

Court File No.: CV-20-00642783-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

**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 OR
ARRANGEMENT OF 957855 ALBERTA LTD.
(FORMERLY NEWSWEST INC.) AND ROSEBUD CREEK
FINANCIAL CORP. IN RESPECT OF METRO 360
GENERAL PARTNERSHIP**

Applicants

**MOTION RECORD
STAY EXTENSION ORDER**
(Motion returnable June 25, 2021)

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Applicants

NOTICE OF MOTION

(returnable June 25, 2021)

957855 Alberta Ltd. (formerly NewsWest Inc.) ("**Alberta HoldCo**") and Rosebud Creek Financial Corp. ("**Rosebud HoldCo**" and, together with Alberta HoldCo, the "**Partners**"), as the partners of the Metro 360 General Partnership ("**Metro 360**" and, together with the Partners, the "**CCAA Entities**"), will make a motion before Justice Dunphy of the Ontario Superior Court of Justice (Commercial List) (the "**Court**") on June 25, 2021 at 11:00 a.m. or as soon thereafter as the motion can be heard.

PROPOSED METHOD OF HEARING: The motion is to be heard:

- In writing under subrule 37.12.1 (1);
- In writing as an opposed motion under subrule 37.12.1(4);
- In person;
- By telephone conference;
- By video conference;

at the following location:

<https://us02web.zoom.us/j/87177115007?pwd=ZmVrNTdhajVjK1Fib0R5cUwyS0dJdz09>

THE MOTION IS FOR:

1. An Order (the “**Stay Extension Order**”), in substantially the form attached at Tab 3 of the within Motion Record (the “**Motion Record**”), among other things:
 - (a) abridging and validating the time for service of this Notice of Motion and the Motion Record and dispensing with further service thereof;
 - (b) extending the Stay Period (as defined below) to and including September 30, 2021;
 - (c) approving the Fourth Report of the Monitor (the “**Fourth Report**”) and approving the activities and conduct of the Monitor as reported therein;
 - (d) approving the fees and disbursements of the Monitor and its counsel in these proceedings;
 - (e) terminating, releasing and discharging the KERP Charge (as defined in the Initial Order); and
 - (f) granting such further and other relief as counsel may request and this Court may permit.

THE GROUNDS FOR THE MOTION are as follows:

Background

2. Capitalized terms used but not defined herein have the meaning given to them in the affidavit of Daniel P. Shapiro sworn June 18, 2021 (the “**Shapiro Affidavit**”).

3. The Partners are holding companies that together hold 100% of the interests of Metro 360, which operates a multi-faceted business that, prior to completing the TNG Transaction (as defined below), was focused primarily on the wholesale distribution across Canada of books, magazines and newspapers (the “**Literature Business**”).

4. On April 6, 2020, the Partners filed notices of intention to make a proposal pursuant to section 50.4 of the *Bankruptcy and Insolvency Act* (Canada), R.S.C., 1985, c. B-3, as amended, to initiate proceedings (the “**Proposal Proceedings**”) to implement the sale of the Literature Business (the “**TNG Transaction**”) to Great Pacific Enterprises Inc. dba TNG (“**TNG**”).

5. On April 7, 2020, this Court granted an Approval and Vesting Order, among other things, approving the TNG Transaction. The TNG Transaction closed the next day on April 8, 2020.

6. On June 17, 2020, the Partners continued the Proposal Proceedings under the *Companies’ Creditors Arrangement Act*, R.S.C., 1985, c. C-36, as amended (the “**CCAA**”), pursuant to an Initial Order of the Court (the “**Initial Order**”).

7. The Initial Order, among other things, (i) took up and continued the Proposal Proceedings under the CCAA, (ii) appointed KSV Restructuring Inc. as the Monitor of the CCAA Entities (the “**Monitor**”),¹ and (iii) granted a stay of proceedings under the CCAA in respect of the Partners and Metro 360 until and including June 26, 2020 or such later date as the Court may order (the “**Stay Period**”) in order to provide the Partners and Metro 360 with stability for Metro 360’s remaining businesses and the time and framework within which the Partners and Metro 360 could advance a value-maximizing restructuring plan for the benefit of the Partners,

¹ Effective August 31, 2020, the name of KSV Kofman Inc. was changed to KSV Restructuring Inc.

Metro 360 and their various stakeholders. The Stay Period was subsequently extended by further orders of this Court to June 30, 2021.

8. On September 16, 2020, this Court granted a Claims Procedure Order approving a process (the “**Claims Process**”) for the identification, quantification and resolution of claims against Metro 360 and the Partners, as well as the present and former officers and directors of the Partners and Metro 360. The Partners and Metro 360, with the assistance of their advisors and the assistance and oversight of the Monitor, have substantially completed the Claims Process, subject to the resolution of the “placeholder” claim of the Canada Revenue Agency (the “**CRA**”) with respect to certain of Metro 360’s potential tax liabilities.

9. The CRA’s “placeholder” claim relates to certain CRA re-assessments which adjust Metro 360’s tax potential liabilities by, among other things, denying a number of input tax credits claimed by Metro 360 due to a lack of supporting information and assessing almost \$4.5 million in respect of unpaid harmonized sales tax liabilities, the majority of which effectively relates to the reversal of income tax credits previously claimed by Metro 360.

10. The amounts at issue in the CRA re-assessments are significant and the Partners and Metro 360, with the assistance of the Monitor, have been engaged over several months in discussions with CRA representatives with a view to resolving the CRA re-assessments so that the CRA’s claim amount can be determined, and in this regard, Metro 360 has filed notices of objection regarding each of the CRA re-assessments.

11. The Partners and Metro 360 had hoped by now to have presented a proposed restructuring plan and to seek approval to schedule a meeting of creditors to vote on such plan,

but the amounts subject to the CRA re-assessments prevent the Partners and Metro 360 from finalizing any such restructuring plan.

12. The Partners and Metro 360 have held a number of discussions with the Monitor and their respective legal counsel in order to develop and advance the terms of a proposed restructuring plan, and believe that once outstanding matters with the CRA are resolved and its claim against Metro 360 is determined, the Partners and Metro 360 will be well-positioned to file a restructuring plan soon thereafter.

Extension of the Stay Period

13. The Stay Period currently expires on June 30, 2021.

14. The Partners and Metro 360 require an extension of the Stay Period to and including September 30, 2021 in order to enable the Partners and Metro 360 to continue to work with the CRA with a view to resolving its potential claim, so that the Partners and Metro can complete the Claims Process and finalize and present a proposed restructuring plan for the benefit of all stakeholders.

15. The cash flow forecast indicates that the Partners and Metro 360 are expected to have sufficient liquidity through the requested extended Stay Period.

16. Creditors will not suffer any material prejudice if the Stay Period is extended.

17. The Partners and Metro 360 are working diligently and in good faith in respect of all matters relating to the CCAA proceedings.

18. The extension of the Stay Period to and including September 30, 2021 is supported by the Monitor.

General

19. The provisions of the CCAA, including s. 11.02, and the Court's equitable and statutory jurisdiction thereunder.

20. Rules 1.04, 1.05, 2.03, 3.02, 16 and 37 of the *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194, as amended.

21. The Consolidated Notice to the Profession, Litigants, Accused Persons, Public and the Media regarding Expanded Operations of Ontario Superior Court of Justice dated May 13, 2020, as amended.

22. Changes to Commercial List Operations in light of COVID-19 dated March 16, 2020.

23. Such further and other grounds as counsel may advise and this Court may permit.

THE FOLLOWING DOCUMENTARY EVIDENCE will be used at the hearing of the motion:

24. The Shapiro Affidavit, and the exhibits attached thereto;

25. The Fourth Report and the appendices attached thereto; and

26. Such further and other materials as counsel may advise and this Court may permit.

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June 18, 2021

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**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 OR ARRANGEMENT OF 957855
ALBERTA LTD. (FORMERLY NEWSWEST INC.) AND ROSEBUD CREEK FINANCIAL
CORP. IN RESPECT OF METRO 360 GENERAL PARTNERSHIP**

Court File No.: CV-20-00642783-00CL

Applicants

<p>ONTARIO SUPERIOR COURT OF JUSTICE (COMMERCIAL LIST) Proceeding commenced at Toronto</p>	
<p>NOTICE OF MOTION (returnable June 25, 2021)</p>	
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**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

**IN THE MATTER OF THE COMPANIES' CREDITORS
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PARTNERSHIP**

Applicants

**AFFIDAVIT OF DANIEL P. SHAPIRO
(sworn June 18, 2021)**

I, Daniel P. Shapiro, of the City of Toronto, in the Province of Ontario, **MAKE OATH AND SAY:**

1. I am the President of 957855 Alberta Ltd. (formerly NewsWest Inc.) ("**Alberta HoldCo**") and the President of Rosebud Creek Financial Corp. ("**Rosebud HoldCo**" and, together with Alberta HoldCo, the "**Partners**"). Accordingly, I have personal knowledge of the matters to which I depose in this affidavit. Where I do not possess personal knowledge, I have stated the source of my information and, in all such cases, believe it to be true.¹

¹ Capitalized terms not defined in this affidavit shall have the meaning given to them in my affidavit sworn on April 6, 2020 ("**April Affidavit**") or my affidavit sworn March 22, 2021 ("**March Affidavit**"), copies of which (without exhibits) are attached to this affidavit as Exhibits "A" and "B", respectively. Unless otherwise indicated, monetary references in this affidavit are references to Canadian dollars.

2. This affidavit is sworn in support of a motion for an Order (the “**Stay Extension Order**”), among other things, extending the Stay Period (as defined below) to and including September 30, 2021.

I. BACKGROUND

3. The Partners are holding companies that together hold 100% of the interests of Metro 360 General Partnership (“**Metro 360**”). Metro 360 operates a multi-faceted business that, before completing the TNG Transaction (as defined below), was focused primarily on the wholesale distribution across Canada of books, magazines and newspapers (the “**Literature Business**”). Metro 360 also has other business interests, including a music distribution and consumer-packaged goods distribution business, and investments in various emerging businesses.

4. On April 6, 2020, the Partners filed notices of intention to make a proposal pursuant to section 50.4 of the *Bankruptcy and Insolvency Act* (Canada) in order to initiate proceedings (the “**Proposal Proceedings**”) to implement the sale of the Literature Business to Great Pacific Enterprises Inc. dba TNG (“**TNG**” and the “**TNG Transaction**”). This Court granted an Approval and Vesting Order on April 7, 2020, among other things, approving the TNG Transaction, and the TNG Transaction was completed the next day on April 8, 2020. Additional information with respect to the Literature Business, the issues leading to the TNG Transaction and the reasons why the TNG Transaction was the only viable option at the time to preserve and maximize the value of the Literature Business for the benefit of Metro 360, the Partners and their respective stakeholders, is detailed in my April Affidavit.

