



This is the 4th affidavit  
of Peter Kravitz in this case  
and was made on October 25<sup>th</sup>, 2023

No. S235288  
Vancouver Registry

**IN THE SUPREME COURT OF BRITISH COLUMBIA**

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*,  
R.S.C., 1985 c. C-36, AS AMENDED

AND

IN THE MATTER OF A PLAN OF COMPROMISE AND ARRANGEMENT OF NEXTPOINT  
FINANCIAL, INC. AND THOSE PARTIES LISTED ON SCHEDULE "A"

PETITIONERS

**AFFIDAVIT**

I, Peter Kravitz, of 2360 Corporate Circle, Suite 340, Henderson, Nevada 89074,  
professional fiduciary, AFFIRM THAT:

1. I am the Chief Restructuring Officer of the Petitioners and as such I have personal knowledge of the facts and matters to which I depose in this affidavit, except where stated to be based on information and belief, and where so stated, I verily believe them to be true.
2. All capitalized terms used, but not otherwise defined herein have the meanings given to them in my first Affidavit, sworn July 25, 2023, my second Affidavit, sworn September 18, 2023, or my third Affidavit, sworn October 10, 2023. All amounts in this Affidavit are in USD, unless otherwise specified.
3. I make this affidavit in support of the Petitioners' application under the Companies' Creditors Arrangement Act, R.S.C. 1985, c. C-36, as amended (the "CCAA") seeking the approval of the Transaction Agreement (as defined below) and the Reverse Vesting Order ("RVO") transaction structure.

**Sales Process**

Receipt of Offers

4. Under the SISF, potential bidders had until the Phase 1 Deadline to submit a general description of the assets or businesses of the NextPoint Group that would be the subject

of the bid and that reflected a reasonably likely prospect of culminating in a Qualified Bid (as defined in the SISP), as determined by the NextPoint Group in consultation with the Monitor and the BP Lenders.

5. The NextPoint Group and the Monitor received two non-binding indications of interest ("IOIs"). After discussions with the Monitor and the BP Lenders, the Petitioners and I concluded that neither IOI had a reasonable prospect of culminating in a Qualified Bid, which, pursuant to the SISP, among other things, was required to pay in full or assume the BP NP-Liberty Claims (unless the BP Lenders agreed to waive this requirement).
6. The first potential bidder indicated an offer with \$40 million of cash consideration and the assumption of certain of the BP NP-Liberty Claims, rather than the repayment thereof.
7. The second potential bidder (the "**Second IOI Party**") indicated an offer that provided a range for the potential purchase price. The maximum of the range was \$200 million (with approximately \$171.6 million allocated to the Purchased LT Assets), which would not pay the BP NP-Liberty Claims in full.
8. The Petitioners determined, in consultation with me in my capacity as CRO, the Monitor, and the BP Lenders, that neither of the IOIs was reasonably likely to culminate in a Qualified Bid. Neither of the IOIs contemplated the payment in full in cash on closing of the BP NP-Liberty Claims, meaning that consent of the BP Lenders to such transactions would therefore be required under the terms of the CCAA SISP Order. After discussions with the Monitor and BP Lenders, I, in my capacity as CRO, concluded that neither IOI had a reasonable prospect of meeting this requirement. I discussed my conclusion with the board of the Petitioners and the company's advisors.
9. In addition, during my consultation with the BP Lenders, the BP Lenders and Drake advised the Monitor and me that they would amend the Stalking Horse Bid to increase the Purchase Price through an increase to the credit bid by over \$96 million. To reflect such terms, including the updated \$144,590,000 LT Credit Bid Amount (up from a previous ceiling of \$75,000,000) and \$52,000,000 CTAX Credit Bid Amount (up from a previous ceiling of \$25,000,000), the Petitioners and the Purchaser began negotiating an amended Stalking Horse Purchase Agreement (as may be amended, supplemented or otherwise modified from time to time in accordance with the terms thereof, the "**Transaction Agreement**").
10. As displayed in the chart below, the top end of IOIs received were at an EV/EBITDA multiple of 5.70x for Liberty Tax, based on the CIM projections, 9.41x for Community Tax, and 6.04x for the consolidated enterprise. At the end of the phase 1 diligence process, the Company revised projections due to a material price increase in required software, resulting in a projected \$4.2 million reduction in EBITDA. Based on the revised projections, the multiple that would need to be paid for the enterprise, based on the maximum range indicated in the IOIs and revised results, would have to increase from 6.04x for the

consolidated enterprise as indicated in the original IOIs, to a multiple of 9.63x based on a matching bid to the revised offer, divided by the new projected EBITDA figure.

