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**BEFORE THE
SURFACE TRANSPORTATION BOARD**

**IN THE MATTER OF
ESSEX EQUITY PARTNERS MJT, LLC, LAWRENCE BOYCE, AND TERRY
STAPP**

**– ACQUISITION OF CONTROL –
XPLORE KY LLC AND MJT NASHVILLE LLC**

DOCKET NO. MCF 21116

**VERIFIED APPLICATION UNDER 49 U.S.C. § 14303(a)
FOR APPROVAL OF THE ACQUISITION OF CONTROL OF
XPLORE KY LLC AND MJT NASHVILLE LLC
BY ESSEX EQUITY PARTNERS MJT, LLC, LAWRENCE BOYCE, AND TERRY
STAPP**

Essex Equity Partners MJT, LLC (“Essex MJT”), Lawrence Boyce (“Boyce”), and Terry Stapp (“Stapp”) (collectively, “Applicants”) respectfully submit this verified application under 49 U.S.C. § 14303 and Surface Transportation Board (the “STB” or “Board”) regulations at 49 C.F.R. Part 1182 (this “Application”) for approval of the transaction more fully described herein (the “Transaction”). The Transaction was completed on April 23, 2024; however, Applicants and Seller (defined below), were not aware until recently that the Transaction was subject to the jurisdiction and approval of the Board. The result of the Transaction was the indirect acquisition of control by Applicants of the regulated interstate passenger motor

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carriers, Xplore KY LLC (“Xplore”) and MJT Nashville LLC (“Nashville”) (collectively, “Carriers”), by acquiring direct control of the outstanding equity membership in MJT Holdings, LLC (“MJT Holdings”), the entity that holds all of the outstanding membership interests in Carriers.

I. Parties of the Transaction, Pertinent Operating Authorities, and USDOT Safety Fitness Ratings (49 C.F.R. § 1182.2(a)(1) and (2)).¹

A. Purchasers: As of the closing of the Transaction, the equity interests in MJT Holdings LLC are held by Boyce (8.35%), Stapp (1.87%), and Essex MJT (89.78%). Boyce is an individual resident of the state of Kentucky, and maintains his headquarters at 6001 Hackney Coach Dr., Louisville, KY 40207. Stapp is an individual resident of the state of Indiana, and maintains his headquarters at 4213 Stone Mountain Rd., New Albany, IN 47150. Essex MJT is a Kentucky limited liability company located at 6 Mockingbird Pl, Louisville, KY 40207. In turn, the outstanding membership interests in Essex MJT are held by DOW 2021 Holdings, LLC, a Texas limited liability company (“DOW 2021”) (38.37%), AR2022 Holdings, LP, a Texas limited partnership (“AR2022”) (38.37%), and Arcadia Partners, LLC, a Kentucky limited liability company (“Arcadia”) (23.26%). All of the outstanding membership interest in DOW 2021 is held by Michael Radler, an individual resident of the state of Texas. The outstanding partnership interests in AR2022 are held by Alexander Radler, an individual resident of Texas as its sole limited partner (99%) and AKR 2016 Holdings, LLC, a Texas limited liability company (“AKR 2016”) as its sole general partner (1%). In turn, Alexander Radler holds all of the outstanding membership interest in AKR 2016. All of the outstanding membership interest in Arcadia Partners is held by Edward

¹ This Application is organized to follow the elements set forth in the applicable rules of the Board at 49 C.F.R. § 1182.2(a).

H. Harrison, an individual resident of the state of Kentucky.

The authorized signatures of and on behalf Applicants are set forth in the Verification of Applicants in section XIII.A of this Application. None of the Applicants are a federally regulated passenger motor carrier, and none of the Applicants have a U.S. Department of Transportation Number ("USDOT No."), a Federal Motor Carrier Safety Administration Docket Number ("FMCSA Docket No.")², or a safety rating assigned by U.S. Department of Transportation ("Safety Rating"). Other than Carriers, none of the entities or persons having direct or indirect interests in Applicants control any federally regulated interstate passenger motor carrier, and none of those entities or persons have a USDOT No., FMCSA Docket No., or Safety Rating.

