Dolan Co.
Form 10-Q
November 12, 2013
Table of Contents

UNITED STATES

SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

FORM 10-Q

x **QUARTERLY REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**

For the Quarterly Period Ended: September 30, 2013

OR

¨ **TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**

For the Transition Period From __________ to __________.

Commission File Number: 001-33603

The Dolan Company

(Exact name of registrant as specified in its charter)

Delaware	**43-2004527**
(State or other jurisdiction of incorporation or organization)	**(I.R.S. Employer Identification No.)**

222 South Ninth Street, Suite 2300,

Minneapolis, Minnesota 55402

(Address, including zip code, of registrant s principal executive offices)

(612) 317-9420

(Registrant s telephone number, including area code)

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. Yes x No ¨

Indicate by check mark whether the registrant has submitted electronically and posted on its corporate web site, if any, every Interactive Data File required to be submitted and posted pursuant to Rule 405 of Regulation S-T (§232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit and post such files). Yes x No ¨

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer or a smaller reporting company. See definitions of large accelerated filer, accelerated filer and smaller reporting company in Rule 12b-2 of the Exchange Act. (Check one):

Large accelerated filer	¨	Accelerated filer	x
Non-accelerated filer	¨	Smaller reporting company	¨

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act). Yes ¨ No x

On September 30, 2013, there were 30,860,367 shares of the registrant s common stock outstanding.

Table of Contents

Table of Contents

PART I FINANCIAL INFORMATION

Item 1. Financial Statements

The Dolan Company

Condensed Consolidated Balance Sheets

(in thousands, except share data)

	September 30, 2013 (unaudited)	December 31, 2012
ASSETS		
Current assets		
Cash and cash equivalents	$ 2,813	$ 3,509
Accounts receivable, including unbilled services (net of allowances of $1,370 and $1,809 as of September 30, 2013, and December 31, 2012, respectively)	26,006	60,300
Unbilled pass-through costs		4,668
Prepaid expenses and other current assets	4,112	3,271
Income tax receivable	2,779	10,823
Current portion of notes receivable	2,575	
Assets held for sale	4,985	
Total current assets	43,270	82,571
Investments	8,267	10,069
Property and equipment, net	11,513	18,091
Finite-lived intangible assets, net	57,271	162,212
Goodwill and indefinite-lived intangible assets	105,457	151,329
Deferred income taxes		23,358
Other assets	955	1,910
Long-term notes receivable, net of current portion	9,513	
Total assets	$ 236,246	$ 449,540
LIABILITIES AND STOCKHOLDERS EQUITY		
Current liabilities		
Current portion of long-term debt	$ 131,474	$ 15,162
Accounts payable	12,602	20,860
Accrued pass-through liabilities		10,617
Accrued compensation	5,507	7,941
Accrued liabilities	2,747	5,283
Due to sellers of acquired businesses		5,017
Deferred revenue	7,322	13,278
Total current liabilities	159,652	78,158

Long-term debt, less current portion	73	150,881
Deferred income taxes	20,497	
Other liabilities	5,724	7,240
Total liabilities	185,946	236,279
Redeemable noncontrolling interest	7,836	7,283
Commitments and contingencies (Note 15)		
Stockholders equity		
Common stock, $0.001 par value; authorized: 70,000,000 shares; outstanding: 30,860,367 and 30,955,321 shares as of September 30, 2013, and December 31, 2012, respectively	31	31
Preferred stock, $0.001 par value; authorized: 5,000,000 shares;		
Series A: Junior Participating: designated: 5,000 shares; no shares outstanding		
Series B: designated: 1,600,000 shares; outstanding: 700,000 shares as of September 30, 2013, no shares as of December 31, 2012	1	
Series C: Junior Participating: designated: 50,000 shares; no shares outstanding		
Other comprehensive loss, net of tax	(157)	(867)
Additional paid-in capital	318,815	301,956
Accumulated deficit	(264,356)	(88,285)
Total The Dolan Company stockholders equity	54,334	212,835
Noncontrolling interest	(11,870)	(6,857)
Total stockholders equity	42,464	205,978
Total liabilities and stockholders equity	$ 236,246	$ 449,540

See Notes to Unaudited Condensed Consolidated Interim Financial Statements

1

Table of Contents

The Dolan Company

Unaudited Condensed Consolidated Statements of Operations

(in thousands, except per share data)