5. On June 17, 2020, the Partners continued the Proposal Proceedings under the *Companies’ Creditors Arrangement Act* (Canada) (the “**CCAA**”) pursuant to an Initial Order of the Court (the “**Initial Order**”). The Initial Order, in addition to taking up and continuing the proposal

Proceedings under the CCAA, among other things, appointed KSV Restructuring Inc. as the Monitor of the Partners and Metro 360 (the “**Monitor**”) and granted a stay of proceedings under the CCAA (the “**Stay of Proceedings**”) in respect of the Partners and Metro 360 in order to provide the Partners and Metro 360 with stability for Metro 360’s remaining businesses and the time and framework within which the Partners and Metro 360 could advance a value-maximizing restructuring plan for the benefit of the Partners, Metro 360 and their various stakeholders.

6. On September 16, 2020, this Court granted an Order (the “**Claims Procedure Order**”) approving a process (the “**Claims Process**”) for the identification, quantification and resolution of claims against Metro 360 and the Partners, as well as the present and former officers and directors of the Partners and Metro 360. The Partners and Metro 360, with the assistance of their advisors and the assistance and oversight of the Monitor, have substantially completed the Claims Process, subject to the resolution of the claim of the Canada Revenue Agency (the “**CRA**”) with respect to certain of Metro 360’s potential tax liabilities.

7. The Partners and Metro 360 believe that the development and implementation of a restructuring plan that preserves the value of Metro 360 and its business is in the best interests of Metro 360 and the Partners, as well as their respective stakeholders. However, as discussed below, due to the significant amounts at issue in respect of the CRA’s potential claim, the Partners and Metro 360 are unable to finalize a restructuring plan that they can present to creditors and this Court for approval until the CRA’s claim has been resolved.

8. The Stay of Proceedings, as extended from time to time by further Orders of the Court, expires on June 30, 2021 (the “**Stay Period**”). The extension of the Stay Period to September 30, 2021 pursuant to the proposed Stay Extension Order is necessary to maintain stability while the Partners and Metro 360 work to resolve the CRA’s potential claim and finalize and present a value-

maximizing restructuring plan that is in the best interests of the Partners, Metro 360, and their various stakeholders.

II. UPDATE ON THE CCAA PROCEEDINGS

A. Claims Process Update²

9. As discussed in my March Affidavit, the Partners and Metro 360 have made significant progress in advancing the Claim Process. The Partners and Metro 360, with the assistance and oversight of the Monitor, have reviewed and reconciled all 1,035 Proofs of Claim received from arms' length creditors (including the Proofs of Claim received after the October 30, 2020 Claims Bar Date, which the Monitor has admitted in accordance with paragraph 6 of the Claims Procedure Order) as well as the seven Notices of Dispute received from Terminated Employees in respect of their Termination Claims. Based on this reconciliation process, the total amount of claims against the Partners and Metro 360, excluding the Termination Claims of Terminated Employees (which total approximately \$2.5 million) and the three related party claims (which total approximately \$10.9 million), equals approximately \$14.9 million in the aggregate, before considering the amounts claimed by the CRA. This represents a reduction of millions of dollars in vendor obligations, which also reflects the success of the process to return the unsold Literature Business inventory to suppliers (reducing Metro 360's accounts payable), which was a principal objective of the TNG Transaction.

10. As at the time of my March Affidavit, there remained one unresolved claim subject to a Notice of Revision or Disallowance issued by the Monitor, which related to a Termination Claim and involved a dispute of approximately \$16,000. This claim has now been resolved. As a result,

² Capitalized terms used but not otherwise defined in this section have the meaning given to them in the Claims Procedure Order.

the Claims Process is substantially complete, subject to the resolution of the potential claim of the CRA.

B. CRA Claim

11. As discussed in my March Affidavit, the CRA filed a “placeholder” Proof of Claim against the Partners and Metro 360 in the Claims Process for an unspecified amount in respect of any type of tax liability potentially applicable to Metro 360. The CRA since issued three re-assessments to Metro 360 on or about October 16, 2020, making certain adjustments to Metro 360’s goods and services tax and harmonized sales tax (“HST”) liabilities. These CRA re-assessments have two principal components: (i) certain specific instances where Metro 360’s claims for input tax credits (“ITCs”) were denied because the CRA did not have sufficient supporting information, and (ii) an assessment of almost \$4.5 million in respect of unpaid HST, the majority of which effectively relates to the reversal of ITCs previously claimed by Metro 360.

12. The amounts at issue in the CRA re-assessments are significant, and the Partners and Metro 360, with the assistance of the Monitor, have been engaged over several months in discussions with CRA representatives with a view to reaching a final resolution with respect to the CRA re-assessments so that the CRA’s claim amount can be determined. In this regard, on or about January 13, 2021, Metro 360 filed notices of objection regarding each of the CRA re-assessments.

13. With respect to the CRA’s reversal of ITCs previously claimed by Metro 360, as explained in my March Affidavit, I am advised by Glenn Ernst, a tax partner at Goodmans LLP, Metro 360’s legal counsel, that the CRA commonly assesses unpaid HST to reverse ITCs claimed by a recipient in instances where the recipient is bankrupt or in receivership and unsecured suppliers suffer a loss on their claims. Metro 360 continues to dispute the CRA’s re-assessment in this respect as Metro 360 has not compromised any claims of its creditors and continues to work towards repaying

creditors in full pursuant to a value-maximizing restructuring plan. In addition, Metro 360 also believes that the re-assessment does not consider that, in the ordinary course and in connection with the return of unsold Literature Business inventory following the TNG Transaction, Metro 360 has correctly recaptured or repaid a significant amount of the ITCs that it had previously claimed on such Literature Business inventory before completion of the TNG Transaction.

14. Since my March Affidavit, Metro 360 and its legal counsel have had several discussions with representatives of the CRA. With respect to Metro 360 having recaptured or repaid ITCs claimed on Literature Business inventory that was ultimately unsold and returned for credit, Metro 360 proposed to provide the CRA with credit notes it received from its largest customers following the processing of returned unsold Literature Business inventory and provide evidence that Metro 360 had increased its HST liabilities by the amount of those credit notes, thus demonstrating that it had correctly recaptured or repaid the previously claimed corresponding ITCs.

15. It is my understanding based on discussions with legal counsel and Metro 360's chief financial officer that the CRA initially agreed to work with Metro 360's proposal. However, Metro 360 received a letter from the CRA dated June 3, 2021 advising that the CRA was unable to agree with Metro 360's approach for certain technical reasons, including because the CRA continues to assess tax payable based on the creditor list posted on the Monitor's website. This creditor list was posted to that website on June 17, 2020 when the Proposal Proceedings were continued under the CCAA, but the listing was actually current as at March 31, 2020 (being the end of the month immediately preceding the commencement of the Proposal Proceedings). The creditor list therefore does not reflect the significant returns of Literature Business inventory made by Metro 360 after March 31, 2020 in connection with the TNG Transaction and the recapturing

of ITCs that Metro 360 had claimed in respect of its March 31, 2020 accounts payable. Metro 360 continues to object to CRA's approach and has responded to the CRA letter by way of letter dated June 18, 2021.

16. Metro 360's counsel, together with representatives of the Monitor, have also had discussions with CRA's counsel at the Department of Justice with a view to seeking the most efficient way of trying to resolve these matters.

17. Metro 360 will continue to work with the CRA to explore potential options available in the circumstances that will enable Metro 360 and the CRA to accurately determine Metro 360's appropriate tax liabilities and resolve the CRA's potential claim.

C. Efforts to Develop a Plan

18. As referenced above, the Partners and Metro 360 had hoped by now to have presented a proposed restructuring plan and to seek approval to schedule a meeting of creditors to vote on such plan. However, because of the significant amounts at issue in the CRA re-assessments and status of discussions concerning those re-assessments, the Partners and Metro 360 are not currently able to finalize a restructuring plan that they can present to creditors and this Court for approval.

19. Although a restructuring plan cannot be presented at this time, the Partners and Metro 360 and the Monitor, with their respective legal counsel, have held several discussions since the most recent stay extension hearing in order to develop and advance a draft restructuring plan. The Partners and Metro 360 believe that, once outstanding matters with the CRA are resolved and its claim against Metro 360 is determined, the Partners and Metro 360 will be well-positioned to file a restructuring plan soon thereafter. The Partners and Metro 360 will provide a comprehensive

overview of the terms of the proposed restructuring plan once it is finalized and filed with the Court in support of a request to schedule a meeting of creditors to vote thereon.

D. Sale of Retail Support Services (Canada) Ltd.

20. As described in the Third Report of the Monitor, with Metro 360 moving away from the Literature Business pursuant to the TNG Transaction, the Partners and Metro 360 determined that it would be appropriate in the circumstances to explore potential sale options for Metro 360's 37% interest in Retail Support Services (Canada) Ltd. ("RS2"), which had developed a methodology to collect, organize, analyze and sell retail sales data, with a specific focus on magazines sold at the check-out counter of grocers and retailers. In this regard, Metro 360 and Alberta HoldCo entered into a purchase agreement with TNG for the sale to TNG of Metro 360's interest in RS2 for consideration of \$183,000. The transaction is scheduled to close on June 25, 2021.

21. Court approval of the sale of Metro 360's interest in RS2 was not required as the proceeds from the sale were less than (a) the \$200,000 threshold set out in the Initial Order for a single transaction and, (b) when combined with the proceeds from all other sales of redundant or non-material assets, less than the \$400,000 threshold set out in the Initial Order for all such transactions.

III. UPDATE ON RECENT FINANCIAL PERFORMANCE AND BUSINESS OPERATIONS

A. Overview

22. Since my March Affidavit, Metro 360 has continued efforts to grow its remaining businesses and investments. Metro 360 has made significant strides in securing new products for distribution, and has successfully received several new listings since its most recent stay extension hearing. However, the ongoing COVID-19 pandemic continues to impact progress in this regard. Metro 360 is fortunate to be receiving COVID-19 related rent and wage subsidies which, to date,

have allowed Metro 360 to retain key employees while it continues to work to build its business. Metro 360 is working on finalizing several new listings that are to be awarded over the next approximately 90 days which, if secured, will have a positive impact on Metro 360's financial position.

23. Further to the business update in my March Affidavit, Metro 360 has entered into an agency agreement with 1519676 Ontario Inc. o/a Robert Shapiro & Associates ("**RSA**"),³ a significant Canadian consumer-packaged goods food brokerage company. RSA's compensation under this arrangement is solely performance based. Metro 360, with assistance from RSA, have presented several of Metro 360's consumer-packaged goods brands to key Canadian retailers, including various "Well" products. New listings have been secured and Metro 360 and RSA are awaiting decisions on a number of significant potential listings.

24. With respect to Well Ventures Corp. ("**Well Ventures**") and its health drink and spirits business, Well Ventures has now secured the rights to distribute its "Well" branded health drinks to Starbucks locations in Canada. As noted in my March Affidavit, COVID-19 has delayed the rollout of product to Starbucks locations, but a launch date has been set in the final quarter of 2021. Well Ventures is also now rolling out its product through several distribution channels and major retailers in the United States. Of note, Well Ventures had its largest selling week at the Liquor Control Board of Ontario for the week ending June 5, 2021, with approximately 22,000 units sold. This represents an approximately 600% increase over the same period in 2020, and demonstrates the strong brand presence that the "Well" spirits business has achieved and is growing.

³ I have no relation to RSA or Robert Shapiro.