B. Sellers. Sean Higgins and Lisa Higgins (the "Sellers") collectively owned the membership interest in MJT Holdings, LLC ("MJT Holdings"), which in turn owns 100% of the membership interests of Xplore and Nashville, which are Kentucky and Tennessee limited liability companies, respectively. Sellers are individual residents of the state of Kentucky. In 2009, Sellers started operating Xplore, primarily in Kentucky, then decided to create and open Nashville in 2018 in order to have a small operation in Tennessee. Sellers and MJT Holdings maintain their headquarters at 1631 Mellwood Avenue, Louisville, KY 40206. Neither Sellers nor MJT Holdings is a carrier, has a USDOT No., has an FMCSA Docket No., or has a Safety Rating. Sellers and MJT Holdings did not control any federally regulated passenger motor carrier other than Carriers. The authorized signatures of the Sellers are set forth in the Verification of Sellers in section XIII.B of this Application.

² An FMCSA Docket No. is the reference number assigned to a motor carrier by Federal Motor Carrier Safety Administration for interstate motor carrier authority.

C. Xplore. Xplore is headquartered at 1631 Mellwood Avenue, Louisville, KY 40206. The USDOT Number assigned to Xplore is 1747443. Xplore holds interstate carrier operating authority under FMCSA Docket No. MC-666448, and Xplore has a Safety Rating of “Satisfactory.” Xplore is providing transportation services in the following areas of service (the “Xplore Service Offerings”):

(i) Charter. Xplore provides charter transportation services to the traveling public for activities and events such as guided tours and group excursions (e.g., the Bourbon Trail, weddings, etc.) and recreational and entertainment events (e.g., trips to horse tracks), all from its terminal facilities located in Louisville, KY.

(ii) Equipment and Drivers. In providing the Xplore Service Offerings, Xplore utilizes approximately 5 vans (1-9 passengers), 11 vans (9-15 passengers), 14 mini buses, and approximately 46 drivers.³

D. Nashville. Nashville is headquartered at 712 Dickerson Pike, Suite 202, Nashville, TN 37207. The USDOT Number assigned to Nashville is 3102246. Nashville holds interstate carrier operating authority under FMCSA Docket No. MC-79453, and Nashville does not have a Safety Rating.⁴ Nashville is providing transportation services in the following areas of service (the “Nashville Service Offerings”):

³ The numbers of vehicles and drivers reflected in the Company Snapshot of the Federal Motor Carrier Safety Administration’s Safety and Fitness Electronic Records (SAFER) System is dependent on information submitted by the applicable motor carriers on form MCS-150 (Motor Carrier Identification Report), which is required to be categorically updated biennially and only required to reflect vehicles subject to Uniform Carrier Registration. However, carriers can include intrastate vehicles and drivers that are not required to be included. Accordingly, the number of vehicles and drivers reflected in the Company Snapshot may not be the same as the number of vehicles and drivers in use by a carrier at a given point in time.

⁴ Some motor carriers have not been rated by FMCSA or USDOT. If a carrier has not been rated, the Safety Rating is denoted as None or No Safety Rating

(i) Charter. Nashville provides charter transportation services to the traveling public for activities and events such as weddings, guided tours and group excursions, and recreational and entertainment events (e.g., concerts), all from its terminal facilities located in Nashville, TN.

(ii) Equipment and Drivers. In providing the Nashville Service Offerings, Nashville utilizes approximately 1 van (1-9 passengers), 2 vans (9-15 passengers), 5 mini buses, and approximately 14 drivers.

II. Description of the Transaction (49 C.F.R. § 1182.2(a)(3)).

The event triggering STB jurisdiction over the Transaction is the acquisition of control of Xplore and Nashville by Applicants. As mentioned in the introductory paragraph of this Application, at the time of the closing of the Transaction, Applicants were not aware that the Transaction was subject to the jurisdiction and approval of the Board. As such, the STB's jurisdiction is invoked by 49 U.S.C. § 14303(a)(4), as the Transaction entails the "acquisition of control of at least 2 carriers [*i.e.*, Xplore and Nashville] by a person that is not a carrier." Exhibit A attached hereto depicts the organizational structure of Carriers following the closing of the Transaction.