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2013	**2012**	**2013**	**2012**
Revenues				
Professional Services	$ 19,885	$ 27,437	$ 69,635	$ 63,152
Business Information	15,575	17,288	47,949	53,313
Total revenues	35,460	44,725	117,584	116,465
Operating expenses				
Direct operating: Professional Services	8,798	10,426	30,651	25,936
Direct operating: Business Information	5,564	6,125	17,660	19,155
Selling, general and administrative	16,103	18,373	49,074	52,673
Amortization	2,228	2,376	6,682	7,298
Depreciation	1,398	1,207	4,224	3,628
Fair value and other adjustments on earnout liabilities and due to seller		(1,514)	(5,021)	(11,576)
Impairment of long-lived assets and goodwill	35,414	9,317	35,414	9,317
Total operating expenses	69,505	46,310	138,684	106,431
Equity in (loss) earnings of affiliates	(132)	396	(227)	1,420
Operating (loss) income	(34,177)	(1,189)	(21,327)	11,454
Non-operating expense				
Interest expense, net of interest income	(2,719)	(2,202)	(7,737)	(6,266)
(Loss) income from continuing operations before income taxes	(36,896)	(3,391)	(29,064)	5,188
Income tax benefit (expense)	10,132	1,034	(40,892)	(2,499)
(Loss) income from continuing operations	(26,764)	(2,357)	(69,956)	2,689
Discontinued operations, net of tax	(1,052)	(111,093)	(109,242)	(110,772)
Net loss	(27,816)	(113,450)	(179,198)	(108,083)
Less: Net loss attributable to noncontrolling interests	340	9,946	4,119	9,666
Net loss attributable to The Dolan Company	$ (27,476)	$ (103,504)	$ (175,079)	$ (98,417)
Income allocated to preferred shares	(372)		(992)	

Net loss allocable to common shares	$ (27,848)	$ (103,504)	$ (176,071)	$ (98,417)
Earnings (loss) per share basic and diluted:				
(Loss) income from continuing operations attributable to The Dolan Company	$ (0.87)	$ 0.25	$ (2.16)	$ 0.41
Discontinued operations attributable to The Dolan Company	(0.03)	(3.66)	(3.59)	(3.66)
Income allocated to preferred shares	(0.01)		(0.03)	
Net loss attributable to The Dolan Company	(0.91)	(3.41)	(5.78)	(3.25)
Weighted average shares outstanding basic and diluted	30,537	30,327	30,445	30,260

See Notes to Unaudited Condensed Consolidated Interim Financial Statements

2

Table of Contents

The Dolan Company

Unaudited Condensed Consolidated Statements of Comprehensive Loss

(in thousands)

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2013	**2012**	**2013**	**2012**
Net loss attributable to The Dolan Company	$ (27,476)	$ (103,504)	$ (175,079)	$ (98,417)
Other comprehensive income (loss):				
Unrealized gain on interest rate swap	217	69	710	203
Comprehensive loss attributable to The Dolan Company	$ (27,259)	$ (103,435)	$ (174,369)	$ (98,214)

See Notes to Unaudited Condensed Consolidated Interim Financial Statements

3

Table of Contents

The Dolan Company

Unaudited Condensed Consolidated Statements of Stockholders Equity

(in thousands, except share data)

	The Dolan Company Stockholders Equity								
	Common Stock Shares	Common Stock Amount	Preferred Stock Shares	Preferred Stock Amount	Additional Paid-In Capital	Retained Earnings (Accumulated Deficit)	Other Comprehensive Loss	Noncontrolling Interest	Total
Balance at December 31, 2011	30,576,597	$ 30		$	$ 294,476	$ 13,471	$ (1,285)	$	$ 306,692
Net loss attributable to The Dolan Company						(101,756)			(101,756)
Net loss attributable to noncontrolling interest								(6,857)	(6,857)
Change in noncontrolling interest in NDeX					791				791
Unrealized gain on interest rate swap, net of tax							418		418
Issuance of common stock pursuant to the exercise of stock options	13,500				30				30
Share-based compensation expense, including issuance of restricted stock (shares are net of forfeitures)	365,224	1			3,727				3,728
Decrease in redeemable noncontrolling					2,932				2,932

