

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

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

**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**

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

**MOTION RECORD**

August 7, 2020

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**Lawyers for JMX Contracting, et al..**

**TO: THE SERVICE LIST**

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**ONTARIO**  
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# TAB 1

Court File No. 31-2639875  
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**ONTARIO**  
**SUPERIOR COURT OF JUSTICE**  
**IN BANKRUPTCY AND INSOLVENCY**  
**(COMMERCIAL LIST)**

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

**IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A**  
**PROPOSAL OF JMX CONTRACTING INC. OF THE TOWN OF**  
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**AND IN THE MATTER OF THREE RELATED INTENDED PROPOSALS**  
**OF JMX NATIONAL INC., BRND PROPERTIES INC., and**  
**JMX LEASING INC.**

**NOTICE OF MOTION**  
(Re: Extension of Time to File Proposal)

**JMX CONTRACTING INC., JMX NATIONAL INC., BRND PROPERTIES INC.,**  
**and JMX LEASING INC.** (collectively, the “**Debtors**”) will make a motion to a Judge presiding  
over the Commercial List on Friday, August 14, at 1:00 p.m., or as soon after that time as the  
motion can be heard by judicial teleconference via Zoom at Toronto, Ontario. Please refer to the  
conference details attached as Schedule “A” hereto in order to attend the motion and advise if you  
intend to join the motion by emailing Christel Paul at [cpaul@wfkllaw.ca](mailto:cpaul@wfkllaw.ca).

**PROPOSED METHOD OF HEARING:** The motion is to be heard orally.

**THE MOTION IS FOR:**

1. An Order, substantially in the form attached at Tab **3** of the Motion Record (the “**Extension Order**”) that, among other things:
  - a) extends the time for the Debtors to make a proposal to their creditors pursuant to the *Bankruptcy and Insolvency Act*, RSC 1985, c B-3, as amended (the “**BIA**”) by 45 days, up to and including September 29, 2020; and
  - b) authorizes this Court to take jurisdiction over the claims as between JMX and ASNA Robson Landmark Developments Limited (“**ASNA**”) and approves a schedule for the determination of such claims.
2. Such further and other relief as this Honourable Court deems just.

**THE GROUNDS FOR THIS MOTION ARE:**

1. The Debtors are a part of a corporate group (the “**JMX Group**”) in the business of providing environmental contracting, demolition, abatement, remediation, and commodity salvage services to construction and decommissioning projects across Canada.
2. On April 17 and April 20, 2020, the Debtors filed Notices of Intention to Make a Proposal (“**NOIs**”) and Crowe Soberman Inc. was appointed proposal trustee (the “**Proposal Trustee**”).
3. On May 15, 2020, the time to file a proposal was extended pursuant to the Order of the Honourable Madam Justice Conway, up to and including July 1, 2020 (the “**First Stay Extension**”).

4. On June 29, 2020, Conway J. granted a further extension of the statutory stay of proceedings up to and including August 15, 2020 (the “**Second Stay Extension**”).
5. The Debtors are seeking a further extension of the time to file a proposal pursuant to s. 50.4(9) of the BIA to permit them to, *inter alia*, continue efforts to resolve ongoing disputes with ASNA and Ontario Power Generation (“**OPG**”), as well as to further develop and implement a restructuring plan for its creditors.
6. The Debtors have worked diligently and in good faith during the restructuring period. Since the Second Stay Extension was granted, the JMX Group’s management, together with the Proposal Trustee and company counsel have, among other things:
  - a) completed a refinancing of approximately \$1.3 million of the original \$4.43 million owed by the JMX Group to its primary secured creditor, the Royal Bank of Canada (“**RBC**”);
  - b) sourced new contracts and normalized collections of accounts receivable to stabilize cash flows and the going-concern viability of the business;
  - c) developed cash flow forecasts for the next stay period that provide for additional payments to RBC. In combination with the refinancing mentioned above, these payments will result in the pay down of more than half of the total indebtedness owing to RBC;
  - d) continued discussions with OPG to develop a path forward for resolution of the issues between the parties in respect to the OPG demolition contract;

- e) settled with ASNA with respect to the bond ASNA will post to vacate the lien of the JMX Group registered on title to the ASNA project, as well as worked with ASNA to settle and release the liens of sub-trades registered on title; and
  - f) continued discussions with parties interested in acquiring the assets of the Debtors, including the OPG demolition contract.
7. The Debtors' next immediate objectives are to resolve, or to establish a timetable for, the determination of the OPG and ASNA disputes.
8. In the meantime, the JMX Group continues to operate in the ordinary course and to solicit and perform new construction contracts in an effort to repay their creditors, including RBC. Between now and October 26, 2020, the JMX Group expects to repay a further \$1 million of the RBC debt.
9. The Debtors continue to examine all possible restructuring options to deal with their liabilities, including resolution of disputes in respect to certain material contracts and the pursuit of sale/investment avenues to ensure the most favourable outcome possible for all creditors and stakeholders.

*Pursuing a Viable Restructuring Plan*

10. The JMX Group and the Proposal Trustee have reviewed the financial information of the Debtors to prepare an updated cash flow forecast for the period from August 3, 2020 to October 26, 2020.
11. The JMX Group projects that it will have sufficient liquidity to operate, not only during the proposed stay extension period, but up to and including the week of October 26, 2020.