III. Other Federally Regulated Carrier Affiliates (49 C.F.R. § 1182.2(a)(4)).

Other than Xplore and Nashville as described above, there are no other carriers with regulated interstate operations involved in this Application.

IV. Jurisdictional Statement – Revenues (49 C.F.R. § 1182.2(a)(5)).

The STB has jurisdiction over this matter under 49 U.S.C. § 14303(g), because the annual aggregate gross operating revenues of the Carriers exceeded \$2 million during the 12-month period immediately preceding the filing of this Application.

V. Environmental Impact (49 C.F.R. § 1182.2(a)(6)).

Approval of this Application and consummation of the Transaction will not have a significant effect on the quality of the human environment and the conservation of energy resources. The Transaction is merely a change in control of two carriers that already provide charter services. No environmental impact is expected.⁵

VI. Public Interest Considerations (49 C.F.R. § 1182.2(a)(7)).

The Board “shall approve and authorize a transaction” when it finds that the transaction is “consistent with the public interest.” 49 U.S.C. § 14303(b). The statutory factors the Board must consider are the “adequacy of transportation to the public,” “total fixed charges that result...” and the “interest of carrier employees affected...” *Id.*

A. Adequacy of Transportation Services. The Transaction will not have a material, detrimental impact on the adequacy of transportation services available for the public. Applicants intend that the services of Xplore and Nashville currently available to the public will continue to be provided by Xplore and Nashville under the same names and from the same locations used to provide such services prior to the Transaction. Xplore and Nashville will continue to operate, but going forward, will continue to be operated within the holdings of Applicants. Because this Transaction merely involves the transfer of Sellers’ holding company and ownership and control of the Carriers to another, non-passenger carrier holding company, the impact of the Transaction on the regulated motor carrier industry will be minimal, at best.

B. Fixed Charges. The Transaction will increase fixed charges, in the form of interest expense, because funds were borrowed by Applicants to assist in the financing of the

⁵ The Board has found similar transactions to be categorically excluded from environmental review under 49 C.F.R. § 1105.6(c). *See, e.g., Van Pool Transportation LLC – Acquisition of Control – Royal Coach Lines, Inc.*, STB Docket No. MCF 21107, at 4 (STB served June 14, 2023). Section 1105.6(c) categorically excludes Section 14303 transactions that do not implicate operational changes that exceed certain specified thresholds.

Transaction. However, such an increase will not impact the provision of transportation services to the public. The Board has approved transactions that use debt financing in the past, despite some increase to interest expense. *See, e.g., Variant Equity I, LP, and Project Kenwood Acquisition, LLC – Acquisition of Control – Coach USA Administration, Inc., and Coach USA, Inc.*, STB Docket No. MCF 21084, at 4 (served February 15, 2019), and *Sureride Charter Inc. – Acquisition of Control – McClintock Enterprises, Inc., D/B/A Goldfield State & Co.*, STB Docket No. MCF 21077, at 3 (served November 2, 2017).

C. Employee Interests. Applicants have continued and intend to continue the existing operations of Xplore and Nashville and as such, the Transaction will not materially impact employees or labor conditions. Applicants do not anticipate any measurable reduction in force or changes in compensation levels and/or benefits at Xplore and Nashville.

D. Competition and the Public Interest. The law requires the Board to assess competition in the market and the impact on the public interest as affected by approving an arrangement in which multiple passenger carriers are under control of a single entity. In making such analysis, the Board (as did its predecessor, the Interstate Commerce Commission) has consistently found that proposed “common control” arrangements (however accomplished) are inherently not anti-competitive. In large measure, that conclusion rests on the finding that because of the ease of entry into the market, the passenger motor carrier industry is characterized by healthy intra-modal competition as well as healthy competition between bus service, on the one hand, and, on the other, other modes of transportation, all of which constitute the “relevant market.” *GLI Acquisition Co – Purchase – Trailways Lines, Inc.*, 4 I.C.C. 2d 591, 598-602 (1988).