B. Well Ventures Private Placement

25. Well Ventures is in the process of marketing an equity rights offering to its existing shareholders by way of private placement. The board of directors of Well Ventures has approved a total capital raise in connection with the proposed equity rights offering of up to a maximum amount of \$1.75 million.

26. Well Ventures is party to a unanimous shareholder agreement which provides its existing shareholders (which includes Metro 360 and Rosebud HoldCo) with certain pre-emptive rights to purchase their *pro rata* share of the private placement offering. Metro 360 and Rosebud HoldCo hold 17.22% and 4.22% interests in Well Ventures on a fully diluted basis, respectively.

27. It is estimated that the total amount of proceeds raised through the private placement will not exceed \$1.5 million, although it appears that the private placement may be oversubscribed and Well Ventures is considering whether to take advantage of the demand to source additional capital.

28. Based on a \$1.5 million private placement offering, Metro 360 by exercising its pre-emptive right to acquire its *pro rata* share of the private placement offering will be able to subscribe for \$256,236 in new Well Ventures securities, while Rosebud HoldCo can acquire \$67,599 in new Well Ventures securities.

29. Given the significance of Well Ventures to the overall successful restructuring of Metro 360, it is important that Metro 360's interest in Well Ventures not be diluted. Consistent with Well Ventures' prior financing raises, Metro 360 and Rosebud HoldCo intend to participate by acquiring their respective *pro rata* shares of the proposed equity rights offering.

C. Release of BNS Registrations

30. As at the time of the commencement of the Proposal Proceedings, the Bank of Nova Scotia (“BNS”) had personal property registrations against Rosebud HoldCo relating to Rosebud HoldCo’s guarantee of a non-revolving credit facility made available by BNS to me personally. Although there were no registrations against Metro 360 at such time, it was subsequently determined that Metro 360 also provided a guarantee. BNS amended its registration after the commencement of the Proposal Proceedings to add Metro 360 as a debtor.

31. On April 22, 2021, all obligations to BNS were repaid through a refinancing of the principal borrower and any guarantees formerly held by BNS were released. I am advised by representatives of BNS that the personal property registrations in favour of BNS against Rosebud HoldCo and Metro 360 are in the process of being discharged.

IV. CHANGES TO COURT-ORDERED CHARGES

32. The Initial Order approved Metro 360’s key employee retention program (the “**KERP**”), for three employees of Metro 360 in its receivable and accounting groups whose continued efforts with respect to the collection of accounts receivable and the overseeing of the return and processing of unsold Literature Business inventory were expected to maximize recoveries for the benefit of Metro 360’s creditors. Pursuant to the KERP, each of the three eligible Metro 360 employees became entitled to receive their KERP entitlement in a lump sum installment with payment of their final pay following their termination on September 30, 2020. The Initial Order also granted a charge (the “**KERP Charge**”) to secure amounts owing by Metro 360 to the eligible employees under the KERP.

33. Metro 360 paid the KERP obligations to the eligible employees in September 2020 in accordance with the terms of the KERP as part of their final pay.

34. Given that all obligations secured by the KERP Charge have now been satisfied in full, the Partners and Metro 360 are seeking to have the KERP Charge released, discharged and terminated pursuant to the Stay Extension Order.

35. Should the requested relief under the Stay Extension Order be granted in respect of the KERP Charge, the remaining Charges (as defined in the Initial Order) and their respective priority as among them shall be as follows:

- (a) First – Proposal Administration Charge (to the maximum amount of \$300,000); and
- (b) Second – Directors’ Charge (to the maximum amount of \$300,000).

V. EXTENSION OF THE STAY PERIOD

36. As discussed above, the Stay of Proceedings currently expires on June 30, 2021. The Partners and Metro 360 are seeking an extension of the Stay Period to and including September 30, 2021 pursuant to the proposed Stay Extension Order.

37. The extension of the Stay Period is necessary to maintain stability while the Partners and Metro 360 complete the Claims Process and finalize and present a proposed plan for the benefit of all stakeholders. As referenced above, the Partners and Metro 360 have worked diligently to substantially complete the Claims Process and expect to continue to work with the CRA during the proposed extended Stay Period with a view to resolving its potential claim, so that the Partners and Metro 360 can proceed to finalize and present a value-maximizing restructuring plan that can then be voted on by creditors.

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38. As discussed further in my other affidavits provided in connection with the Proposal Proceedings and these CCAA proceedings, the Partners and Metro 360 believe that the development and implementation of a restructuring plan that preserves the value of Metro 360 and its business is in the best interests of Metro 360 and the Partners, as well as their respective stakeholders. Although the Partners and Metro 360, with the assistance of the Monitor and their respective legal counsel, have advanced the terms of a restructuring plan, the Partners and Metro 360 are of the view that the CRA's potential claim needs to be resolved before any such plan can be finalized and authority to call a meeting of creditors to vote thereon can be sought.

39. Accordingly, the extension of the Stay Period is necessary to provide the Partners and Metro 360 with the time needed to, among other things, resolve the CRA claim and complete the Claims Process, and work towards finalizing and presenting a restructuring plan that is in the best interests of the Partners, Metro 360, and their various stakeholders.

40. I do not believe that any creditor will suffer any material prejudice as a result of the proposed extension of the Stay Period.

41. I understand that an updated cash flow forecast will be included in the Fourth Report of the Monitor, and that such cash flow forecast will show that the Partners and Metro 360 have sufficient liquidity to operate through the requested extended Stay Period. I also understand that the Monitor is supportive of the proposed extension of the Stay Period pursuant to the proposed Stay Extension Order to and including September 30, 2021.

VI. CONCLUSION

42. The Partners and Metro 360 believe that the development and implementation of a restructuring plan that preserves the value of Metro 360 and its business is in the best interests of Metro 360 and the Partners, as well as their respective stakeholders.


43. The Partners and Metro 360 have been working diligently and in good faith to advance matters with the CRA and complete the Claims Process. The Claims Process is now substantially complete, subject to the resolution of the CRA's potential claim with respect to certain of Metro 360's potential tax liabilities.

44. The ongoing benefit of the Stay of Proceedings is required while the Partners and Metro 360 work to resolve the CRA's potential claim and complete the Claims Process, and thereafter finalize and present a proposed plan for the benefit of the Partners, Metro 360, and their various stakeholders.

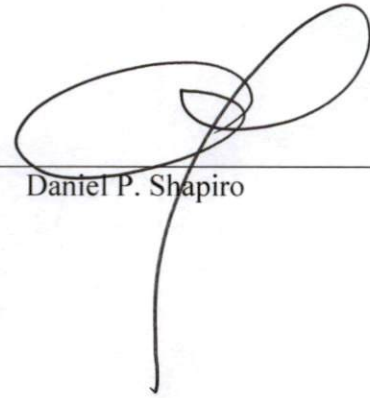
45. I believe that the extension of the Stay of Proceedings is in the best interests of the Partners, Metro 360 and its stakeholders in the circumstances, and I understand that the Monitor is supportive of the proposed extension of the Stay Period to September 30, 2021.

46. For the reasons described above, the Partners and Metro 360 respectfully request that this Court grant the proposed Stay Extension Order.

SWORN BEFORE ME over
videoconference by Daniel P. Shapiro stated
as being located in the City of Toronto in the
Province of Ontario, before me at the City of
Toronto in the Province of Ontario, on
June 18, 2021, in accordance with O. Reg
431/20, Administering Oath or Declaration
Remotely



A Commissioner for taking affidavits
Name: Andrew Harmes



Daniel P. Shapiro

A

THIS IS EXHIBIT "A"
TO THE AFFIDAVIT OF DANIEL P. SHAPIRO
SWORN BEFORE ME OVER VIDEOCONFERENCE
THIS 18th DAY OF JUNE, 2021

A handwritten signature in black ink, appearing to read "Allameh". The signature is written in a cursive style with some loops and a horizontal line through the middle.

Commissioner for Taking Affidavits

Estate / Court File No.: 31-2636843

Estate / Court File No.: 31-2636818

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

**IN THE MATTER OF THE NOTICES OF INTENTION TO
MAKE A PROPOSAL OF 957855 ALBERTA LTD.
(FORMERLY NEWSWEST INC.) AND ROSEBUD CREEK
FINANCIAL CORP. IN RESPECT OF METRO 360
GENERAL PARTNERSHIP**

AFFIDAVIT OF DANIEL P. SHAPIRO
(sworn April 6, 2020)

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Estate / Court File No.: 31-2636843

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GENERAL PARTNERSHIP**

AFFIDAVIT OF DANIEL P. SHAPIRO
(sworn April 6, 2020)

I, Daniel P. Shapiro, of the City of Toronto, in the Province of Ontario, **MAKE OATH
AND SAY:**

I. INTRODUCTION

1. I am the President of 957855 Alberta Ltd. (formerly NewsWest Inc.) (“**Alberta HoldCo**”) and the President of Rosebud Creek Financial Corp. (“**Rosebud HoldCo**” and together, with the Alberta HoldCo, the “**Partners**”). The Partners are holding companies which together hold 100% of the interests of Metro 360 General Partnership (“**Metro 360**” or the “**Partnership**”), a multi-faceted marketer of information and entertainment products, including magazines, books, newspapers, audio and visual media, and consumer packaged goods. Accordingly, I have personal knowledge of the matters to which I depose in this affidavit. Where I do not possess personal knowledge, I have stated the source of my information and, in all such

cases, believe it to be true. Neither the Partners nor the Partnership waive or intend to waive any applicable privilege by any statement herein.

2. Earlier today, on April 6, 2020, the Partners filed notices of an intention to make a proposal (each, an “**NOI**” and together, the “**NOIs**”) pursuant to section 50.4 of the *Bankruptcy and Insolvency Act* (Canada) (the “**BIA**”). KSV Kofman Inc. is named as the proposal trustee under the NOIs (“**KSV**” or the “**Proposal Trustee**”).

3. As further described below, the Partners filed the NOIs in response to significant financial challenges which Metro 360 began to face many years ago but have accelerated in light of recent global developments, including the COVID-19 pandemic and, in particular, to implement a sale transaction in respect of Metro 360’s magazine and book wholesale distribution business (the “**Literature Business**”). Book sales have declined generally and significantly during the pandemic; and magazine sales have been declining generally and have now experienced immediate and exponential sales declines as retailers have either been forced to temporarily close or in some cases have elected not to receive or display magazines. In addition, many of Metro 360’s store-level employees have elected not to work during the COVID-19 pandemic and, as a result, the magazine and book products are not being displayed at many of Metro 360’s larger retail accounts. Metro 360’s supply and distribution lines have been brought to a complete standstill, leading to most significant suppliers having already terminated key contracts with Metro 360 or simply refusing to ship new product.

4. These events have collectively and significantly exacerbated certain existing business and financial challenges related to the broader industry in which Metro 360 and the Literature Business operate, and caused a significant erosion of value to the Literature Business to the point

where this portion of Metro 360's business is days from being completely discontinued. It is critical that Metro 360 and the Partners take immediate action to preserve the value that remains in the Literature Business and protect hundreds of jobs through the closing of the proposed sale transaction discussed below.