12. The JMX Group anticipates that its active business and revenues will increase as COVID-19 restrictions continue to be lifted across Ontario and since the Second Stay Extension date, the Debtors have been successful at sourcing new, post-filing business.
13. Overall, the JMX Group's operations are profitable and cash-flow positive on an aggregate basis, demonstrating strong potential for viability as a going-concern.

*Ontario is Forum Conveniens*

14. ASNA and the JMX Group are unable to agree on the appropriate forum for the determination of their respective claims on the merits.
15. ASNA continues to insist on proceeding with a petition in British Columbia. At this motion, the JMX Group is seeking an Order that this Court have jurisdiction to determine the claim with ASNA and that the proposed schedule be approved. The proposed litigation schedule provides for an expedited claims determination process within these NOI proceedings.
16. The dispute between JMX and ASNA is at its core a contractual dispute. This Court has the expertise and flexibility to determine the claim, or to order an expedited process for the determination of the ASNA claim, in keeping with the rehabilitative objectives of the BIA.

*Extension of Time to File a Proposal*

17. The current time to file a proposal under the BIA expires on August 15, 2020. The JMX Group requires more time in order to develop an orderly restructuring strategy. Accordingly, the JMX Group is requesting a 45-day extension of time to make a proposal pursuant to Section 50.4(9) of the BIA, up to September 29, 2020.

18. The Debtors have not sought debtor-in-possession financing and are reliant on receipts to fund the restructuring proceeding and ongoing operations. It is anticipated that the JMX Group will have sufficient liquidity, based on current cash flow projections, to operate through the requested extension.
19. Without an extension of time, the Debtors will not be in a position to make a viable proposal to their creditors. A complete shut-down and liquidation of the JMX Group will throw away significant value that could be earned based on going-concern revenues. There is little to be gained from a liquidation and it will also result in job losses for over 80 employees. This outcome is directly contrary to the purpose of these NOI proceedings.
20. The test for an extension of time under Section 50.4(9) of the BIA is met:
  - a) the Debtors are likely to be able to make a viable proposal to their creditors if the requested extension is granted;
  - b) the Debtors are working diligently and in good faith to restructure in a manner that treats all stakeholders fairly and maximizes value;
  - c) the Debtors' material secured creditor, RBC, is fully collateralized and will not be materially prejudiced if the requested extension is granted.

*Further Grounds*

21. The Proposal Trustee supports the relief being sought by the Debtors;
22. Section 50.4(9) of the BIA;

23. Rules 1.04, 2.03, 3.02 and 37 of the *Rules of Civil Procedure*, RSO 1990, Reg 194, as amended; and
24. Such further and other grounds as counsel may advise and this Honourable Court may permit.

**THE FOLLOWING DOCUMENTARY EVIDENCE WILL BE USED ON THE HEARING OF THE MOTION:**

25. The Affidavit of Charlie Dahl, sworn August 7, 2020, with Exhibits attached thereto; and,
26. Such further and other evidence as counsel may advise and this Honourable Court may permit.

August 7, 2020

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**Lawyers for JMX Contracting, et al.**

**TO: THE SERVICE LIST**

**Schedule “A”  
Conference Details to join Motion via Zoom**

Join Zoom Meeting

<https://zoom.us/j/3154597997?pwd=RXJlOCtqdHUxa2lUREtUYlE5OUpKZz09>

Meeting ID: 315 459 7997

Password: 729363

One tap mobile

+13017158592,,3154597997# US

+13126266799,,3154597997# US (Chicago)

Dial by your location

+1 301 715 8592 US

+1 312 626 6799 US (Chicago)

+1 346 248 7799 US (Houston)

+1 646 558 8656 US (New York)

+1 669 900 9128 US (San Jose)

+1 253 215 8782 US

Meeting ID: 315 459 7997

Password: 729363

Find your local number: <https://zoom.us/u/akmSHXDDJ>

# TAB 2

Court File No. 31-2639875

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**SUPERIOR COURT OF JUSTICE**  
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**IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A  
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**AND IN THE MATTER OF THREE RELATED INTENDED PROPOSALS OF  
JMX NATIONAL INC., BRND PROPERTIES INC., and  
JMX LEASING INC.**

**AFFIDAVIT OF CHARLIE DAHL**  
(Sworn August , 2020)

**I, CHARLIE DAHL**, of the town of Stouffville, in the province of Ontario, **MAKE OATH  
AND SAY:**

1. I am a director and shareholder of each of the debtors, JMX Contracting Inc., JMX National Inc., BRND Properties Inc., and JMX Leasing Inc. (collectively, the “**Debtors**” or each a “**Debtor**”). Accordingly, I have personal knowledge of the matters set out below. Where I have relied on information from others, I state the source of such information and verily believe it to be true.
2. This affidavit is submitted in support of a motion for an order that, among other things:
  - (a) extends the time for the Debtors to make a proposal to their creditors pursuant to the *Bankruptcy and Insolvency Act*, RSC 1985, c. B-3 (the “**BIA**”); and

- (b) authorizes this Court to take jurisdiction over the claims as between JMX and ASNA Robson Landmark Developments Limited (“ASNA”) and orders a process for the determination of such claims.