On the rare occasions in recent years in which the Board has been called upon to assess the “public interest” and “competition” issues inherent in the practice of the

acquisition of ownership of numerous bus carriers by non-carrier entities, it has consistently approved applications of this sort, finding that acquisitions that contemplate the single control of numerous passenger carriers can result in better overall service for the public without any reduction of the benefits of healthy competition. The Board's decisions include *Kelsian USA Inc. – Acquisition of Control – AAAHI Topco Corporation*, STB Docket No. MCF 21106 (served Apr. 14, 2023); and *Transdev Group, S.A. – Acquisition of Control – First Transit Topco, Inc.*, STB Docket No. MCF 21103 (served Jan. 5, 2023); *National Express LLC – Acquisition of Control – Premier Transportation, LLC*; STB Docket No. MCF 21091 (served March 12, 2020); and *Winthrop Sargent, John Cogliano, and Paul Fuerst – Acquisition of Control – Plymouth and Brockton Street Railway Company, Brush Hill Transportation Company, and McGinn Bus Company, Inc.*, STB Docket No. MCF 21089, (served January 3, 2020).

This Transaction merely involves the transfer of Sellers' holding company and ownership and control of the Carriers to another, non-passenger carrier holding company. Because Applicants do not currently have any ownership interests in or control of any passenger motor carrier, there will be no net gain in market power as result of the Transaction. Moreover, since Applicants do not currently operate any motor carrier service, there will be no overlap in the service areas or customer bases of the Carriers and Applicants. The impact of the Transaction on the regulated motor carrier industry will be minimal, at best, and neither competition nor the public interest will be adversely affected. Moreover, Applicants will seek to grow the business of the Carrier through new contracts with new customers, in addition to expanding services for existing customers.

Board approval of this Application will allow the acquisition of control of the Carriers to be accomplished without the approval of state regulatory authorities, thus relieving the

parties of the Transaction from potentially burdensome regulatory requirements. *See* 49 U.S.C. § 14303(f).⁶

VII. Safety Fitness Certification (49 C.F.R. § 1182.2(a)(8)).

Sellers certify that the Safety Ratings of Xplore and Nashville are as set forth in section I.C and D of this Application.

VIII. Insurance Certification (49 C.F.R. § 1182.2(a)(9)).

Sellers certify that Xplore and Nashville had prior to the closing of the transaction the requisite insurance coverage under 49 U.S.C. § 13906. Applicants certify that Xplore and Nashville immediately following the closing of the Transaction have the requisite insurance coverage under 49 U.S.C. § 13906.

IX. Mexico Certification (49 C.F.R. § 1182.2(a)(10)).

A. Applicants. Applicants certifies that neither Applicants nor any entity or person controlling them, including Xplore and Nashville, is domiciled in Mexico, nor owned or controlled by persons of that country.

B. Xplore and Nashville. Sellers certify that Xplore and Nashville were neither domiciled in Mexico nor owned or controlled by entities or persons of that country.

X. No Individuals Holding Operating Authority (49 C.F.R. § 1182.2(a)(11)).

The Transaction does not involve the transfer of operating authority to an individual who will hold the authority in his or her name.

⁶ 49 U.S.C. § 14303(f) provides that "A carrier or corporation participating in or resulting from a transaction approved by the [Surface Transportation] Board under this section, or exempted by the Board from the application of this section pursuant to section 13541, may carry out the transaction, own and operate property, and exercise control or franchises acquired through the transaction without the approval of a State authority. A carrier, corporation, or person participating in the approved or exempted transaction is exempt from the antitrust laws and from all other law, including State and municipal law, as necessary to let that person carry out the transaction, hold, maintain, and operate property, and exercise control or franchises acquired through the transaction."

XI. Exempt Transaction under Federal Premerger Notification Laws.

Pursuant to 15 U.S.C. § 18a(c)(6), this Application and copies of all other information and documentary material filed with the Board in connection with the Transaction are being served upon the United States Federal Trade Commission and the Antitrust Division of the United States Department of Justice in keeping with the Transaction's status under the regulated-industry provisions of that statute.