5. While Metro 360 has undertaken efforts to address these unprecedented challenges, including investing significant capital into the business in the months leading up to the COVID-19 pandemic, the Literature Business has reached a critical point in these circumstances. The unexpected market shut-down has left the Literature Business in significant arrears to its supplier base, with approximately \$65 million in current liabilities owed to unsecured creditors. Needing an urgent solution to stabilize the Literature Business, the Partnership began exploring potential options for an expedited sale of the Literature Business.

6. Fortunately, these sale efforts have culminated in a sale agreement that, subject to the approval of this Court and satisfaction of the other closing conditions, will see Great Pacific Enterprises Inc. dba TNG ("**TNG**" or the "**Purchaser**") acquire, among other things: (i) all customer and title records of Metro 360; (ii) any and all magazine racks at Metro 360 customer locations; and (iii) the goodwill of Metro 360 in respect of its Canadian customers (the "**Transaction**"). In addition to these assets, the Purchaser will make offers of employment to almost 300 of Metro 360's employees and assume certain key customer contracts, for the significant direct benefit of those employees and contract-counterparties of Metro 360, all as more fully discussed below.

7. The Transaction is an important step for the Partnership and its stakeholders in the circumstances. As further discussed below, I understand that the Paperback and Periodical

Distributors Act (as defined and discussed below) makes Canadian ownership a condition for the registration of any businesses engaged in the distribution of paperback and periodical publications, effectively limiting the market of prospective purchasers for the Literature Business to only TNG, which is a Canadian operation. The only businesses in this industry in Canada are TNG and Metro 360. Based on such ownership restrictions and overall timing and market conditions, the Partnership and the Partners decided, in consultation with KSV, that an extensive sales process is not practical or appropriate in the circumstances, and elected to focus solely on approaching TNG to develop a potential sale transaction in respect of the Literature Business in real time.

8. Despite the limited market, the Partnership believes that the Transaction represents the only available transaction in the unique circumstances of this market. The Transaction provides value for the Literature Business and will see the Literature Business continue on a going concern basis for the benefit of customers, suppliers, and close to 300 employees. The Partnership, with the assistance of its professional advisors and KSV, has determined that the sale of the Literature Business pursuant to the Transaction, in conjunction with the collection of accounts receivable and the return of unsold inventory at retail locations, combined with the continuation of the Partnership's other business operations, represents the best available alternative in the circumstances and will allow the Partnership to work towards presenting a restructuring plan to Metro 360's creditors at a later time that will maximize value and recoveries to them. As a result, the Partners are seeking approval to proceed with the Transaction at this time, with the full support of KSV, as the Proposal Trustee.

9. While the purchase price being paid for the limited set of assets being sold under the Transaction (which are, essentially, customer lists, certain equipment and goodwill) is not overly

significant in the larger context of Metro 360's liabilities, the Transaction presents a series of other valuable benefits beyond just the purchase price:

- (a) the Transaction does maximize value for the purchased assets, such as they are;
- (b) the Transaction offers employment to a significant number of employees;
- (c) the Transaction involves the assumption of certain key customer contracts by the Purchaser, which is the largest player in Canada in this market, for the direct benefit of those contract-counterparties;
- (d) the Transaction represents the only reasonable opportunity for Metro 360 to access unsold or dated products, which represent a significant amount of refundable inventory (in the approximate amount of \$37 million), as TNG has agreed under the Transaction to retrieve all unsold inventory from retail accounts serviced by Metro 360 and process such returns for Metro 360's account. If successful, the retrieval and return of Metro 360's unsold inventory through TNG will significantly reduce the amount of supplier claims that will exist against the Metro 360 estate as this product is returnable for full credit;
- (e) the Transaction will improve Metro 360's ability to collect a significant amount of receivables that are owed to it (in the approximate amount of \$13 million), as the continuation of product flow to Metro 360's historic customers from TNG and the retrieval by TNG of Metro 360's unsold inventory will help Metro 360 to settle its customer accounts and reduce the risk that customers will assert set-off claims resulting from a disruption in supply; and

- (f) with the benefit of time, the Transaction will give Metro 360 a continuing ability to raise and realize value for its creditors through the above activities, the continuation of Metro 360's other business interests and the disposition of other assets of Metro 360 at the appropriate time, all keeping in mind the timing considerations that may exist and are likely material in light of the COVID-19 pandemic and related market disruption.

10. All of these benefits taken together establish, in my view, that the Transaction maximizes value for the assets being sold, and realizes several other material benefits referenced above that will serve to continue employment, significantly reduce creditor claims against Metro 360, and maximize Metro 360's ability to realize effectively on refunds and collections. Taken together, these benefits are material and significant to Metro 360 and its creditors and enhance the long-term viability of Metro 360, which will also allow it to formulate a restructuring plan for the benefit of its creditors.

11. In addition to seeking approval of the Transaction, the Partners are also seeking an Order, among other things: (i) administratively consolidating the proceedings related to the Partners' NOIs since the filing of such NOIs relate to Metro 360 and its business operations; (ii) approving a first priority administration charge in the aggregate amount of \$300,000; (iii) extending the stay of proceedings and other basic BIA protections resulting from the NOIs to Metro 360; (iv) approving the granting of an extension of the time to file a proposal and the corresponding stay of proceedings; and (v) authorizing Metro 360 and/or the Partners to complete the sale of redundant or non-material assets without further order of this Court for proceeds not exceeding \$200,000 in any one transaction or \$400,000 in the aggregate, in each case with the prior

approval of the Proposal Trustee. This affidavit is sworn in support of the Partners' motion seeking the foregoing relief.

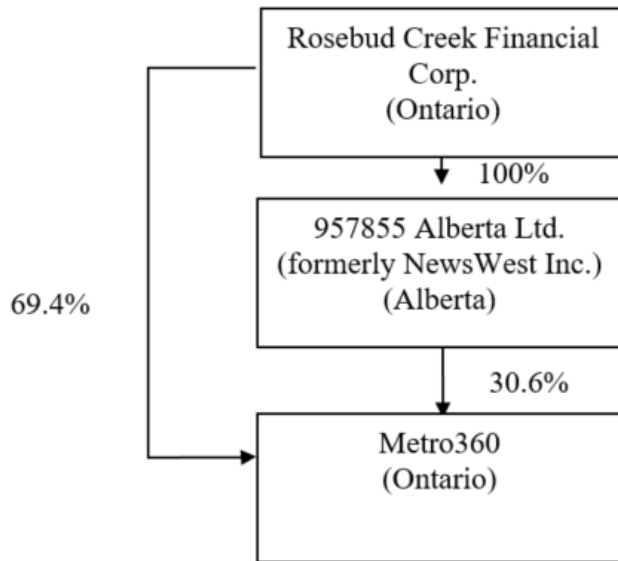
II. METRO 360

A. Overview of Corporate Structure

12. A corporate chart showing the organizational structure of the Partnership (and its other interests) is attached as Exhibit "A" to this affidavit.

(i) Metro 360

13. Metro 360 is a general partnership established under the laws of Ontario. As shown below, its partners are Alberta HoldCo and Rosebud HoldCo.



14. Metro 360 is the entity through which the Literature Business is operated, and including its predecessor entities, is approximately 100 years old. Metro 360 represents the consolidation of at least fourteen predecessor companies with roots in Alberta, Saskatchewan, Manitoba,

Ontario and Quebec. The consolidation of Metro 360 and its predecessor entities over the years was driven by significant contraction in the paperback and periodical print and distribution industry, largely due to the emergence of the internet and social media platforms. Density, sales volumes and cost reductions through consolidation were required for wholesalers and distributors to remain viable. Today, there are only two magazine and book wholesalers in Canada of any substance, being Metro 360 and the Purchaser.

15. As discussed further below, Metro 360 is also a wholesale distributor of various food brands, music (both compact discs and vinyl records), consumer electronic accessories and a line of “As Seen on TV” items, and provides various merchandising services to third parties. All of these other businesses of Metro 360 are in addition to the Literature Business. Further details concerning these other business operations of Metro 360 are provided below.

16. Metro 360’s principal liabilities consist of the trade liabilities related to the Literature Business and its other business operations. Metro 360 is also the borrower under a credit agreement dated as of October 17, 2012 between Metro 360, as borrower, and the Toronto Dominion Bank (“**TD**”), as lender (the “**Credit Agreement**”), pursuant to which TD has made available to Metro 360 a revolving credit facility in the aggregate amount of \$4 million. However, Metro 360 has not currently drawn any amounts under the Credit Agreement, and as such, it does not have any secured debt obligations outstanding. Notice of this motion was given to TD in any event.

(ii) *Alberta HoldCo*

17. Alberta HoldCo is a company incorporated under laws of Alberta. The registered office of Alberta HoldCo is in Calgary and its physical address is located in Scarborough, Ontario.

18. Alberta HoldCo is a holding company and owns a 30.6% interest in Metro 360.

19. Alberta HoldCo does not conduct any active business in the ordinary course other than acting as a partner of Metro 360, and, as a pure holding company with only an interest in Metro 360, does not have any cash, third-party creditors or other interests or investments.

(iii) Rosebud HoldCo

20. Rosebud HoldCo is a company amalgamated pursuant to the laws of Ontario. The registered office and physical address of Rosebud HoldCo are both located in Scarborough, Ontario.

21. Rosebud HoldCo is a holding company and owns a 69.4% interest in Metro 360, with the other 30.6% interest in Metro 360 being held by Alberta HoldCo. Rosebud HoldCo also holds a number of illiquid investments in other businesses.

22. Rosebud HoldCo does not conduct any active business in the ordinary course other than (i) acting as a partner of Metro 360, and (ii) holding illiquid investments and interests in various other operating entities. As a pure holding company, Rosebud HoldCo does not have any cash or third-party creditors.

B. Metro 360's Business Operations

23. Metro 360 operates a multi-faceted business employing a total of approximately 350 full and part-time employees which is focused primarily on the wholesale distribution of books, newspapers, audio and visual media, consumer electronic accessories and consumer packaged goods. Although a recent diversification effort has expanded Metro 360's business operations, its

core business is the Literature Business. A detailed corporate chart showing Metro 360's various business interests is attached as Exhibit "A" to this affidavit.

(i) *The Literature Business*

24. The Literature Business consists of the wholesale distribution of books, magazines and newspapers to various single-copy retail customers across Canada. Metro 360 receives product in bulk from its publishing partners, and through its logistics providers, delivers such product to more than 4,500 retailers from Alberta to the Quebec/New Brunswick border. Metro 360 has thousands of magazine and book titles available, covering a wide array of genres. The Literature Business is a legacy business of Metro 360, having been commenced by the Shapiro family in the early 1940s.

25. The Literature Business uses a relatively complex and proprietary software system to manage product allocations specific to each store size and the demographic profile of the shoppers in the area to optimize sales in every region of Canada. To my knowledge, the Purchaser is the only other entity operating in Canada with a system of this kind, which, as discussed further below, also makes the Purchaser the only logical and practical buyer for Metro 360's Literature Business.

26. This software system is also used to manage reverse logistics to account for the removed unsold product from retailers, as Metro 360, through a highly customized system, returns such unsold product to its publisher suppliers for full credit and simultaneously applies a credit to its retail customers. In connection with the Transaction, Metro 360 and the Purchaser will be able to work together to maximize Metro 360's ability to return inventory and thereby minimize, to the greatest extent possible, the amount of creditor claims that will exist against Metro 360.