## **I. OVERVIEW**

3. The Debtors are a part of a corporate group (the “**JMX Group**”) in the business of providing environmental contracting, demolition, abatement, remediation, and commodity salvage services to construction and decommissioning sites across Canada.

4. On April 17 and April 20, 2020, the Debtors filed notices of intention to make a proposal (“**NOIs**”) and Crowe Soberman Inc. was appointed as proposal trustee (the “**Proposal Trustee**”) of the Debtors pursuant to the provisions of the BIA.

5. On May 15, 2020, the statutory stay of proceedings under the was extended pursuant to the Order of the Honourable Madam Justice Conway, up to and including July 1, 2020 (the “**First Stay Extension**”).

6. On June 29, 2020, Conway J. granted a further extension of the statutory stay of proceedings up to and including August 15, 2020 (the “**Second Stay Extension**”).

7. Since the Second Stay Extension was granted, the JMX Group’s management, together with the Proposal Trustee and company counsel, have been engaged in, among other things:

- (a) completing the refinancing of approximately \$1.3 million of the indebtedness owing by the Debtors to their primary secured creditor, the Royal Bank of Canada (“**RBC**”);

- (b) sourcing new construction contracts and pursuing the collection of accounts receivable, as well as developing cash flow forecasts over the proposed stay period. The Debtors' efforts to obtain new business and collect receivables will result in significant additional paydowns to RBC. It is anticipated that those paydowns, in addition to the amount refinanced, will result in RBC receiving payment for over half of the indebtedness owed;
- (c) consenting to the engagement of RBC's financial advisor, msi Spergel Inc. ("Spergel") and assisting Spergel with the development of an integrative forecast at the request of RBC;
- (d) continuing discussions with Ontario Power Generation ("OPG") to develop a path forward for resolution of the dispute between the parties in respect of the OPG Demolition Contract (as described and defined below);
- (e) settling with ASNA the amount of the security ASNA will post to vacate the lien registered by JMX on title to the ASNA project and working with ASNA to settle and release of the liens of sub-trades registered on title to the ASNA project;
- (f) ongoing discussions with a party interested in acquiring the assets of the Debtors, including the OPG Demolition Contract; and
- (g) general operational and administrative changes designed to stabilize the going-concern business of the Debtors and achieve steady cash flows.

8. I am of the view that continued operation of the business as well as ongoing discussions with key creditors, potential investors and purchasers are likely to result in a restructuring that provides enhanced, long-term value for all stakeholders beyond a liquidation.

9. Accordingly, the JMX Group is seeking approval of a continued stay of proceedings up to and including September 29, 2020 in order to allow it time to operate the business and develop and implement a restructuring plan for its creditors.

## **II. REFINANCING AND POSITION OF THE RBC LOAN**

10. RBC is the primary secured creditor of the Debtors pursuant to various credit agreements between RBC and the JMX Group. As at the date of filing, the JMX Group's total indebtedness to RBC was approximately \$4.43 Million.

11. Very early in these proceedings, the JMX Group agreed in good faith to permit RBC to engage Spergel as its financial advisor with unfettered access to the JMX Group and its books and records for the duration of this restructuring.

12. The JMX Group consented to the engagement of Spergel (notwithstanding the significant professional fees that would be incurred) in order to demonstrate that it was working cooperatively with its senior secured creditor, assuage RBC's concerns about its collateral position, increase transparency for RBC's benefit and demonstrate the JMX Group's compliance with the *Construction Act*.

13. At the Second Stay Extension hearing, the JMX Group reported that it had entered into a mortgage commitment from Hillmount Capital. The commitment provided for a mortgage refinancing of the \$1.3 million owing to RBC at an annual interest rate of 7.99%.

14. On July 10, 2020, the Hillmount Capital mortgage refinancing closed and \$1.3 million was directly applied to reduce the RBC indebtedness. As at the date of this Affidavit, approximately \$3.3 million remains outstanding and owing to RBC, which amount includes \$170,000 in professional fees incurred by RBC.

15. Through the Debtors' efforts to source new contracts and pursue the collection of accounts receivable, the Debtors anticipate they will have sufficient cash to repay a further \$1 million of the RBC indebtedness during the proposed stay extension period. The proposed payments have been reviewed by the Proposal Trustee and are reflected in the Updated Cash Flow Forecast, as described and defined below.

16. The Debtors continue to maintain a solid asset base. A recent appraisal obtained from Ritchie Brothers Auctioneers (the "**Appraisal**") demonstrates significant equity in the Debtors' equipment. Based on the Appraisal value alone, RBC remains fully secured and collateralized in respect of its remaining indebtedness. A copy of the Appraisal is attached as Confidential Exhibit "A".

### **III. ONGOING BUSINESS OF THE JMX GROUP**

#### **Accounts Receivable and New Post-Filing Business**

17. According to the Updated Cash Flow Forecast, as at July 30, 2020, the JMX Group's outstanding accounts receivable is approximately \$3.7 million. A further \$2.3 million remains outstanding under the disputed OPG and ASNA projects. As those amounts are subject to disputes, they have been booked separately and are described in greater detail below.