	Liberty Tax	Community Tax	Consolidated
<b>Maximum IOI w/ CIM Projections</b>			
2023 Proj. Pre-Pushdown EBITDA	\$ 30.1	\$ 3.0	\$ 33.1
Bottom-End of Range	\$ 153.0	\$ 25.3	\$ 178.3
Multiple	5.08x	8.38x	5.38x
Top-End of Range	\$ 171.6	\$ 28.4	\$ 200.0
Multiple	5.70x	9.41x	6.04x
<b>Maximum IOI w/ Projected Drake Software Impact<sup>(1)(2)</sup></b>			
2023 Proj. Pre-Pushdown EBITDA	\$ 25.9	\$ 3.0	\$ 29.0
Bottom-End of Range	\$ 153.0	\$ 25.3	\$ 178.3
Multiple	5.90x	8.38x	6.16x
Top-End of Range	\$ 171.6	\$ 28.4	\$ 200.0
Multiple	6.61x	9.41x	6.90x
<b>Revised Bid w/ Projected Drake Software Impact<sup>(1)(2)</sup></b>			
2023 Proj. Pre-Pushdown EBITDA	\$ 25.9	\$ 3.0	\$ 29.0
Credit Bid Threshold	\$ 227.0	\$ 52.0	\$ 279.0
Multiple	8.75x	17.23x	9.63x
IOI Bottom-End vs. Revised Bid Delta	3.67x	8.85x	4.25x
IOI Top-End vs. Revised Bid Delta	3.05x	7.82x	3.60x

Note: All \$ figures shown are in millions and US Dollars.

1. Estimated increase in the pricing of Drake Software from \$1.50 per return to \$6.00 per return. This is not finalized and subject to further negotiation.

2. Increases in the pricing of Drake Software exclusively impact Liberty Tax, with no impact on Community Tax profitability.

11. Based on my experience in restructuring matters and sale processes in similar circumstances, I believe that:
- (a) the assets being conveyed pursuant to the Transaction Agreement (the "Assets") were sufficiently exposed to the relevant market in a commercially reasonable and fair marketing process conducted by the NextPoint Group and Province, in consultation with the Monitor, in accordance with the terms of the SISP and the ARIO;
  - (b) the price to be paid for the Assets pursuant to the Transaction Agreement represents the highest and best price that can be obtained for the Assets in the current circumstances; and
  - (c) the sale transaction in the Transaction Agreement is in the best interests of the NextPoint Group and its stakeholders.

### The Transaction Agreement

12. The Petitioners and the BP Lenders are continuing to negotiate the Transaction Agreement to reflect the amended Stalking Horse Bid.

13. Attached to this Affidavit and marked as **Exhibit "A"** is a copy of the Petitioners' current working draft of the Transaction Agreement, as at the time of this affidavit, which remains subject to negotiation.
14. The amendments reflected in the Transaction Agreement reflect the increased consideration and also include a shift to a Reverse Vesting Order transaction in light of recently identified information that leaves such structure as the only way to facilitate a going-concern sale, complete the transactions and achieve the commercial terms contemplated in the original Stalking Horse Bid.
15. The Stalking Horse Bid was subjected to a robust and thorough canvassing of the market pursuant to the SISP. The SISP was developed and undertaken by the Petitioners, with my assistance in my capacity as CRO and with the oversight of the Monitor. No other offers were received that had a reasonable prospect of resulting in a Qualified Bid. The Stalking Horse Bid has been improved upon with significantly more consideration in the Transaction Agreement.
16. In my opinion, the Transaction Agreement is the best executable transaction available. The Transaction Agreement will ensure that the Petitioners' enterprise continues as a going concern for the benefit of a broad array of stakeholders, including the Petitioners' thousands of franchisees, customers, and vendors, as well as their more than 500 employees.
17. In my opinion, a share transaction, implemented by a Reverse Vesting Order is required because:
  - (a) The Stalking Horse Bid provided that substantially all assets of the "Compromised LT Entities" would be transferred to the Purchasers, with all but a limited number of specified assumed liabilities retained by the Compromised LT Entities. However, the Compromised LT Entities hold "Electronic Filing Identification Numbers" ("**EFINs**"), which were issued by the Internal Revenue Service ("**IRS**"). The EFINs allow such entities to file tax returns on behalf of customers (i.e., the core business of Liberty Tax) and represent customers in connection with IRS investigations (i.e., the core business of Community Tax). The EFINs are non-transferrable. I have been advised by the management of the Petitioners that the process to obtain an EFIN can take between several months to an entire year.
  - (b) JTH Tax LLC ("**JTH**"), which operates the franchise business of Liberty Tax and was a Compromised LT Entity under the Stalking Horse Bid, has a registered "Franchise Disclosure Document" ("**FDD**") in the U.S., which is currently invalid due to a lack of audited financial statements. JTH intends to have such audited financial statements available by the end of this year with a view to bringing its FDD into compliance and resuming franchising at such time, which is critical to the business. A registered FDD cannot be transferred. Accordingly, an asset

purchaser would be required to prepare and register one of its own, a process that typically takes several months.