(ii) *Customers*

27. The Literature Business services an expansive retail customer base of approximately 4,500 locations across Canada. Customers of the Literature Business mostly consist of independent retailers, regional grocery chains, convenience and drug retailers, and gas service stations. Generally speaking, customers in this space that are not serviced by Metro 360 in Canada, are serviced by the Purchaser.

(iii) *Suppliers*

28. As a wholesale distribution focused business, Metro 360 has many suppliers that are critical to its operations. With respect to the Literature Business, Metro 360 provides publishers with a route to market and sell their product, and accordingly, has maintained long-term relationships with a number of key publishers and literary suppliers.

29. As discussed further below, Metro 360 is currently in significant arrears with its supplier base and most key suppliers have already halted further supply. This discontinuance has had a significant and essentially terminal impact on Metro 360's ability to continue the Literature Business and it is only through the Transaction that Metro 360 will be able to re-establish a supply line to Metro 360's existing retail customer contracts .

(iv) *Employees*

30. Metro 360 currently employs approximately 350 employees, comprised of 70 salaried employees and approximately 300 hourly employees. Approximately 20 employees have been recently subject to a temporary layoff. None of Metro 360's employees are unionized.

31. Metro 360's employees are spread across the provinces of Alberta, Saskatchewan, Manitoba, Ontario and Quebec, with approximately 60 percent located in Ontario.

32. Metro 360's salaried employees are paid semi-monthly (24 pay periods per year), and its hourly employees are paid weekly. Prior to the COVID-19 pandemic, Metro 360's monthly payroll obligation was approximately \$370,000. This has recently been reduced as all management employees have accepted a 20% temporary salary reduction.

33. Metro 360's Ontario-based employees participate in a defined contribution pension plan administered through the Partners (originally established by Metro News East), pursuant to which employees are required to contribute a certain percentage of their earnings, with Metro 360 matching such contributions on a dollar-for-dollar basis (the "**Pension Plan**"). Benefits for employees under the Pension Plan used to be provided on a defined benefit basis but the defined benefit portion of the Pension Plan has been wound up.

34. Metro 360 contributed of approximately \$261,000 in 2019 to the Pension Plan. As at April 1, 2020, the Pension Plan is fully funded.

(v) *Other Business Operations of Metro 360*

35. As shown on the corporate chart attached as Exhibit "A" to this affidavit, Metro 360 also has a variety of other business operations and interests. Metro 360 has developed a presence in the consumer packaged goods space, both as a wholesale distributor for a variety of established consumer packaged goods brands, including food brands, music (both compact discs and vinyl records), consumer electronic accessories and a line of "As Seen on TV" items, and as an investor in three emerging consumer packaged goods businesses. Metro 360's consumer packaged goods investments include: (i) an approximately 14% interest in Well Ventures Corp., a cold pressed juice and kombucha company; (ii) a 50% interest in Handfuel Inc., which is a snack business that has retail listings at a number of nationally recognized grocers; (iii) a 45%

interest in All Day Nutritionals Canada Ltd. and a 27% interest in its parent, Swift Work Wellness, which is a U.S.-based producer of a liquid supplement designed for immunity support and marketed towards workplace break rooms; and (iv) certain direct and indirect interests in Spectral Agriventures Inc., which has developed a cost-efficient turnkey greenhouse model. These investments, among others, are advancing but require further runway for value to be realized.

36. Further, Metro 360 also leverages its expertise in the retail industry by offering merchandising services to third parties, which services include, among other things, maintaining retail display shelving and performing “mystery shopping” services to measure the quality of sales and service.

III. MATTERS LEADING UP TO THE NOI FILINGS

A. Business and Financial Challenges

37. Although Metro 360 and its predecessor entities have been servicing the Canadian paperback and periodical distribution industry for approximately 100 years, the Partnership has been impacted over the last number of years by challenging market conditions and changing consumer trends which are moving away from print mediums and toward online and other digital platforms. The recent proliferation of smartphones and social sharing, in particular, has impacted consumer behaviour and led to declines in the single-copy newsstand industry that Metro 360 services. Illustrative of the challenges facing Metro 360 and the broader industry in which the Literature Business operates is the fact that there are currently only two magazine and book wholesalers in Canada of any substance: Metro 360 and the Purchaser (TNG). There were as

many as 33 industry participants prior to a prolonged and significant period of consolidation where scale was used to combat the disruption caused by the emergence of alternative platforms.

38. Metro 360 had been able to survive in this increasingly challenging market environment through its own acquisition and consolidation efforts, however, the Literature Business' sales have been declining at an average annual rate over the last decade of approximately 10 percent. Net sales for Metro 360 overall were approximately \$120 million in 2019 (approximately \$103 million of which was attributable to the Literature Business), down from approximately \$470 million at its peak 12 years ago. The significant decline in sales revenue has had a negative impact on the overall business of Metro 360 and, although it has no secured debt outstanding, the Partnership has made only marginal profits over the last number of years.

39. Over the last approximately six months, Rosebud HoldCo and Alberta HoldCo, as Metro 360's partners, along with myself personally and a third-party investor, have invested approximately \$6.7 million of capital into Metro 360 in an effort to improve its overall financial and liquidity position. In addition, Rosebud HoldCo recently sold its interest in a joint venture company for approximately \$1 million to one of Metro 360's service providers, which in turn agreed to satisfy the purchase price through a corresponding reduction in the payables owing to it from the Partnership. It was management's intent that the foregoing cash funding and accounts payable reduction would provide sufficient runway for Metro 360 to continue its diversification efforts and also potentially pursue and complete a sale process for the Literature Business in due course.

40. However, the overall financial position of the Literature Business, while affected by difficult market conditions over the last number of years, has now been effectively brought to a

crippling halt by the COVID-19 pandemic. The outbreak has led to over 350 retail customers of the Literature Business temporarily closing, while many others are either not accepting deliveries or are removing their magazines due to the perception that magazines are touched by many people prior to their eventual sale, and to focus on other products deemed to be more essential in the circumstances. Supply channels have also been disrupted as delivery drivers at Metro 360's logistics provider have been unable to work, leaving new product stranded and Metro 360 unable to complete deliveries to its retail customers that remain open and receiving new product. Metro 360's merchandiser field force has also been impacted as many such employees have elected not to work in the field due to COVID-19 concerns and, as a result, Metro 360 has been forced to halt shipments to at least 14 of its best performing accounts.

41. With old product stranded at retailers, new product stranded with the logistics provider, magazine sales having nearly evaporated and book sales lagging, year over year sales in March 2020 for the Partnership were down by approximately 30 percent. It is also currently projected that April 2020 sales will be down approximately 50 to 60 percent as compared to April 2019. In these circumstances, Metro 360 fell into significant arrears to its supplier base and was unable to make certain supplier payments which became due and payable at the end of March 2020. This led to several key suppliers, which in the aggregate provide approximately 75 to 80 percent of Metro 360's product, halting further supply. This in turn means that, with no supply, Metro 360 will also very soon be in material breach of its retail customer agreements, at which time the value of its customer lists, which are included as a purchased asset to be sold to the Purchaser in the Transaction, will lose value, and its accounts receivable will be increasingly difficult to collect. Indeed, the purchase price under the Transaction reflects the stress on the business and will be reduced further or will evaporate if the Transaction is not completed as soon as

practically possible, as reflected in the closing conditions to the Transaction, which are summarized below.

B. Strategic Alternative Efforts

42. Despite the Partnership's efforts to date to manage the unprecedented economic circumstances and significant financial challenges facing Metro 360 and the Literature Business more particularly, it became apparent that an urgent solution was needed to manage supplier, customer and employee relationships and otherwise stabilize the Literature Business. In such circumstances, the Partnership began exploring potential options for an expedited sale of the Literature Business to a third-party purchaser that would be able to quickly take over and transition such business, most likely within an existing wholesale distribution network, so that the value of the Literature Business could be preserved. In this regard, KSV began working with Metro 360 approximately one month ago in order to consider restructuring alternatives and options available for Metro 360 and its stakeholders.

43. Complicating such sale efforts, however, is the fact that the market for potential purchasers of the Literature Business is restricted both by protectionist legislation and the results of consolidation. With respect to protectionist legislation, I am advised by Goodmans LLP ("**Goodmans**"), legal counsel to Metro 360 and the Partners, and understand that the *Paperback and Periodical Distributors Act, 1971* (the "**Paperback and Periodical Distributors Act**") requires that businesses engaged in the distribution of paperback and periodical publications in Ontario meet certain Canadian ownership requirements. As for consolidation, the widespread consolidation over the last 30 or so years has left very few remaining market participants that could be targeted as a potential strategic buyer. Outside of Metro 360, the only other significant

player in the Canadian paperback and periodical distribution business is the Purchaser, TNG. In fact, for this reason, Metro 360 has for some time had viewed TNG as the only real and viable potential transaction counterparty and therefore focused its sale efforts mainly on TNG, including since prior to the onset of the COVID-19 crisis.

44. Another further complicating factor to the potential sale of the Literature Business is the software system that is used to manage all product allocations and to manage reverse logistics. It is my view that a third-party purchaser (other than TNG) without experience with and access to such systems would face significant challenges in integrating the Literature Business and would likely not, as a result, offer the same value that TNG has offered.

45. In light of such circumstances, and based on overall timing and market conditions, the Partnership decided, in consultation with KSV, that an extensive sales process would not be a constructive use of time and resources, and elected instead to focus solely and squarely on approaching TNG to seek to negotiate a transaction on an expedited basis that could preserve the value of the Literature Business. These negotiations ultimately resulted in the Transaction.

C. Development of the Transaction

46. Once it became apparent that a transaction – or more specifically, a transaction that could be completed on an expedited timeline – was necessary in the circumstances and that TNG was in fact likely the only prospective third-party purchaser that could execute such a transaction given the legislative restrictions and limited market, Metro 360, in consultation with its professional advisors and KSV, engaged with TNG to discuss a potential transaction whereby TNG would acquire the Literature Business. Following initial discussions, the parties developed a non-binding term sheet which set out the principal terms on which TNG would acquire certain

assets of the Literature Business, including the book and magazine customer list, goodwill, and such other assets as the parties may agree.

47. Following further review, discussion and negotiation, the Partnership, with the assistance of its professional advisors and in consultation with KSV, and in the exercise of its business judgement, determined that the Partnership should proceed with the Transaction as the best available option in the circumstances and Metro 360 and TNG proceeded to finalize and execute the Purchase Agreement (as defined below).

48. In the extraordinary circumstances facing Metro 360 and the Literature Business, the Partnership believes that the Transaction, in conjunction with the collection of accounts receivable and the return of unsold or dated inventory, which will be facilitated by the completion of the Transaction, combined with the continuation of the Partnership's other business operations, represents the best (and only) available alternative in the circumstances and will allow the Partnership at a later time to present a restructuring plan to Metro 360's creditors that will maximize value and support the Partnership's intention of repaying its creditors in full. Of note, the Transaction will see the going concern sale of the Literature Business, which otherwise would likely be required to cease operations and be liquidated, for cash value payable upon closing of the Transaction that will form the base of a creditor pool to be used to advance an eventual restructuring plan. Additional benefits of the proposed Transaction include:

- (a) TNG making offers of employment to 23 of Metro 360's 70 salaried employees and 268 of its approximately 300 hourly employees;¹

¹ Two of Metro 360's salaried employees will only be receiving a six month contract offer from TNG.