18. The JMX Group anticipates that its active business and associated revenues will increase as COVID-19 restrictions continue to be lifted across Ontario. Since the Second Stay Extension date, the

Debtors have sourced approximately \$450,000 in new, post-filing business. Absent a material adverse change, the Debtors forecast monthly sales of approximately \$400,000 to \$500,000 attributed to post-filing projects from August to December 2020.

#### **IV. DISPUTED CONTRACTS**

19. As detailed in previous reports to this Court, the JMX Group is engaged in disputes related to two pre-filing demolition projects with OPG and ASNA. The Debtors' current financial difficulties were largely attributable to the breakdown of these two contracts.

20. This section provides updates on the OPG and ASNA disputes. The background and particulars of each dispute were described more fully before this Court in the affidavit of Rob Barnett sworn June 12, 2020, the affidavit of John Singleton sworn June 9, 2020, and my previous affidavit sworn June 24, 2020, each as previously filed.

21. A key objective of the JMX Group during the stay extension will be to seek resolution or determination of the OPG and ASNA disputes. Absent settlement or resolution, it is appropriate for these claims to be determined within these proceedings: the ASNA dispute involves a significant payable by ASNA to JMX, which is a potential asset of the estate; and the OPG Demolition Contract is a material contract of the Debtors and a significant issue in these restructuring proceedings. The result of these disputes will affect the potential restructuring paths available to the Debtors.

##### **(A). Ontario Power Generation**

22. The OPG-JMX dispute stems from allegations by OPG that the JMX Group was deficient in its performance of the OPG Demolition Contract and caused certain delays. The position of the Debtors is that any delays resulted from material complications unforeseeable at the outset of the OPG project.

The JMX Group and various subcontractors have filed liens against OPG's project property for work performed on the project for which no payment has been received. Progress on the project has stalled.

23. The Debtors have had various meetings with OPG to develop a plan for resolution of the outstanding dispute. The Debtors continue to engage in discussions with OPG.

24. Given the dispute between the parties, the JMX Group was contemplating a potential sale of unused industrial equipment at the OPG project site. However, at this time the JMX Group has not proceeded with such sale given the interest of potential purchasers in acquiring the business of the JMX Group, including the OPG Demolition Contract and the related equipment.

**(B). ASNA**

25. The JMX Group has completed work under the ASNA contract and no longer provides any services or materials to the project.

26. The JMX Group experienced significant delays in the completion of the ASNA contract resulting from material deficiencies in the schematics and scope of work represented by ASNA at the outset of the project. The JMX Group filed liens on title to the project relating to its costs arising from the unforeseen conditions and delays.

27. In June 2020, ASNA brought a motion to lift the stay of proceedings to file a petition in British Columbia to, among other things, vacate the liens of subcontractors below the JMX Group and to discharge the JMX Group's claim and vacate its lien (the "**Lift Stay Motion**").

28. Prior to the Second Stay Extension, the Lift Stay Motion was adjourned to allow ASNA and the JMX Group to negotiate a consensual resolution to vacate the subcontractor liens and the posting of security by ASNA to bond off the lien of the JMX Group.

29. The Debtors and ASNA have since agreed that ASNA will post \$3 million in security to vacate JMX's lien. In addition, JMX and ASNA have negotiated payment of the holdback to various sub-trades in return for releases.

30. Notwithstanding the settlement of the bond amount for the JMX Group's lien as well as resolution and payment of sub-trades, the parties have been unable to agree on the appropriate forum for the determination of the claims of JMX and ASNA on their merits. ASNA continues to insist on proceeding with a petition in British Columbia notwithstanding the pendency of these NOI proceedings. The JMX Group is seeking an Order by this Court taking jurisdiction of the claim and approval of an expedited claims determination process within these NOI proceedings. To proceed in British Columbia will unnecessarily add expense and delay to these proceedings.

31. I note that John Singleton, Queen's Counsel in British Columbia, previously attested to the fact that it would likely take two years to proceed to final determination of the ASNA claim before the BC court.

32. The dispute between JMX and ASNA is at its core a contractual dispute. I am advised by my counsel that the Ontario Court supervising these NOI proceedings has the expertise and flexibility to determine the claim, or to order an expedited process for the determination of the ASNA claim keeping in mind the goals of the restructuring.

## **V. UPDATE ON RESTRUCTURING ACTIVITIES**

### **(A). Updated Cash Flow Statement and Forecast**

33. The JMX Group and the Proposal Trustee have reviewed the financial information of the Debtors to prepare updated cash flow forecast for the period from August 3, 2020 to October 26, 2020

(the “**Updated Cash Flow Forecast**”). A copy of the Updated Cash Flow Forecast is appended to the Third Report of the Proposal Trustee and to this affidavit as Exhibit “B”.

34. The Updated Cash Flow Forecast shows collections of projected receivables from August 14 through to October 26, 2020, in the approximate amount of \$3.7 million.