- (c) The Compromised LT Entities are party to several hundred business-critical contracts, a significant portion of which require consent to an assignment in an asset acquisition. Obtaining such consents in a timely manner is impracticable. These contracts relate to, among other business-critical matters, software licenses, real property leases, information technology and marketing services.
  - (d) JTH operates the payroll function for almost all of the Petitioners' employees through a complex, non-transferable system developed by ADP specifically for the company's operations across all fifty states. I have been advised by the Petitioners that developing a new payroll system, which would be required in an asset sale transaction, would take several months. This would jeopardize the ability of the JTH to administer payroll for several months post-closing.
18. Key commercial terms of the Transaction Agreement include the following:
- (a) A purchase price comprised of:
    - (i) A credit bid of \$196,590,000 of DIP and first-lien debt;
    - (ii) the Closing Cash Payment; and
    - (iii) the assumption of the Assumed Liabilities, including the \$75 million LT Term Loan.
  - (b) in accordance with Implementation Steps to be agreed to by the parties, the Purchasers (or their designee) will purchase from NPI Holdco LLC, free and clear of all encumbrances, all of the equity interests of LT Holdco, LLC and CTAX Acquisition LLC (collectively, the "**Purchased Interests**");
  - (c) through the acquisition of the Purchased Interests, the Purchasers will acquire, subject to the Implementation Steps, acquire LT Holdco, LLC, LT Intermediate Holdco, LLC, SiempreTax+ LLC, JTH Tax, LLC, JTH Financial, LLC, JTH Properties 1632, LLC, JTH Tax Office Properties, LLC, Wefile LLC, Liberty Credit Repair, LLC, LTD Properties, LLC, 360 Accounting Solutions, LLC, Liberty Tax Holding Corporation, Liberty Tax Service Inc., JTH Court Plaza, LLC, LTS Software LLC, CTAX Acquisition LLC, Community Tax LLC, and Community Tax Puerto Rico LLC (such acquired entities, collectively, the "**Acquired Entities**");
  - (d) all Excluded Contracts and Excluded Liabilities of the Acquired Entities which were not formed or incorporated under the laws of the United States (the "**Non-US Acquired Entities**") will be transferred to and vest absolutely and exclusively in a Canadian residual company ("**Residual Co. 1**");

- (e) all Excluded Contracts and Excluded Liabilities of the Acquired Entities which were formed or incorporated under the laws of the United States (the "**US Acquired Entities**") will be transferred to and vest absolutely and exclusively in a U.S. residual company ("**Residual Co. 2**"); and
- (f) the Petitioners within the LoanMe business line will not be acquired.

19. Further details regarding the Transaction Agreement are as follows, with capitalized terms used in this section having the meanings set out in the Transaction Agreement:

Term	Details
NextPoint Entities	NextPoint Financial Inc.; NPI Holdco LLC; LT Holdco, LLC; LT Intermediate Holdco, LLC; SiempreTax+ LLC; JTH Tax LLC; JTH Financial, LLC; JTH Properties 1632, LLC; JTH Tax Office Properties, LLC; Wefile LLC; Liberty Credit Repair, LLC; LTS Properties, LLC; 360 Accounting Solutions LLC; Liberty Tax Holding Corporation; Liberty Tax Service Inc.; JTH Court Plaza, LLC; LTS Software LLC; CTAX Acquisition LLC; Community Tax LLC; and Community Tax Puerto Rico LLC
Purchasers	BP Commercial Funding Trust, Series SPL-X
Purchase Price	Credit Bid in the amount of \$196.59 million; plus  An amount to be determined with the NextPoint Entities which will be sufficient to pay any encumbrances on the assets of the NextPoint Entities that rank prior to the interests of the Purchasers' security interest in the assets of the NextPoint Entities, and are not otherwise an Assumed Liability, in an aggregate amount not exceeding \$500,000; plus  The amount of the Assumed Liabilities.
Transaction Structure	On the Closing Date, pursuant to the terms of the Vesting Order and, where applicable, in consideration for Residual Co. assuming the Excluded Liabilities from an Acquired Entity, the Acquired Entities shall assign and transfer the Excluded Assets to the applicable Residual Co., and the Excluded Assets shall be vested in the applicable Residual Co. pursuant to the Vesting Order.  On or prior to the Closing Date, the NextPoint Entities shall effect the transaction steps and pre-closing reorganization (collectively, the " <b>Implementation Steps</b> ") to be agreed upon by the NextPoint Entities and the Purchasers, each acting reasonably, at least 5 days prior to the Closing Date; provided that in no event will the Implementation Steps be materially prejudicial to the interests of any creditor of the