- (b) TNG assuming and agreeing to perform certain of Metro 360's retail customer contracts, thereby facilitating the continued distribution and delivery of literature product for the benefit of such customers;
- (c) although TNG is not assuming any of Metro 360's supplier agreements, TNG has existing relationships with the majority of Metro 360's suppliers and is therefore expected to come to arrangements with such suppliers for increased supply, as appropriate;
- (d) TNG is not acquiring any of Metro 360's accounts receivable, leaving Metro 360 to collect outstanding accounts receivable. The Partnership estimates that there is approximately \$13 million in outstanding accounts receivable to be collected. Completion of the Transaction is expected to help facilitate Metro 360's accounts receivable collections given that product will continue to flow to these customers from TNG as a result of the Transaction, and disruption in supply should be minimized or non-existent. Further, with TNG agreeing to retrieve and return all of Metro 360's unsold inventory, Metro 360 will be better able to settle its customer accounts as customers in this industry deduct returns from their payments;
- (e) TNG is not acquiring any of Metro 360's inventory. Metro 360 estimates that it has approximately \$22 million of inventory currently with retail customers and an additional \$15 million with its logistics provider, all of which is fully returnable for a corresponding dollar-for-dollar reduction in amounts owed to suppliers. TNG has agreed pursuant to the Transaction to facilitate the pickup and return of

Metro 360's unsold inventory for processing at its sole cost and expense, which will greatly assist the refund process and directly cause a reduction of claims that would and could otherwise be made against Metro 360's estate; and

- (f) TNG has agreed to enter into a services agreement with CMMI Canadian Mass Media Inc. ("CMMI"), a company related to Metro 360, pursuant to which TNG will provide certain services to CMMI that have historically been performed by Metro 360, including services relating to billing and collections, customer service and in-field merchandising.

49. In addition, the Transaction is principally focused on the Literature Business. As referenced above and discussed further below, Metro 360 has other business interests which can assist in generating revenues to facilitate debt repayment over time.

50. As discussed above, the Proposal Trustee has been involved and kept informed of key developments regarding the Transaction as negotiations have progressed. I understand that the Proposal Trustee supports and approves of the proposed Transaction and will be filing a report with the Court in respect of same.

51. I am also advised by Goodmans that, in accordance with the requirements of section 65.13(8) of the BIA related to the approval of sale transactions in BIA proceedings, Metro 360 can and will make payments (or satisfactory arrangements therefor), if any, that are required under sections 60(1.3)(a) and (1.5)(a) of the BIA. In particular, Metro 360 has paid and continues to pay all employee wages and compensation referred to in Section 60(1.3)(a) of the BIA.

IV. THE PROPOSED TRANSACTION AND THE PURCHASE AGREEMENT

52. The terms of the Transaction are set forth in the asset purchase agreement dated as of April 3, 2020 between Metro 360 (by Alberta HoldCo as a partner of Metro 360) and TNG (the “**Purchase Agreement**”), a partially redacted copy of which is attached as Exhibit “A” to this affidavit. An unredacted copy of the Purchase Agreement will be provided to the Court in a confidential supplement to the first report of the Proposal Trustee. The unredacted Purchase Agreement contains certain sensitive commercial information (including Metro 360’s customer list, the customer contracts that are being assumed by TNG and the specific components of the purchase price, as well as the names and salary information of transferred employees) that, if disclosed prior to closing of the Transaction, could adversely impact the interests of the Partnership and its stakeholders, and the go-forward interests of TNG, as Purchaser. Accordingly, the Partners are requesting that this Court order that the confidential supplement be sealed.

53. The material terms of the Transaction are summarized below:²

- (a) TNG will acquire the Assets in exchange for cash consideration of \$925,000, payable in five equal monthly installments with the first such payment occurring on the Closing Date and each subsequent payment being made monthly thereafter;
- (b) the Assets include:
 - (i) all customer and title records of Metro 360;

² Capitalized terms used in this section that are not otherwise defined herein shall have the meaning given to such terms in the Purchase Agreement. The following constitutes a summary only; reference should be made to the Purchase Agreement for a complete understanding of its terms.

- (ii) any and all magazine racks located in customer locations; and
 - (iii) the goodwill of Metro 360 for customers located in Canada that relates to the distribution and sale of books and magazines;
- (c) the Assets are being purchased on an “as is, where is” basis;
- (d) Excluded Assets under the Transaction include Metro 360’s accounts receivable and inventory;
- (e) TNG making offers of employment to 23 of Metro 360’s 70 salaried employees and 268 of its approximately 300 hourly employees;
- (f) TNG will assume certain specified contractual liabilities of Metro 360, consisting of certain retail customer contracts; and
- (g) the Transaction is subject to certain customary closing conditions, including
 - (i) this Court issuing the Approval Order within three business days of the commencement of these BIA proceedings, and
 - (ii) the closing of the Transaction occurring within two business days of the Approval Order being issued by the Court. The Purchase Agreement provides that these deadlines can be extended with the consent of the Purchaser, however given market conditions and timing as discussed above, Metro 360 has no assurance that any such deadlines would be extended by the Purchaser, or even if so, on what terms.

V. ADDITIONAL RELIEF BEING SOUGHT

A. Extension of the Stay of Proceedings and Related Relief to Metro 360

54. The NOIs filed in connection with these proceedings are only in respect of the Partners. Metro 360 has not filed a notice of intention to make a proposal under the BIA as it is anticipated that these BIA proceedings may be converted to proceedings under the *Companies' Creditors Arrangement Act* (the "CCAA") due to the limited six month timeline contained in the BIA within which a proposal must be filed and presented to creditors. Converting to a CCAA proceeding will afford Metro 360 additional time to realize value for its creditors, which may take more than six months. In addition, I am advised by Goodmans and understand that a partnership cannot apply for relief under the CCAA, and so filing that Partnership in a BIA proceeding could mean that the Partnership becomes stuck within the BIA if filed, and thereby limited to only the six month window. By not filing the Partnership in the BIA, I am advised by Goodmans that the Partnership will have greater flexibility to potentially access the greater than six month window available as part of a CCAA proceeding to realize value for its creditors, if needed.

55. In these circumstances, the Partnership is requesting that protections provided under the BIA in favour of Alberta HoldCo and Rosebud HoldCo granted by the filing of the NOIs, including the stay of proceedings and the restriction on the ability of contract counterparties to terminate or amend pre-filing agreements due to insolvency, be extended for the benefit of Metro 360. Metro 360 is the entity through which the Literature Business is operated and so it would be extremely detrimental to the Partners, the Partnership and its business operations and stakeholders, if a stay of proceedings is not extended to Metro 360. It would also be extremely detrimental if Metro 360's customers, suppliers or service providers ceased performing under

existing agreements or tightened terms as a result of the NOIs and the commencement of these proceedings. I am advised by Goodmans that the extension of these protections to the Partnership is consistent with the *Lehndorff* principles, as discussed by Goodmans in its factum filed in support of this motion.

B. Disposal of Redundant or Non-Material Assets

56. Metro 360 is in the process of considering and pursuing a number of other potential transactions with respect to non-material assets and/or businesses not included within the scope of the Transaction (the “**Non-Material Residual Assets**”) in order to maximize value for the benefit of its creditors.

57. Metro 360 is seeking authorization to continue exploring opportunities for the sale of its Non-Material Residual Assets and, with the prior approval of the Proposal Trustee, to enter into and complete any transaction for Non-Material Residual Assets for not exceeding \$200,000 in any one transaction or \$400,000 in the aggregate. Metro 360 will still be required to seek Court approval for any transaction for proceeds in excess of the aforementioned thresholds.

VI. COMPETITION ACT MATTERS

58. Based on advice from Goodmans, I understand that the requirement to provide notice to the Commissioner of Competition before the Transaction is completed, pursuant to Part IX of the *Competition Act* (Canada) (the “**Competition Act**”), does not apply to the Transaction as the Transaction does not meet the requirements of that Part of the Competition Act for review or notice thereunder (as neither the aggregate value of the assets being acquired, nor the gross revenues from sales in or from Canada generated from those assets, is expected to exceed \$96 million, which is the monetary threshold under the Competition Act).

VII. CONCLUSION

59. Despite Metro 360's best efforts to manage the general decline in the print market and the unprecedented challenges arising as a result of the COVID-19 pandemic, its Literature Business is facing a significant and rapid erosion as both its supply and distribution networks have stalled, leaving Metro 360 product stranded and the Partnership in risk of breaching its customer arrangements and in significant payment arrears with its supplier base.

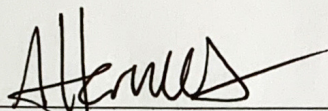
60. In such circumstances, Metro 360 began exploring potential sale options for the Literature Business and, with the assistance of its professional advisors, has determined that the Transaction is the best alternative in the circumstances. Metro 360 believes that completing the Transaction (which will realize value for the Literature Business, save the jobs of almost 80 percent of the Partnership's employees and will maintain supplier and customer relationships), in conjunction with the collection of accounts receivable and the return of inventory (which collectively are estimated to result in realizations of up to \$50 million), and the continuation of the Partnership's other business operations, represents the best available alternative in the circumstances. Metro 360 believes that this approach will maximize value for its creditors over time and assist the Partnership in its efforts to develop a restructuring plan that will result in full repayment to creditors.

61. Recent events have caused material reductions in the purchase price offered by TNG in the negotiations for the assets to be sold in the Transaction (which are mainly customer lists and associated goodwill) and it is critical that the Transaction be approved and implemented, with an Order from this Court to protect the Purchaser, in the immediate near-term to maintain the value offered by TNG in the executed Purchase Agreement. In my view, it is crystal clear that if TNG

does not acquire these assets through the Transaction, there will be no other buyer for like value for these assets.

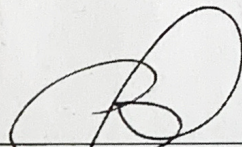
62. In the circumstances, I believe that the approval of the Transaction and the other relief requested on the within motion are in the best interests of the Partnership and its stakeholders.