35. Additionally, the Updated Cash Flow Forecast demonstrates that the JMX Group will have sufficient liquidity to operate, not only during the proposed stay extension period, but up to and including the week of October 26, 2020. Even setting aside the disputed payables under the OPG and ASNA contracts, the JMX Group’s operations are profitable and cash-flow positive on an aggregate basis, demonstrating strong potential for viability as a going-concern.

**(B). Allegations raised by Jeffrey Norton**

36. The JMX Group has received communications from counsel to Jeffrey Norton, the former president of the JMX Group whose employment was terminated for cause by the Company in and around May 25, 2020 based on a long-standing pattern of misconduct. Mr. Norton is a current shareholder of the JMX entities and is a personal guarantor of the RBC loan ,along with the Company’s three other shareholders.

37. Mr. Norton has made various allegations against the JMX Group, including that the NOI filing was commenced without proper authority notwithstanding his execution of the board resolution authorizing the filing.

38. Counsel to the JMX Group has responded to the allegations by Mr. Norton. Under the circumstances, the NOI filing was necessary and reasonable. It is the Company’s intention to effect a restructuring for the benefit of all the company’s stakeholders, including Mr. Norton in his capacity as

a personal guarantor. The Company has requested Mr. Norton's cooperation through the restructuring process.

## **VI. EXTENSION OF TIME TO FILE A PROPOSAL**

39. The current stay of proceedings expires on August 14, 2020. Accordingly, the Debtors are requesting a 45-day extension of time pursuant to Section 50.4(9) of the BIA, up to September 29, 2020, to pursue an orderly restructuring, either through a refinancing or a sale of the business, as discussed above.

40. As discussed herein, the Debtors have not yet commenced a sale process or committed to a restructuring pathway given the ongoing key contract disputes with OPG and ASNA.

41. Most significantly, a sale process is impractical prior to resolving these disputes, as there would be no certainty to a purchaser as to the outcome, thereby affecting any purchase price and sacrificing significant value that could otherwise be realized from the business. Namely, the OPG Demolition Contract is of interest to a potential purchaser and therefore the Debtors could either proceed with a transaction that would allow the purchaser to assume and complete the OPG Demolition Contract, or proceed with a sale of equipment and assets on the assumption that the balance of the contract will not be performed.

42. Notwithstanding the lingering OPG and ASNA issues, the Debtors have made significant good faith progress in these restructuring proceedings, including:

- (a) refinancing RBC, the Primary secured creditor, and developing a financial plan that will see the RBC indebtedness substantially repaid within the stay extension period;

- (b) otherwise negotiating in good faith with OPG to develop a path forward for completion of the underlying demolition contract – whether through continued performance, or assumed performance by a third-party;
- (c) vacating the lien on title to the ASNA project, thus ensuring no ongoing prejudice to ASNA pending the outcome of their dispute;
- (d) attempting to source alternative financing that will mutually benefit all stakeholders; and
- (e) sourcing new contracts and normalizing collections of accounts receivable to stabilize cash flows.

43. The JMX Group operates in a specialized industry across multiple jurisdictions. Even in normal circumstances and without the challenges of the COVID-19 crisis, the four months that the Debtors have been engaged in this restructuring is an insufficient period for such a complex enterprise to resolve material operational and liquidity issues.

44. I am advised by counsel that the BIA permits up to 6 months for a proposal to be made and approved. This is in contrast to the debtor-in-possession proceedings under the *Companies' Creditors Arrangement Act*, RSC 1985, c. C-36 (the "CCAA") which routinely take much longer. On that basis, the Debtors may seek relief to convert these proceedings to the CCAA process at a future date, to afford more time to effect a restructuring.

45. The only possible alternative – if the JMX Group is not permitted additional time to carry out this restructuring – is a bankruptcy and liquidation, which would waste significant value that could be earned based on going-concern revenues. A liquidation of the company will result in immediate job

losses to approximately 80 employees and the cessation of work on multiple active projects. This outcome is directly contrary to the purpose of these NOI proceedings.

46. It is my view that JMX is working diligently and in good faith to restructure in a manner that treats all stakeholders fairly and maximizes value.

47. The Debtor's primary secured creditor will not be prejudiced by a continued stay of proceedings as more than half of the RBC indebtedness will be repaid by the JMX Group by October 26, 2020 and, in any event, RBC is fully secured and collateralized.

48. The JMX Group has not sought debtor-in-possession financing, and it is anticipated that the JMX Group will have sufficient liquidity based on the Updated Cash Flow and Forecast to operate through the proposed stay period.

49. For the reasons described above, I am of the view that the JMX Group has done its diligence in developing several viable alternative restructuring strategies subject only to the final resolution of its key contract disputes. The continued pursuit of these strategies, following the resolution of the OPG and ASNA disputes, is likely to result in a restructuring plan that provides enhanced, long-term value for all stakeholders beyond a straight liquidation.

