



This is the 5<sup>th</sup> affidavit of  
Andrew Cole in this case and  
was made on February 24, 2025

NO. S-248103  
VANCOUVER REGISTRY

**IN THE SUPREME COURT OF BRITISH COLUMBIA**

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

AND

IN THE MATTER OF THE *BUSINESS CORPORATIONS ACT*, S.B.C. 2002, c. 57

AND

IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF  
FELIX PAYMENT SYSTEMS LTD.

PETITIONER

**A F F I D A V I T**

I, **Andrew Cole**, businessperson, of 1400-355 Burrard Street, Vancouver, British Columbia, SWEAR THAT:

1. In October 2024, I was appointed and remain the Chief Executive Officer of Felix Payment Systems Ltd. ("**Felix**"). Prior to that, I was the Chief Financial Officer of Felix from mid-2021 to October 2024. I have been involved in the restructuring efforts of Felix to date. Where necessary, I have also reviewed the books and records maintained by Felix in the ordinary course of business. As such, I have personal knowledge of the matters described in this affidavit, except where I say that my knowledge is based on information from others, in which case, I believe the same to be true.
2. This affidavit is made in support of Felix's notice of application, dated February 24, 2025 (the "**Application**"), seeking an order (the "**Approval and Reverse Vesting Order**") that, among other things approves the transactions (the "**Transactions**") contemplated in the Stalking Horse Subscription Agreement, dated December 3, 2024, as amended (the "**Stalking Horse Subscription Agreement**"), among Felix and Jake Boxer, Doug Mordy, the CA Mordy Legacy Trust, and PEL Chartered Professional Accountants Inc. (collectively, the "**Purchasers**").

### **Background**

3. On October 15, 2024, Felix filed a notice of intention to make a proposal (the "**NOI**") under the *Bankruptcy and Insolvency Act*, R.S.C. 1985 c. B-3, which commenced the NOI proceeding (the "**NOI Proceeding**").
4. On November 25, 2024, this Court granted an initial order (the "**Initial Order**") with respect to Felix under the *Companies' Creditors Arrangement Act*, RSC 1985, c C-36 ("**CCAA**"), which, among other things, granted Felix a continuation of the NOI Proceeding as a proceeding under the CCAA (the "**CCAA Proceeding**") and appointed Alvarez & Marsal Canada Inc. ("**A&M**") as an officer of the Court to monitor the assets, business, and financial affairs of Felix (in such capacity, the "**Monitor**");
5. On December 6, 2024, this Court granted an amended and restated initial order (the "**ARIO**").
6. On December 9, 2024, the Court granted an order (the "**Sales Process Order**") which, among other things, approved a sales and investment solicitation process (the "**SISP**").
7. Felix, as foreign debtor and foreign representative, filed a petition under chapter 15 of the United States Bankruptcy Code in the United States Bankruptcy Court for the Eastern District of North Carolina (the "**Chapter 15 Court**"), Case No. 25-00053-PWM (the "**Chapter 15 Proceedings**"). On January 15, 2025, the Chapter 15 Court in the Chapter 15 Proceedings entered an order granting provisional relief confirming that the Initial Order and the ARIO are fully enforceable against Felix and its assets located in the United States.
8. If this Court grants the Approval and Reverse Vesting Order sought herein, Felix will promptly seek recognition of that order in the Chapter 15 Proceedings.

### **The Sales Process**

9. Since the Sales Process Order, Felix has worked closely with the Monitor to implement the SISP in accordance with its terms, including responding to information requests and assisting with preparation of the confidential virtual data room (the "**VDR**"). While conducting the SISP, Felix has continued to operate in the ordinary course of business and liaise with its various stakeholders including trade creditors, customers, employees, and other interested parties.

10. I am informed by Mr. Anthony Tillman, of the Monitor, that:

- (a) On December 13, 2024, the Monitor sent a solicitation letter (the "**Teaser Letter**") and a form of non-disclosure agreement ("**NDA**") to the list of 104 potential bidders, including the 41 interested parties provided by Felix. Felix assisted the Monitor to prepare the list of 104 interested parties.
- (b) The Monitor prepared a confidential information memorandum (a "**CIM**").
- (c) Parties that executed an NDA received a copy of the CIM.
- (d) The VDR went live on December 20, 2024.
- (e) Throughout the SISP, a total of five potential bidders signed non-disclosure agreements and were consequently provided access to the VDR.
- (f) By the Bid Deadline of 5:00 pm (Pacific Standard Time) on January 31, 2025, the Monitor had received two bids in addition to the Stalking Horse Subscription Agreement (the "**Additional Bids**").
- (g) The Additional Bids were from Dapit NA LLC, BSG Hall Investments, LLC, Ripcord Capital LLC, Steve Hall, and SR Management LLC (the "**Dapit Bidder**") and BigWest Acq Co (the "**BigWest Bidder**", together with the Dapit Bidder, the "**Additional Bidders**").
- (h) The Dapit Bidder submitted a bid of \$7.7 million in cash and a \$1.275 million credit bid
- (i) The Dapit Bidder also submitted a deposit of US\$300,000.
- (j) The Dapit Bidder imposed additional conditions precedent that would require further due diligence.
- (k) The BigWest Bidder submitted a bid of \$2.5 million in cash and the assumption of certain liabilities.
- (l) The BigWest Bidder's deposit was to be paid the week of February 3, 2025.