SWORN BEFORE ME at the City of Toronto, in the Province of Ontario, on April 6, 2020



A Commissioner for taking affidavits
Name:

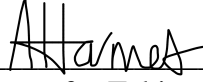
ANDREW HARRIES



Daniel P. Shapiro

B

THIS IS EXHIBIT "B"
TO THE AFFIDAVIT OF DANIEL P. SHAPIRO
SWORN BEFORE ME OVER VIDEOCONFERENCE
THIS 18th DAY OF JUNE, 2021



Commissioner for Taking Affidavits

Court File No. CV-20-00642783-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

**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 OR
ARRANGEMENT OF 957855 ALBERTA LTD. (FORMERLY
NEWSWEST INC.) AND ROSEBUD CREEK FINANCIAL
CORP. IN RESPECT OF METRO 360 GENERAL
PARTNERSHIP**

Applicants

**AFFIDAVIT OF DANIEL P. SHAPIRO
(sworn March 22, 2021)**

I, Daniel P. Shapiro, of the City of Toronto, in the Province of Ontario, **MAKE OATH
AND SAY:**

1. I am the President of 957855 Alberta Ltd. (formerly NewsWest Inc.) ("**Alberta HoldCo**") and the President of Rosebud Creek Financial Corp. ("**Rosebud HoldCo**" and, together with Alberta HoldCo, the "**Partners**"). Accordingly, I have personal knowledge of the matters to which I depose in this affidavit. Where I do not possess personal knowledge, I have stated the source of my information and, in all such cases, believe it to be true.¹

¹ Capitalized terms not defined in this affidavit shall have the meaning given to them in my affidavit sworn on April 6, 2020 (the "**April Affidavit**") or my affidavit sworn November 27, 2020 (the "**November Affidavit**"), copies of which (without exhibits) are attached to this affidavit as Exhibits "A" and "B", respectively. Unless otherwise indicated, monetary references in this affidavit are references to Canadian dollars.

2. This affidavit is sworn in support of a motion for an Order (the “**Stay Extension Order**”), among other things, extending the Stay Period (as defined below) to and including June 30, 2021.

I. BACKGROUND

3. The Partners are holding companies that together hold 100% of the interests of Metro 360 General Partnership (“**Metro 360**”). Metro 360 operates a multi-faceted business that, prior to completing the TNG Transaction (as defined below), was focused primarily on the wholesale distribution across Canada of books, magazines and newspapers (the “**Literature Business**”). Metro 360 also has other business interests, including a music distribution and consumer-packaged goods distribution business, and investments in various emerging businesses.

4. On April 6, 2020, the Partners filed notices of intention to make a proposal pursuant to section 50.4 of the *Bankruptcy and Insolvency Act* (Canada) in order to initiate proceedings (the “**Proposal Proceedings**”) to implement the sale of the Literature Business to Great Pacific Enterprises Inc. dba TNG (the “**TNG Transaction**”). This Court granted an Approval and Vesting Order on April 7, 2020, among other things, approving the TNG Transaction, and the TNG Transaction was completed the next day on April 8, 2020. Additional information with respect to the Literature Business, the issues leading to the TNG Transaction and the reasons why the TNG Transaction was the only viable option at the time to preserve and maximize the value of the Literature Business for the benefit of Metro 360, the Partners and their respective stakeholders, is set out in detail in the April Affidavit.

5. On June 17, 2020, the Partners continued the Proposal Proceedings under the *Companies’ Creditors Arrangement Act* (Canada) (the “**CCAA**”) pursuant to an Initial Order of the Court (the “**Initial Order**”). The Initial Order, in addition to taking up and continuing the proposal Proceedings under the CCAA, among other things, appointed KSV Restructuring Inc. as the

Monitor of the CCAA Entities (the “**Monitor**”) and granted a stay of proceedings under the CCAA (the “**Stay of Proceedings**”) in respect of the Partners and Metro 360 in order to provide the Partners and Metro 360 with stability for Metro 360’s remaining businesses and the time and framework within which the Partners and Metro 360 could advance a value-maximizing restructuring plan for the benefit of the Partners, Metro 360 and their various stakeholders.

6. On September 16, 2020, this Court granted an Order (the “**Claims Procedure Order**”) approving a process (the “**Claims Process**”) for the identification, quantification and resolution of claims against Metro 360 and the Partners, as well as the present and former officers and directors of the Partners and Metro 360. The Partners and Metro 360, with the assistance of their advisors and the assistance and oversight of the Monitor, have been working diligently to advance the Claims Process, which, as further discussed below, is substantially complete subject to the resolution of certain remaining claims, including the claim of the Canada Revenue Agency (the “**CRA**”) with respect to certain of Metro 360’s potential tax liabilities.

7. The Stay of Proceedings, as extended from time to time by further Orders of the Court, currently expires on March 31, 2021 (the “**Stay Period**”). The extension of the Stay Period to June 30, 2021 pursuant to the proposed Stay Extension Order is necessary to maintain stability while the Partners and Metro 360 work to resolve Metro 360’s tax matters, complete the Claims Process and advance a value-maximizing restructuring plan. The Partners and Metro 360 believe that the development and implementation of a restructuring plan that preserves the value of Metro 360 and its business is in the best interests of Metro 360 and the Partners, as well as their respective stakeholders. The Partners and Metro 360 had hoped to present at this time a proposed restructuring plan and seek approval to schedule a meeting of creditors to vote on such plan. However, as discussed further below, the Partners and Metro 360 are continuing to work with the CRA with

respect to certain tax matters that the Partners and Metro 360 believe need to be resolved before a plan can be finalized and presented to creditors and the Court. Accordingly, the Partners and Metro 360 require the ongoing benefit of the Stay of Proceedings to, among other things, resolve matters with the CRA, complete the Claims Process and finalize a proposed value-maximizing plan that is in the best interests of the Partners, Metro 360, and their various stakeholders.

II. UPDATE ON THE CCAA PROCEEDINGS

A. Claims Process Update

8. As described in the November Affidavit, as at the October 30, 2020 Claims Bar Date, the Monitor received 958 Proofs of Claim from arms' length creditors (including the CRA), totalling approximately \$14.3 million in the aggregate, excluding the Termination Claims of Terminated Employees which totaled approximately \$2.8 million in the aggregate. In addition, three related party claims were filed with the Monitor that total approximately \$10.9 million.

9. Following the Claims Bar Date, the Monitor has received an additional 67 Proofs of Claim (the "**Late Claims**"), which total approximately \$1.5 million in the aggregate. The Partners and Metro 360 have reviewed the Late Claims in conjunction with the Monitor and, as further described in the Third Report of the Monitor (the "**Third Report**"), which is to be filed in connection with this motion, the Partners, Metro 360 and the Monitor propose to admit such Late Claims in accordance with paragraph 6 of the Claims Procedure Order as such claims would have been accepted had they been filed prior to the Claims Bar Date.

10. The Monitor also received seven Notices of Dispute from Terminated Employees in respect of their Termination Claims, which, pursuant to the "negative notice" process for Terminated Employees approved by the Claims Procedure Order, were determined by the Partners and Metro

360 in consultation with the Monitor and set out in the Termination Claim Statements delivered to such Terminated Employees. The Monitor did not receive any D&O Proofs of Claim or any secured claims.

11. The Partners and Metro 360, with the assistance and oversight of the Monitor, have reviewed all Proofs of Claim and Notices of Dispute received in connection with the Claims Process in order to determine whether to accept, revise or reject each claim set forth therein. In particular, the Partners and Metro 360 have worked with a number of their creditors to reconcile amounts referenced in Proofs of Claim submitted in the Claims Process as against the books and records of Metro 360. A number of creditors have filed amended Proofs of Claim with the Monitor following this reconciliation process, resulting in an approximately \$645,000 decrease in the total amount of claims filed against Metro 360 in the Claims Process. Further, based on this reconciliation process, the Partners and Metro 360 expect additional amended Proofs of Claims to be filed with the Monitor, which amended Proofs of Claim, when received, are anticipated to further reduce the total amount of claims filed and ultimately admitted in the Claims Process.

12. In connection with the Claims Process and the review and reconciliation of the Proofs of Claim and Notices of Dispute filed therein, the Monitor has issued a total of 11 Notices of Revision or Disallowance (including to each of the seven Terminated Employees who filed a Notice of Dispute in respect of their Termination Claim), ten of which have now been resolved. The single remaining unresolved claim subject to a Notice of Revision or Disallowance issued by the Monitor relates to a Termination Claim and involves a dispute of approximately \$16,000. The Partners and Metro 360 hope to be able to resolve the remaining disputed claim in the near term.

13. Accordingly, as at the date of this Affidavit, the Claims Process is substantially complete. The only material claim which remains unresolved is the claim of the CRA, which is discussed in further detail below.

B. Update on CRA Matters

14. As described in the November Affidavit, the CRA filed a “placeholder” Proof of Claim against the Partners and Metro 360 in the Claims Process. The CRA’s claim did not reference a specified amount and was filed in respect of any type of tax liability potentially applicable to Metro 360. In this regard, the CRA issued three re-assessments to Metro 360 on or about October 16, 2020 making certain adjustments to Metro 360’s goods and services tax (“GST”) and harmonized sales tax (“HST”) liabilities. These CRA re-assessments have two principal components: (i) certain specific instances where Metro 360’s claims for input tax credits (“ITCs”) were denied because the CRA did not have sufficient supporting information, and (ii) an assessment of almost \$4.5 million in respect of unpaid HST, the majority of which effectively relates to the reversal of ITCs previously claimed by Metro 360.

15. Since the November Affidavit, the Partners and Metro 360, with the assistance of the Monitor, have continued to engage in discussions with CRA representatives with a view to reaching a final resolution with respect to the CRA re-assessments so that the CRA’s claim amount can be determined. On January 13, 2021, Metro 360 filed notices of objection regarding each of the CRA re-assessments. The notices of objection, among other things:

- (a) provided various background information and documents supporting the ITCs claimed by Metro 360 but rejected by the CRA due to a lack of supporting information;

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- (b) objected to the CRA's re-assessment of approximately \$3.7 million of HST as being premature and inappropriate given the ongoing efforts of Metro 360 to satisfy its creditors' claims in full; and
- (c) objected to the CRA's assessment of approximately \$663,543 of GST, as such assessment relates to amounts payable by Metro 360 for refunds in respect of supplies made by Metro 360 (not payments for supplies), for which no GST or HST is payable.

16. With respect to the CRA's re-assessment of HST referred to in paragraph 15(b), as referenced in the November Affidavit, the CRA commonly assesses unpaid HST to reverse ITCs claimed by a recipient in instances where the recipient is bankrupt or in receivership and unsecured suppliers suffer a loss on their claims. Metro 360 disputes the CRA's re-assessment in this respect as Metro 360 has not compromised any claims of its creditors and continues to work towards repaying creditors in full pursuant to a value-maximizing restructuring plan. In addition, Metro 360 also believes that the re-assessment does not account for the fact that, in the ordinary course and in connection with the return of unsold Literature Business inventory following the TNG Transaction, Metro 360 has correctly recaptured and/or repaid ITCs that it had previously claimed on that Literature Business inventory before completion of the TNG Transaction.

17. A CRA appeals officer has contacted Metro 360 to advise that they have been assigned to review Metro 360's notices of objection, and is currently reviewing the information provided therein. On March 15, 2021, representatives of the CRA, Metro 360 and Goodmans LLP had a productive conference call to discuss the re-assessments and the notices of objection. Metro 360 will be providing the CRA with additional information which the CRA requires before it is in a position to take any steps in respect of the re-assessments and/or the objection process.

18. The significant amounts at issue in the CRA re-assessments and the uncertain nature of the CRA's "placeholder" claim have prevented the Partners and Metro 360 from finalizing a restructuring plan that can be presented to creditors and this Court for approval.

III. UPDATE ON RECENT FINANCIAL PERFORMANCE AND BUSINESS OPERATIONS

19. The November Affidavit contains a detailed overview of Metro 360's efforts since the TNG Transaction and the sale of the Literature Business resulting therefrom to maintain the stability of its remaining operating businesses and investments and focus on the growth of each, particularly with respect to Well Ventures Corp. ("**Well Ventures**") and its health drink and spirits business.