**SWORN BEFORE ME** in the Town of )  
Stouffville, in the Province of Ontario, )  
this     day of August 2020.            )

\_\_\_\_\_  
A Commissioner for taking Affidavits. )  
Name:                                        )

\_\_\_\_\_  
**CHARLIE DAHL**

THIS IS **CONFIDENTIAL EXHIBIT "A"** REFERRED  
TO IN THE AFFIDAVIT OF CHARLIE DAHL  
SWORN BEFORE ME, THIS     DAY OF AUGUST,  
2020

-----  
A COMMISSIONER FOR TAKING AFFIDAVITS

**THIS EXHIBIT IS MARKED AS  
CONFIDENTIAL AND HAS BEEN FILED  
FOR THE COURT'S EYES ONLY**

THIS IS **EXHIBIT “B”** REFERRED TO IN THE  
AFFIDAVIT OF CHARLIE DAHL SWORN BEFORE ME,  
THIS      DAY OF AUGUST, 2020

-----  
A COMMISSIONER FOR TAKING AFFIDAVITS

**JMX**  
**Projected Statement Of Cash Flows**  
**Beginning August 3, 2020 (CDN\$)**  
**REVISED FOR RBC PAYDOWN**

For The Week Beginning	03-Aug	10-Aug	17-Aug	24-Aug	31-Aug	07-Sep	14-Sep	21-Sep	28-Sep	05-Oct	12-Oct	19-Oct	26-Oct	Total
<b>Opening Cash</b>	<b>679,036</b>	<b>586,400</b>	<b>61,531</b>	<b>357,810</b>	<b>1,085,364</b>	<b>1,491,478</b>	<b>1,413,598</b>	<b>1,119,732</b>	<b>981,530</b>	<b>952,633</b>	<b>1,097,485</b>	<b>790,517</b>	<b>525,049</b>	<b>679,036</b>
<b>Cash-in</b>														
A/R Collections	-	-	-	-	12,407	-	-	-	-	-	-	-	-	12,407
5476City of Hamilton	-	-	-	-	-	-	-	-	-	-	-	-	-	3,955
J1078Del Management Solutions	-	-	3,955	-	-	-	-	-	-	-	-	-	-	1,742
J1091Ingenuity General Contractors	-	-	-	-	871	-	-	-	871	-	-	-	-	16,577
J1131Pomerleau	-	-	-	-	-	-	-	-	-	-	-	-	16,577	7,670
J1136Pomerleau	-	-	-	-	-	-	-	-	-	-	-	-	7,670	24,236
J1154Del Management Solutions	-	-	24,236	-	-	-	-	-	-	-	-	-	-	75,716
J1183Pomerleau	-	-	-	-	-	-	-	-	-	-	-	-	75,716	25,542
J1203Broccolini	-	25,542	-	-	-	-	-	-	-	-	-	-	-	1,807
J1211Pomerleau	-	-	-	-	-	-	-	-	-	-	-	-	1,807	107,994
J1219Leeswood Construction	-	-	-	-	107,994	-	-	-	-	-	-	-	-	176,897
J1221EllisDon Corporation	225,906	-	313,837	-	-	-	-	-	-	176,897	-	-	-	716,639
J1226EllisDon Corporation	-	-	-	-	160,116	-	-	-	-	-	-	-	-	160,116
J1229McDonald Brothers Construction	-	-	-	-	-	-	-	-	10,307	-	-	-	-	10,307
J1235Priestly Demolition Inc.	-	-	-	-	-	-	-	-	-	-	-	-	15,885	15,885
J1236Torque Builders	-	-	-	-	-	9,153	-	-	-	-	-	-	-	9,153
J1262Torque Builders	-	-	-	-	-	-	-	-	-	2,124	-	-	-	2,124
J1268Leeswood Construction	-	-	-	-	7,458	-	-	-	-	-	-	-	-	7,458
J1274Town of Richmond Hill	-	-	-	3,910	-	-	-	-	-	-	-	-	-	3,910
J1278City of Prince Rupert	99,492	-	-	1,005,001	-	-	-	-	-	-	-	-	-	1,104,493
J1281Torque Builders	-	12,168	-	-	-	-	-	-	-	-	-	-	-	12,168
J1282Zancon Environmental Inc	-	-	-	-	-	-	-	-	-	2,938	-	-	-	2,938
J1287TRANSALTA	-	-	249,801	-	-	-	-	-	-	-	-	-	-	249,801
J1292Broccolini	-	5,171	18,299	-	-	-	-	-	-	-	-	-	-	23,470
J1300Leeswood Construction	-	-	15,820	-	18,479	-	-	-	-	-	-	-	-	34,299
J1311Regional Municipality of York	-	-	-	-	-	-	-	-	32,544	-	-	-	-	32,544
J1313Del Management Solutions	-	1,064	-	1,030	-	-	-	-	1,064	-	-	-	-	3,157
J1314Orlando Corporation	-	2,685	-	-	-	-	-	-	-	-	-	-	-	2,685
J1316EllisDon Corporation	-	154,293	-	-	65,999	-	-	-	-	120,451	-	-	-	340,743
J1317Del Management Solutions	-	6,314	-	-	-	-	-	-	-	-	-	-	-	6,314
J1318Del Management Solutions	-	4,648	-	-	-	-	-	-	-	-	-	-	-	4,648
J1319Ross & Anglin Ontario Limited	-	-	-	-	82,377	-	-	-	-	-	-	-	-	82,377
J1320CALIBER ENVIRONMENTAL CONST	-	-	-	-	-	-	-	-	20,137	-	-	-	-	20,137
J1322Ingenuity General Contractors	-	-	-	-	2,027	-	-	-	-	-	-	-	-	2,027
J1324Del Management Solutions	-	-	3,031	-	-	-	-	-	-	-	-	-	-	3,031
J1325Alterra Developments 2000 Limited	-	-	-	-	-	181,026	-	-	-	-	-	-	-	181,026
J1332Regional Municipality of Durham	-	-	-	-	34,578	-	-	-	-	-	-	-	-	34,578
J1333Del Management Solutions	-	-	-	4,540	-	-	-	-	-	-	-	-	-	4,540
J1334Ingenuity General Contractors	-	-	-	13,334	-	-	-	-	-	-	-	-	-	13,334
J1335Ingenuity General Contractors	-	-	-	13,334	-	-	-	-	-	-	-	-	-	13,334
J1336Torque Builders	-	-	-	-	-	-	-	-	27,459	-	-	-	-	27,459
J1340Del Management Solutions	-	-	-	2,802	-	-	-	-	-	-	-	-	-	2,802