Term	Details
	<p>NextPoint Entities. Without limiting the generality of the foregoing, the Implementation Steps may include, without limitation, resolving intercompany obligations, the formation of new entities required to implement the transactions contemplated by this Agreement in a tax efficient manner and transfers of equity interests in the Acquired Entities.</p> <p>The Implementation Steps shall occur, and be deemed to have occurred in the order and manner to be set out therein.</p>
Assumed Liabilities	<p>All debts, liabilities and obligations under the Continuing Contracts that are not Excluded Contracts, for the period from and after the Closing and certain accrued but un invoiced accounts payable as at Closing.</p> <p>All taxes to be borne by the Acquired Entities pursuant to section 7.4 of the Transaction Agreement</p> <p>The LT Term Loan</p>
Excluded Liabilities	<p>Except as expressly assumed pursuant to or specifically contemplated by Section 2.3 of the Transaction Agreement, all claims and all debts, obligations, and liabilities of the Acquired Entities or any predecessors of the Acquired Entities, of any kind or nature, shall be assigned and become the sole obligation of the applicable Residual Co. pursuant to the terms of the Vesting Order and the Transaction Agreement and, as of the Closing, the Acquired Entities shall not have any obligation, duty, or liability of any kind whatsoever, except as expressly assumed pursuant to Section 2.3 of the Transaction Agreement, whether accrued, contingent, known or unknown, express or implied, primary or secondary, direct or indirect, liquidated, unliquidated, absolute, accrued, contingent or otherwise, and whether due or to become due, and such liabilities or obligations shall be the sole responsibility of the applicable Residual Co.</p>
Excluded Assets	<p>The Tax Returns, and books and records pertaining thereto and other documents, in each case, to the extent related solely to any of the Excluded Liabilities provided that the applicable Acquired Entities may take copies of all Tax Returns and books and records pertaining thereto (as redacted, if applicable) to the extent necessary or useful for the carrying on of the Business after the Closing, including the filing of any Tax Return.</p>

Term	Details
	<p>Contracts of the NextPoint Entities as specified on Schedule 2.2(c) of the Disclosure Letter.</p> <p>All communications, information or records, written or oral, that are in any way related to (i) the transactions contemplated by the Transaction Agreement, (ii) the sale of the Purchased Interests (iii) any Excluded Asset or (iv) any Excluded Liability.</p> <p>The equity interests of each entity set forth on Schedule 2.2(d) of the Disclosure Letter, which Schedule may be modified as agreed upon by the NextPoint Entities and the Purchasers, each acting reasonably, at least 3 prior to the Closing.</p> <p>Escrowed cash and professional fee retainers, and escrowed cash for wind-down, in the aggregate amount of \$600,000.</p> <p>Claims and/or causes of actions solely and directly related to Excluded Assets or Excluded Liabilities.</p> <p>Any rights that accrue to any Residual Co. under the transaction documents.</p> <p>Any other assets set forth on Schedule 2.2 of the Disclosure Letter which schedule may be modified as agreed by the NextPoint Entities and the Purchasers, each acting reasonably, at least 3 days prior to the Closing Date.</p>
Closing Date	<p>Unless the Parties otherwise agree in writing, a date no later than 5 business days after the conditions set forth in Article 6 of the Transaction Agreement have been satisfied or waived, other than the conditions set forth in Article 6 of the Transaction Agreement that by their terms are to be satisfied or waived (to the extent permitted by applicable law) of such condition at closing; provided that, the Closing Date shall be no later than the Outside Date (as defined in the RSA).</p>
Amendment	<p>The NextPoint Entities agree to make such amendments to the Transaction Agreement as are reasonably requested by the Purchasers from time to time to give effect to the transactions contemplated therein, provided that such amendments do not change the value of the Purchase Price and are not materially prejudicial to the interests of any creditor of the NextPoint Entities.</p>
Recoveries	<p>Under this transaction, there will be no recovery for subordinate secured creditors (including the BP Lenders and Frontier with respect</p>



Term	Details
	to their second lien loan to CTAX) or unsecured creditors of Liberty Tax, CTAX or NextPoint Financial.