20. Since the November Affidavit, Metro 360 has continued efforts to grow its remaining businesses and investments. Among other things, Metro 360's consumer-packaged goods distribution business has secured distribution rights to several new brands, including a new line of snacks developed by Joe Mimran and Associates, a line of canned sparkling, flat and flavoured waters called Norwegian Water which has been successful in Europe and Asia, and a new line of chickpea chips. Metro 360 is currently working to finalize listings for these new product lines and has also continued to work to build revenues in respect of its various existing consumer-packaged goods brands. However, Metro 360's consumer-packaged goods distribution business continues to be impacted by the ongoing COVID-19 pandemic as many Canadian retailers have curtailed new listings during this time. In the circumstances, Metro 360 is currently seeking to partner with a Canadian food broker who can assist Metro 360 in its relationships with major retailers, and is in the midst of negotiations in this respect.

21. Well Ventures has also experienced positive momentum in the months since the November Affidavit. Most notably, Well Ventures is finalizing an agreement to supply its “Well” branded health drinks to Starbucks locations across Canada. Although the rollout of product to Starbucks stores has been delayed due to COVID-19 related impacts, this relationship presents tremendous marketing and sales potential and will be a key account for Well Ventures moving forward. Well Ventures’ spirits business has also gained increased market presence. In addition to being sold through the Liquor Control Board of Ontario at its retail and online stores, Well Ventures’ spirits are now listed in approximately 700 stores in Western Canada and in the U.S. with certain divisions of Albertsons Companies, Inc. The foregoing achievements have been key for Well Ventures as the COVID-19 pandemic has had a materially adverse impact on certain of its largest customers, which in turn has affected sales of Well Ventures product.

22. In addition, Metro 360 has a 50% interest in Handfuel Inc. (“**Handfuel**”), a health snack company that is focused on manufacturing flavourful and nutritious snacks and has a unique line of nut-based products. Handfuel has now secured retail listings at almost all major Canadian food retailers (and is working to finalize arrangements in order to be listed at all such retailers), and has just hired a seasoned consumer-packaged goods executive to assist in further developing the brand, particularly in the United States.

23. Overall, Metro 360 believes its remaining businesses and investments, as a whole, are well positioned as the Canadian economy emerges from the COVID-19 pandemic and related lockdowns, and that such remaining businesses and investments will provide additional value to the creditors of Metro 360.

IV. EXTENSION OF THE STAY PERIOD

24. As discussed above, the Stay of Proceedings currently expires on March 31, 2021. The Partners and Metro 360 are seeking an extension of the Stay Period to and including June 30, 2021 pursuant to the proposed Stay Extension Order.

25. The extension of the Stay Period is necessary in order to maintain stability while the Partners and Metro 360 complete the Claims Process and finalize and present a proposed plan for the benefit of all stakeholders. As referenced above, the Partners and Metro 360 have been working diligently to attempt to complete the Claims Process and expect to continue trying to resolve and reconcile any remaining claims, including the claim of the CRA, during the proposed extended Stay Period with a view to finalizing and presenting a value-maximizing plan which can then be voted on by creditors.

26. As discussed further in my other affidavits provided in connection with the Proposal Proceedings and these CCAA proceedings, the Partners and Metro 360 believe that the development and implementation of a restructuring plan that preserves the value of Metro 360 and its business is in the best interests Metro 360 and the Partners, as well as their respective stakeholders. Although the Partners and Metro 360 had hoped to finalize a proposed plan by this time, as discussed above, the CRA's claim needs to be resolved before a proposed plan can be finalized and a meeting of creditors can be scheduled.

27. Accordingly, the extension of the Stay Period is necessary to provide the Partners and Metro 360 with the time needed to, among other things, attempt to complete the Claims Process and work towards finalizing and presenting a plan that is in the best interests of the Partners, Metro 360, and their various stakeholders.

28. I do not believe that any creditor will suffer any material prejudice as a result of the proposed extension of the Stay Period.

29. I understand that an updated cash flow forecast will be included in the Third Report, and that such cash flow forecast will show that the Partners and Metro 360 have sufficient liquidity to operate through the requested extended Stay Period. I also understand that the Monitor is supportive of the proposed extension of the Stay Period pursuant to the proposed Stay Extension Order to and including June 30, 2021.

V. CONCLUSION

30. The Partners and Metro 360 have been working diligently and in good faith to advance matters with the CRA and complete the Claims Process so that a value-maximizing plan can be developed and presented to creditors. The ongoing benefit of the Stay of Proceedings is required while the Partners and Metro 360 work to complete such matters for the benefit of the Partners, Metro 360, and their various stakeholders.

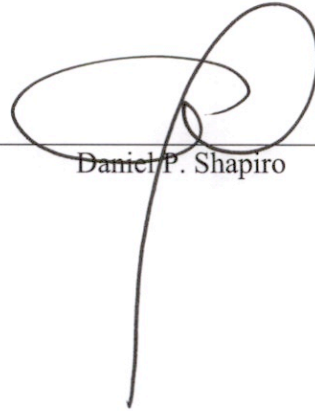
31. I believe that the extension of the Stay of Proceedings is in the best interests of the Partners, Metro 360 and its stakeholders in the circumstances, and I understand that the Monitor is supportive of the proposed extension of the Stay Period to June 30, 2021.

32. For the reasons described above, the Partners and Metro 360 respectfully request that this Court grant the proposed Stay Extension Order.

SWORN BEFORE ME over
videoconference by Daniel P. Shapiro stated
as being located in the City of Toronto in the
Province of Ontario, before me at the City of
Toronto in the Province of Ontario, on
March 22, 2021, in accordance with O. Reg
431/20, Administering Oath or Declaration
Remotely



A Commissioner for taking affidavits
Name: Andrew Harmes



Daniel P. Shapiro

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 OR ARRANGEMENT OF 957855 ALBERTA LTD. (FORMERLY NEWSWEST INC.) AND ROSEBUD CREEK FINANCIAL CORP. IN RESPECT OF METRO 360 GENERAL PARTNERSHIP

Court File No. CV-20-00642783-00CL

Applicants

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)
Proceeding commenced at Toronto

AFFIDAVIT OF DANIEL P. SHAPIRO
(Sworn June 18, 2021)

GOODMANS LLP
Barristers & Solicitors
333 Bay Street, Suite 3400
Toronto, Canada M5H 2S7

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Lawyers for 957855 Alberta Ltd. (formerly NewsWest Inc.), Rosebud Creek Financial Corp., and Metro 360 General Partnership

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Court File No.: CV-20-00642783-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE MR.)	FRIDAY, THE 25 TH
)	
JUSTICE DUNPHY)	DAY OF JUNE, 2021

**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 OR
ARRANGEMENT OF 957855 ALBERTA LTD.
(FORMERLY NEWSWEST INC.) AND ROSEBUD CREEK
FINANCIAL CORP. IN RESPECT OF METRO 360
GENERAL PARTNERSHIP**

Applicants

STAY EXTENSION ORDER

THIS MOTION, made by 957855 Alberta Ltd. (formerly NewsWest Inc.) (“**Alberta HoldCo**”) and Rosebud Creek Financial Corp. (“**Rosebud HoldCo**” and, together with Alberta HoldCo, the “**Applicants**”), being the partners of the Metro 360 General Partnership (“**Metro 360**” and, together with the Applicants, the “**CCAA Entities**”), pursuant to the *Companies’ Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the “**CCAA**”), was heard this day by videoconference at Toronto, Ontario.

ON READING the affidavit of Daniel P. Shapiro sworn June 18, 2021, including the exhibits thereto, and the Fourth Report of KSV Restructuring Inc.,¹ in its capacity as the monitor

¹ Effective August 31, 2020, the name of KSV Kofman Inc. (“**Kofman**”) was changed to KSV Restructuring Inc. (“**Restructuring**”). All Kofman mandates are now being performed by Restructuring.

- 2 -

of the CCAA Entities under the CCAA (the “**Monitor**”), dated June 18, 2021 (the “**Fourth Report**”), including the affidavit of David Sieradzki sworn June 18, 2021 (the “**KSV Affidavit**”) and the affidavit of Sean Zweig sworn June 15, 2021 (the “**Bennett Jones Affidavit**”) attached thereto, and on hearing the submissions of counsel for the CCAA Entities, counsel for the Monitor, and such other counsel as were present, no one else appearing although duly served:

SERVICE AND DEFINITIONS

1. **THIS COURT ORDERS** that the time and method for service of the Notice of Motion and Motion Record is hereby abridged and validated so that this Motion is properly returnable today and hereby dispenses with further service thereof.
2. **THIS COURT ORDERS** that capitalized terms used herein and not otherwise defined have the meanings given to them in the Initial Order of this Court made in the within proceedings dated June 17, 2020 (as amended, the “**Initial Order**”).

EXTENSION OF THE STAY PERIOD

3. **THIS COURT ORDERS** that the Stay Period be and is hereby extended to and including 11:59 p.m. (Toronto time) on September 30, 2021, and that all other terms of the Initial Order shall remain in full force and effect during the Stay Period.

APPROVAL OF MONITOR’S FOURTH REPORT, ACTIVITIES AND FEES

4. **THIS COURT ORDERS** that the Fourth Report and the activities and conduct of the Monitor described therein, be and are hereby approved; provided, however, that only the Monitor, in its personal capacity and only with respect to its own personal liability, shall be entitled to rely upon or utilize in any way such approval.

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5. **THIS COURT ORDERS** that the professional fees and disbursements of the Monitor, as set out in the KSV Affidavit, are hereby approved.

6. **THIS COURT ORDERS** that the professional fees and disbursements of Bennett Jones LLP, legal counsel to the Monitor, as set out in the Bennett Jones Affidavit, are hereby approved.

THE KERP CHARGE

7. **THIS COURT ORDERS** that the KERP Charge is hereby terminated, released and discharged and shall no longer constitute a charge on the Property. The term “Charge” under the Initial Order is hereby amended to remove reference to the KERP Charge.

GENERAL

8. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada, the United States or any other foreign jurisdiction, to give effect to this Order and to assist the CCAA Entities, the Monitor and their respective agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the CCAA Entities and to the Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Order, to grant representative status to the Monitor in any foreign proceeding, or to assist the CCAA Entities and the Monitor and their respective agents in carrying out the terms of this Order.

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 OR ARRANGEMENT OF 957855 ALBERTA LTD. (FORMERLY NEWSWEST INC.) AND ROSEBUD CREEK FINANCIAL CORP. IN RESPECT OF METRO 360 GENERAL PARTNERSHIP

Applicants

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)
Proceeding commenced at Toronto

STAY EXTENSION ORDER

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**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 OR ARRANGEMENT OF 957855
ALBERTA LTD. (FORMERLY NEWSWEST INC.) AND ROSEBUD CREEK FINANCIAL
CORP. IN RESPECT OF METRO 360 GENERAL PARTNERSHIP**

Court File No.: CV-20-00642783-00CL

Applicants

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

Proceeding commenced at Toronto

MOTION RECORD
(Motion returnable June 25, 2021)

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