J1341Del Management Solutions	-	-	-	565	-	-	-	-	-	-	-	-	-	565
Holdback	-	-	-	-	202,174	-	-	-	194,292	-	-	-	23,776	420,243
CRA Covid-19 wage subsidy	-	-	-	-	-	169,957	-	-	-	-	100,000	-	-	269,957
<b>Total Cash-in</b>	<b>325,398</b>	<b>211,886</b>	<b>628,978</b>	<b>1,044,515</b>	<b>694,482</b>	<b>360,136</b>	<b>-</b>	<b>-</b>	<b>286,673</b>	<b>302,410</b>	<b>100,000</b>	<b>-</b>	<b>141,431</b>	<b>4,095,910</b>
<b>Cash-out</b>														
Payroll and source deductions	118,002	85,074	70,074	70,074	70,074	69,831	69,831	69,831	69,831	77,750	77,750	77,750	77,750	1,003,621
Union Dues	-	-	133,690	-	-	-	100,000	-	-	-	-	100,000	-	333,690
Medical Benefits	-	-	-	-	3,000	-	-	-	3,000	-	-	-	3,000	9,000
Rent	-	-	-	-	25,000	-	-	-	25,000	-	-	-	25,000	75,000
HST (CRA)	-	-	-	-	(35,151)	-	-	-	66,169	-	-	-	73,672	104,690
WSIB and EHT	134,525	64,645	-	-	26,001	-	-	-	26,001	-	-	-	26,001	277,172
407 ETR	-	216	-	-	-	500	-	-	-	500	-	-	-	1,216
Utilities - Gas & Hydro	130	1,200	-	-	-	1,200	-	-	-	1,200	-	-	-	3,730
Utilities - Phone & Internet	97	-	3,500	-	-	-	3,500	-	-	-	3,500	-	-	10,597
Insurance	35,481	-	-	-	35,481	-	-	-	35,481	-	-	-	35,481	141,925
Construction material purchases	-	7,500	7,500	7,500	7,500	7,500	7,500	7,500	7,500	7,500	7,500	7,500	7,500	90,000
Employee Live out & Expenses	65	-	-	-	2,500	-	-	-	2,500	-	-	-	2,500	7,565
Subcontractor Expenses	-	5,000	5,000	5,000	5,000	5,000	5,000	5,000	5,000	5,000	5,000	5,000	5,000	60,000
Fuel & Transportation Costs	5,882	3,500	3,500	3,500	3,500	3,500	3,500	3,500	3,500	3,500	3,500	3,500	3,500	47,882
Vehicle Expenses - Petro Canada	10,361	-	-	-	8,000	-	-	-	8,000	-	-	-	-	34,361
Disposal costs	-	5,000	5,000	5,000	5,000	5,000	5,000	5,000	5,000	5,000	5,000	5,000	5,000	60,000
Equipment repair	-	-	-	15,000	-	-	-	-	15,000	-	-	-	15,000	45,000
Office (includes maintenance)	-	-	3,000	-	-	-	-	-	-	-	3,000	-	-	9,000
IT Support	9,003	-	-	-	4,200	-	-	-	4,200	-	-	-	4,200	21,603
Interest & Bank Charges	7,934	-	-	-	7,934	-	-	-	-	7,678	-	-	-	23,546
Professional Fees	20,000	25,000	25,000	25,000	25,000	25,000	25,000	25,000	25,000	25,000	25,000	25,000	25,000	320,000
Lease Payments - JMX Leasing	25,866	29,109	67,437	9,214	42,614	62,552	71,536	7,371	29,132	24,430	26,718	26,718	26,718	449,416
A/P Vendor payments														
5476City of Hamilton	-	-	-	-	3,598	-	-	-	-	-	-	-	-	3,598
J1034 Uxbridge, Pec Brothers	-	-	-	98,700	-	-	-	-	-	-	-	-	-	98,700
J1080 King Street, Ellis Don	-	-	-	47,222	-	-	-	-	-	-	-	-	-	47,222
J1078Del Management Solutions	-	-	1,237	-	-	-	-	-	-	-	-	-	-	1,237
J1154Del Management Solutions	-	-	2,373	-	-	-	-	-	-	-	-	-	-	2,373
J1183Pomerleau	-	-	-	-	-	-	-	-	-	-	-	-	989	989
J1219Leeswood Construction	-	-	-	-	11,307	-	-	-	-	-	-	-	-	11,307
J1221EllisDon Corporation	231	-	-	-	-	-	-	-	-	-	-	-	-	231
J1226EllisDon Corporation	-	-	-	-	25,525	-	-	-	-	-	-	-	-	25,525
J1274Town of Richmond Hill	-	-	-	9,281	-	-	-	-	-	-	-	-	-	9,281
J1281Torque Builders	22,600	-	-	-	-	-	-	-	-	-	-	-	-	22,600
J1287TRANSALTA	-	-	464	-	-	-	-	-	-	-	-	-	-	464
J1292Broccolini	-	1,895	-	-	-	-	-	-	-	-	-	-	-	1,895
J1300Leeswood Construction	-	-	4,925	-	-	-	-	-	-	-	-	-	-	4,925
J1314Orlando Corporation	-	3,545	-	-	-	-	-	-	-	-	-	-	-	3,545
J1315Graham Construction	27,856	-	-	-	-	-	-	-	-	-	-	-	-	27,856
J1316EllisDon Corporation	-	4,258	-	-	-	-	-	-	-	-	-	-	-	4,258
J1320CALIBER ENVIRONMENTAL CONST	-	-	-	-	-	-	-	257	-	-	-	-	-	257
J1322Ingenuity General Contractors	-	-	-	-	1,676	-	-	-	-	-	-	-	-	1,676
J1325Alterra Developments 2000 Limited	-	814	-	-	-	-	-	-	-	-	-	-	-	814
J1332Regional Municipality of Durham	-	-	-	-	18,542	-	-	-	-	-	-	-	-	18,542
J1334Ingenuity General Contractors	-	-	-	10,735	-	-	-	-	-	-	-	-	-	10,735
J1335Ingenuity General Contractors	-	-	-	10,735	-	-	-	-	-	-	-	-	-	10,735
RBC Paydown (Note 1)	-	500,000	-	-	-	250,000	-	-	-	250,000	-	-	-	1,000,000
<b>Total Cash-out</b>	<b>418,033</b>	<b>736,755</b>	<b>332,700</b>	<b>316,961</b>	<b>288,368</b>	<b>438,01</b>								