XII. Conclusion.

Applicants submit that the Transaction is consistent with the public interest. As provided by 49 C.F.R. Part 1182 and for the reasons set forth herein, the Board is respectfully requested to approve this Application and authorize the Transaction and the acquisition of control of Carriers as described herein.

XIII. Verification.

The verifications of Applicants and the Sellers are as follow:

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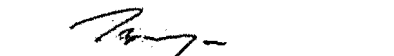
A. Verification of Applicants. Each of the undersigned verifies under penalty of perjury under the laws of the United States of America, that all information supplied by such person on behalf of and limited to Applicants in connection with this Application is true and correct. Further, each of the undersigned is qualified and authorized to submit this verification and file this Application. Each of the undersigned further certifies under penalty of perjury under the laws of the United States, that each of the undersigned knows that willful misrepresentations or omissions of material facts constitute Federal criminal violations punishable under 18 U.S.C. § 1001 by imprisonment up to five years and fines up to \$10,000 for each offense. Additionally, these misstatements are punishable under 18 U.S.C. § 1621, which provides for fines up to \$2,000 or imprisonment up to five years for each offense.

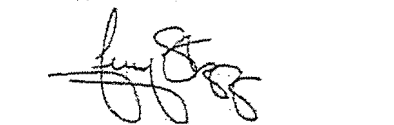
"Applicants"

Dated: June 17, 2024



Essex Equity Partners
Edward Harrison, Manager

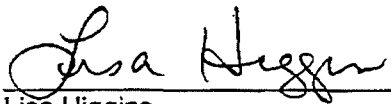

Lawrence Boyce


Terry Stapp

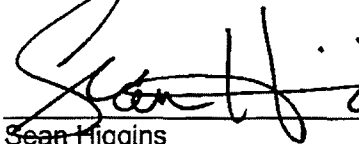
B. Verification of Sellers. The undersigned verify under penalty of perjury under the laws of the United States of America, that all information supplied by each of them on behalf of and limited to Carriers and Sellers, as applicable, in connection with this Application is true and correct. Further, the undersigned are qualified and authorized to submit this verification and authorize the filing of this Application. The undersigned further certify under penalty of perjury under the laws of the United States, that each knows that willful misrepresentations or omissions of material facts constitute Federal criminal violations punishable under 18 U.S.C. § 1001 by imprisonment up to five years and fines up to \$10,000 for each offense. Additionally, these misstatements are punishable under 18 U.S.C. § 1621, which provides for fines up to \$2,000 or imprisonment up to five years for each offense.

"Sellers"

Dated: June 17, 2024



Lisa Higgins



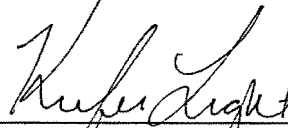
Sean Higgins

XIV. Applicants' Legal Counsel.

"Applicants"

Kiefer A. Light
Andrew K. Light
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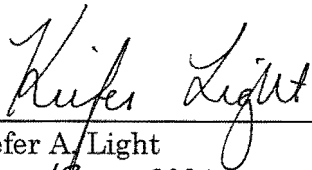
Respectfully,

A handwritten signature in cursive script, appearing to read "Kiefer A. Light", written over a horizontal line.

Kiefer A. Light
Andrew K. Light
Counsel for Applicants

Certificate of Service

I hereby certify that as required by 49 C.F.R. § 1182.3, I have served a copy of the foregoing Application by mailing a copy thereof, via U.S. first-class mail on the U.S. Department of Transportation, Chief Licensing and Insurance Division, 1200 New Jersey Avenue, S.E., Mail Stop W65-331, Washington, DC 20590; and the state regulatory agencies for the states in which intrastate operations are affected. I further certify that as required by 15 U.S.C. § 18a(c)(6), I have also served a copy of the foregoing Application, and copies of all other information and documentary material filed with the Surface Transportation Board in connection with the Transaction, via email on the United States Federal Trade Commission and the Antitrust Division of the United States Department of Justice.



Kiefer A. Light
June 18, 2024

Exhibit A