- (m) The Monitor, in consultation with Felix and with the consent of the DIP Lender, granted the Additional Bidders an extension until February 5, 2025 to bring their bids into compliance with the SISP requirements.

11. Attached hereto as **Exhibit "A"** is the correspondence from Mr. Christopher Wick on behalf of the Dapit Bidder to the Monitor on February 5, 2025 in support of the Dapit Bid.

12. Attached hereto as **Exhibit "B"** is the correspondence from Mr. Anthony Tillman to Felix's counsel, Mr. Lance Williams, stating that the Dapit Bidder had informed that it had not submitted a Qualified Bid.

### **The Stalking Horse Subscription Agreement**

13. The Stalking Horse Subscription Agreement, dated December 3, 2024 is attached hereto as **Exhibit "C"**. The Amended and Restated Stalking Horse Subscription Agreement, dated February 24, 2025 is attached hereto as **Exhibit "D"**.

14. The Transactions in the Stalking Horse Subscription Agreement are structured as a reverse vesting order whereby the Purchasers will acquire shares to be issued by Felix pursuant to the Approval and Reverse Vesting Order.

15. The Stalking Horse Subscription Agreement will benefit Felix because, among other things, it assures Felix's many stakeholders—including its employees, customers, and Critical Suppliers (as defined in my first affidavit, sworn November 21, 2024)—that there will be a going-concern outcome for Felix's business. Felix's value is as a going-concern, and a liquidation would not realise the same value.

16. I believe that the Transactions are in the best interest of Felix and its stakeholders and, therefore, ought to be approved for the following reasons:

- (a) The Transactions resulted from the SISP, which involved the Monitor contacting 104 potential strategic and financial buyers; broad, public notice of the opportunity; the execution of NDA's by five potential bidders; and bids submitted by the Additional Bidders—all with a view to yielding the highest and best purchase price.

- (b) The Monitor approved of the process leading up to the Transactions. The Monitor was involved in the design of the SISP and oversaw marketing the opportunity and due diligence of the business.
  - (c) The Transactions will preserve going-concern value, employment, and associated economic activity, including important supply and distribution relationships.
  - (d) The purchase price is the highest consideration offered for Felix's business following Felix's and Monitor's good faith efforts in the SISP and the evaluation of bids to qualify as Qualified Bids.
17. I believe the RVO structure is the only commercially practical structure because:
- (a) The RVO allows the Purchasers to acquire otherwise non-transferrable assets. Felix holds a number of certifications to operate as its product is a payment processing technology. Those certifications are time and resource intensive. Certifications are particularly important to win large contracts with key customers, therefore, Felix has invested significant capital in obtaining a number of these certifications. These certifications are key to the growth and commercialization of Felix's business. However, these certifications are non-transferable licenses. The RVO structure allows the Purchasers to acquire these otherwise non-transferable assets. Felix also holds significant tax losses.
  - (b) The Transactions will preserve going-concern value, employee jobs, and associated economic activity, including important supply and distribution relationships.
  - (c) Felix and the Monitor made good faith efforts to market Felix's business and assets to achieve the highest possible price. The Stalking Horse Subscription Agreement represents the best outcome and was the only Qualified Bid received in the SISP.

### **Releases**

18. The Released Parties (as defined in the Approval and Reverse Vesting Order) have made significant contributions to the development and implementation of Felix's exit from this

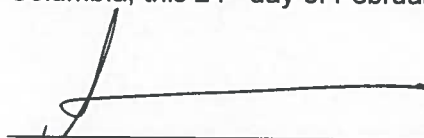


CCAA Proceeding. Based on my experience in this restructuring process, the directors and officers of Felix have been, and remain, critical to this CCAA Proceeding, including by:

- (a) continuing to operate Felix in the ordinary course of business and liaise with its various stakeholders including trade creditors, customers, employees, and other interested parties during the SISP;
- (b) maintaining active involvement, and support of the Monitor, in the implementation of the SISP; and
- (c) supporting the negotiation and execution of the Stalking Horse Subscription Agreement and the consummation of the Transactions contemplated therein.

19. The Monitor and its professional advisors have diligently overseen this CCAA Proceeding and been imperative to the success of same. As such, I believe their direct involvement were crucial to reaching this result.

SWORN BEFORE ME at the City of  
Vancouver, in the Province of British  
Columbia, this 24<sup>th</sup> day of February, 2025.

  
A Commissioner for taking Affidavits for  
British Columbia



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