# TAB 3

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

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

THE HONOURABLE MADAM ) FRIDAY, THE 14<sup>th</sup>  
 )  
JUSTICE CONWAY ) DAY OF AUGUST, 2020

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

**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**

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

**ORDER  
(Re Extension of Time to File Proposal)**

**THIS MOTION**, made by JMX Contracting Inc., JMX National Inc., BRND Properties Inc., and JMX Leasing Inc. (collectively, the “**Debtors**” or each a “**Debtor**”) for an Order, *inter alia*, (i) extending the period of time for filing a proposal pursuant to section 50.4(9) of the *Bankruptcy and Insolvency Act*, RSC 1985, c B-3, as amended (the “**BIA**”); and (ii) approving a timetable for the determination by this Court of the claims as among ASNA Robson Landmark Developments Limited (“**ASNA**”) and the Debtors, with was heard this day by video conference due to the COVID-19 crisis.

**ON READING** the Affidavit of Charlie Dahl sworn June 24, 2020 (the “**Dahl Affidavit**”) and on hearing the submissions of counsel for the Debtors and for Crowe Soberman Inc. in its capacity as proposal trustee (the “**Proposal Trustee**”), and any other person as listed 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 dated August 1, 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.

#### **EXTENSION OF TIME TO FILE A PROPOSAL**

2. **THIS COURT ORDERS** that pursuant to Section 50.4(9) of the BIA, the time for the Company to file a proposal with the Official Receiver be and is hereby extended to September 28, 2020.

#### **APPROVAL OF TIMETABLE**

3. **THIS COURT ORDERS** that the claims as between the Debtors and ASNA shall be determined by this Court in accordance with the litigation schedule attached hereto as Schedule “A”.

**ORDER EFFECTIVE IMMEDIATELY**

4. Given the inability to enter Court Orders at this time, this Order is in effect immediately.
-

**SCHEDULE "A"****Timetable for Determination of the JMX-ASNA Claims**

Statements of Claim to be delivered within 2 business days of the date of this Order

Defenses and Counterclaims to be delivered no later than August 25, 2020

Affidavits of Documents and Schedule "A" productions are to be exchanged no later than September 1, 2020

Examinations for Discovery shall be conducted by September 1, 2020. Each party shall be entitled to conduct one day of examinations.

Undertakings to be delivered within 60 days of the examination.

Motions in respect of undertakings and refusals shall be heard no later than November 30, 2020 subject to court availability

Mediation shall be conducted no later than December 30, 2020 subject to the availability of the mediator

Expert reports must be delivered no later than 15 days prior to the trial date

Trial before a judge of this Court or a claims officer to be appointed by this Court no later than January 2021

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*

**MOTION RECORD**

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