20. I have been advised by the Purchasers that, for the purpose of Multilateral Instrument 61-101 "Protection of Minority Security Holders in Special Transactions", the Transaction contemplated by the Purchase Agreement may be a related party transaction.

#### Notice and Service

21. There are approximately 300 identified counterparties of material contracts, the majority of whom are located in the United States (the "**Material Contract Counterparties**").
22. There are also counterparties to the approximately 2,200 U.S. franchise agreements and approximately 251 Canadian franchise agreements that will be assumed by the Purchaser in the Transaction Agreement (the "**Franchisee Counterparties**", and collectively with the Material Contract Counterparties, the "**Contract Counterparties**").
23. Almost all of the Contract Counterparties were served with the materials for the initial filing of these CCAA proceedings (the "**Initial Service**"). 14 additional parties were identified after the commencement of these proceedings; those parties received service after the Initial Service. The Contract Counterparties were additionally served with a notice document that informed them of this application and directing them to the materials located on the Monitor's Website (the "**Materials Notice**").
24. As of the date of this affidavit, the Petitioners have spent \$526,145 on service in these proceedings.
25. The estimated cost to serve all of the Contract Counterparties with the application materials for this application exceeds \$245,000.

#### The NextPoint Board of Directors

26. It is my opinion that the officers of the NextPoint Group and I have made substantial contributions to the success of the ongoing business and continuation of the NextPoint Group's enterprise during these CCAA and Chapter 15 proceedings.
27. The Board have undertaken significant efforts, both before and since the commencement of the CCAA Proceedings, including, but not limited to:
- (a) Exercising diligent and careful governance;
  - (b) Providing strategic advice and direction to management and advisors;

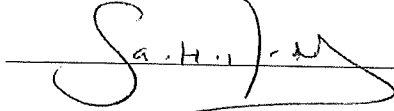
- (c) Transitioning management, including the Chief Executive Officer, Chief Financial Officer and Chief Legal Officer, and finding their replacements;
  - (d) Exploring and considering all available alternatives to the CCAA Proceedings;
  - (e) Carefully considering and finally approving the commencement of the CCAA Proceedings;
  - (f) Interviewing financial advisors and ultimately selecting Province, and me to act as the CRO, to assist with the restructuring;
  - (g) Progressing the wind-down of the LoanMe operations;
  - (h) Approving key agreements, press and reporting communications and generally managing business and stakeholder relationships;
  - (i) Overseeing, and providing strategic advice during, the SISP; and
  - (j) Assisting with the due diligence for the consummation of the Transaction Agreement.
28. Since my appointment as CRO of the NextPoint Group, I have been regularly meeting with the existing officers and directors who have been engaged with providing continuity of operations and advising on the restructuring of the NextPoint Group.
29. The NextPoint Group was undergoing a management transition just prior to the filing of the CCAA proceedings and an interim CEO had recently been appointed. The CEO's appointment was made permanent during these proceedings, and the new CEO has provided valuable insight to the business of these Petitioners since his appointment that would not have otherwise been available.
30. In my opinion, the directors and officers of the NextPoint Group have made substantial contributions to the success and continuation of the businesses of the Petitioners and have been essential to the success of these CCAA proceedings.
31. Effective November 1, 2023 at 12:01 a.m., the insurance policy for the Board (the "**D&O Insurance Policy**") will expire.

#### **LoanMe Update**

32. The Petitioners continue to develop a plan to facilitate the wind-down of the LoanMe entities and anticipate returning to this Court with respect to same in the near term.
33. All parties with UCC registrations against the LoanMe Entities were given notice of these proceedings and the relief sought in the various applications herein.

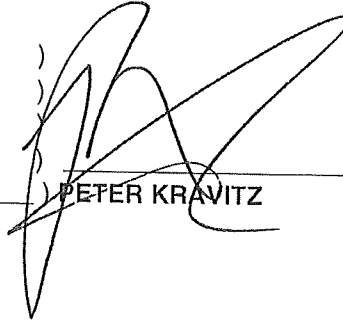
34. There are no known creditors of LM Retention Holdings, LLC (the entity holding interests in the LoanMe Income Trusts).

SOLEMNLY AFFIRMED BEFORE ME at  
London, England, this 25<sup>th</sup>  
day of October, 2023.



**NOTARY PUBLIC  
LONDON, ENGLAND  
SARA HELEN DODD**

(My Commission expires with Life)



**PETER KRAVITZ**

