, the *Canadian Environmental Protection Act*, the *Ontario Environmental Protection Act*, the *Ontario Water Resources Act*, or the *Ontario Occupational Health and Safety Act* and regulations thereunder (the "**Environmental Legislation**"), provided however that nothing herein shall exempt the Proposal Trustee from any duty to report or make disclosure imposed by applicable Environmental Legislation. The Proposal Trustee shall not, as a result of this Order or anything done in pursuance of the Proposal Trustee's duties and powers under this Order, be deemed to be in Possession of any of the Property within the meaning of any

Environmental Legislation, unless it is actually in possession.

9. **THIS COURT ORDERS** that that the Proposal Trustee shall provide any creditor of the JMX Group with information provided by the JMX Group in response to reasonable requests for information made in writing by such creditor addressed to the Proposal Trustee. The Proposal Trustee shall not have any responsibility or liability with respect to the information disseminated by it pursuant to this paragraph. Subject to applicable law, in the case of information that the Proposal Trustee has been advised by the JMX Group is confidential, the Proposal Trustee shall not provide such information to creditors unless otherwise directed by this Court or on such terms as the Proposal Trustee and the JMX Group may agree.

10. **THIS COURT ORDERS** that, in addition to the rights and protections afforded the Proposal Trustee under the BIA or as an officer of this Court, the Proposal Trustee shall incur no liability or obligation as a result of its appointment or the carrying out of the provisions of this Order, save and except for any gross negligence or wilful misconduct on its part. Nothing in this Order shall derogate from the protections afforded the Proposal Trustee by the BIA or any applicable legislation.

DUTY TO PROVIDE ACCESS AND CO-OPERATION TO THE PROPOSAL TRUSTEE

11. **THIS COURT ORDERS** that Kirby Waste Transfer Solutions and/or Vinnie Ussia shall forthwith return all equipment removed by Kirby Waste Transfer Solutions and Vinnie Ussia from JMX Group sites and/or projects after the commencement of the Proposal Proceedings.

12. **THIS COURT ORDERS** that (i) all of JMX Group's current and former directors, officers, employees, agents, accountants, legal counsel and shareholders, and all other persons acting on its instructions or behalf, and (ii) all other individuals, firms, corporations, governmental bodies or agencies, or other entities having notice of this Order (all of the foregoing, collectively, being "**Persons**" and each being a "**Person**") shall forthwith advise the Proposal Trustee of the existence of any Property in such Person's possession or control and shall grant immediate and continued access to the Property to the Proposal Trustee.

INDEMNITY AND PRIORITY OF CHARGES

13. **THIS COURT ORDERS** that the Proposal Trustee, counsel to the Proposal Trustee, and the JMX Group's counsel shall be entitled to the benefit of and are hereby granted a charge (the "**Administration Charge**") on the Property, which charge shall not exceed an aggregate amount of \$300,000 as security for their professional fees and disbursements incurred at their standard rates and charges, both before and after the making of this Order in respect of these proceedings. The Administration Charge shall have the priority set out in paragraph 15 hereof.

14. **THIS COURT ORDERS** that the filing, registration or perfection of the Administration Charge shall not be required, and that the Administration Charge shall be valid and enforceable for all purposes, including as against any right, title or interest filed, registered, recorded or perfected subsequent to the Administration Charge coming into existence, notwithstanding any such failure to file, register, record, or perfect.

15. **THIS COURT ORDERS** that the Administration Charge shall constitute a charge on the Property and such Administration Charge shall rank in priority to all other security interests,

trusts, liens, charges and encumbrances, claims of secured creditors, statutory or otherwise (collectively, "**Encumbrances**") in favour of any person.

16. **THIS COURT ORDERS** that except as otherwise expressly provided for herein, or as may be approved by this Court, the JMX Group shall not grant any Encumbrances over any Property that may rank in priority to, or *pari passu* with; (i) the Administration Charge without the consent of the JMX Group or the beneficiaries of the Administration Charge; or (ii) any of the security interests in favour of RBC without the consent of RBC and, in each case, if approval of the Court is sought, such approval motion shall be made on notice to the service list of not less than three business days.

GENERAL

17. **THIS COURT ORDERS** that the Proposal Trustee and the JMX Group are at liberty and are hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order.



**IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL OF
JMX CONTRACTING INC. OF THE TOWN OF UXBRIDGE IN THE PROVINCE
OF ONTARIO**

Court File No. 31-2639875
Estate No. 31-2639875

**AND IN THE MATTER OF THREE RELATED INTENDED PROPOSALS OF JMX
NATIONAL INC., BRND PROPERTIES INC., and JMX LEASING INC.**

**ONTARIO
SUPERIOR COURT OF JUSTICE
IN BANKRUPTCY AND INSOLVENCY
(COMMERCIAL LIST)**

Proceedings commenced at Toronto

ORDER

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