interest in DiscoverReady, net of tax									
Balance at December 31, 2012	30,955,321	$ 31		$	$ 301,956	$ (88,285)	$ (867)	$ (6,857)	$ 205,978
Net loss attributable to The Dolan Company						(175,079)			(175,079)
Net loss attributable to noncontrolling interest								(5,013)	(5,013)
Issuance of preferred stock, net of offering costs			700,000	1	14,966				14,967
Preferred stock dividend						(992)			(992)
Unrealized gain on interest rate swap							710		710
Share-based compensation expense, including issuance of restricted stock (shares are net of forfeitures)	(94,954)				2,052				2,052
Increase in redeemable noncontrolling interest in DiscoverReady					(159)				(159)
Balance at September 30, 2013	30,860,367	$ 31	700,000	$ 1	$ 318,815	$ (264,356)	$ (157)	$ (11,870)	$ 42,464

See Notes to Unaudited Condensed Consolidated Interim Financial Statements

Table of Contents

The Dolan Company

Unaudited Condensed Consolidated Statements of Cash Flows

(in thousands)

	Nine Months Ended September 30, 2013	Nine Months Ended September 30, 2012
Cash flows from operating activities		
Net loss	$ (179,198)	$ (108,083)
Loss from discontinued operations	109,242	110,772
(Loss) income from continuing operations	(69,956)	2,689
Distributions received from The Detroit Legal News Publishing, LLC	1,575	2,247
Distributions paid to holders of noncontrolling interests	(498)	
Non-cash operating activities:		
Amortization	6,682	7,298
Depreciation	4,224	3,628
Impairment of long-lived assets and goodwill	35,414	9,317
Equity in loss (earnings) of affiliates	227	(1,420)
Share-based compensation expense	2,052	2,266
Deferred income taxes	39,832	(45,912)
Amortization of debt issuance costs	568	327
Non-cash fair value and other adjustments on earnouts and due to seller recorded in connection with acquisitions	(5,021)	(11,492)
Changes in operating assets and liabilities:		
Accounts receivable and unbilled pass-through costs	7,601	(2,430)
Prepaid expenses and other current assets	9,695	596
Other assets	(18)	93
Accounts payable and accrued liabilities	(7,083)	1,575
Deferred revenue and other liabilities	(604)	2,413
Cash provided by operating activities continuing operations	24,690	(28,805)
Cash (used in) provided by operating activities discontinued operations	(7,730)	49,951
Net cash provided by operating activities	16,960	21,146
Cash flows from investing activities		
Acquisitions and investments		(145)
Capital expenditures	(3,766)	(2,760)
Cash used in investing activities continuing operations	(3,766)	(2,905)
Cash provided by (used) in investing activities discontinued operations	6,545	(2,114)
Net cash provided by (used in) investing activities	2,779	(5,019)

Cash flows from financing activities		
Net (payments) borrowings on senior revolving note	(3,700)	19,300
Payments on senior long-term debt	(30,669)	(3,750)
Payments on unsecured notes payable		(1,879)
Proceeds of preferred stock offering, net of offering costs	14,967	
Net payments of deferred acquisition costs and earnouts		(14,401)
Payments of deferred financing costs	(286)	(313)
Payments of preferred stock dividend	(620)	
Other	(127)	(250)
Net cash used in financing activities	(20,435)	(1,293)
Net change in cash and cash equivalents	(696)	14,834
Cash and cash equivalents at beginning of the period	3,509	752
Cash and cash equivalents at end of the period	$ 2,813	$ 15,586

See Notes to Unaudited Condensed Consolidated Interim Financial Statements

Table of Contents

Notes to Unaudited Condensed Consolidated Interim Financial Statements

Note 1. Basis of Presentation and Liquidity

Basis of Presentation: The condensed consolidated balance sheet as of December 31, 2012, which has been derived from audited financial statements, and the unaudited condensed consolidated interim financial statements of The Dolan Company (the Company) have been prepared in accordance with accounting principles generally accepted in the United States for interim financial information and the instructions to the quarterly report on Form 10-Q and Rule 10-01 of Regulation S-X. Certain information and footnote disclosures normally included in financial statements prepared in accordance with generally accepted accounting principles have been condensed or omitted pursuant to these rules and regulations. Accordingly, these unaudited condensed consolidated interim financial statements should be read in conjunction with the Company s audited consolidated financial statements and related notes for the year ended December 31, 2012, included in the Company s annual report on Form 10-K filed on March 8, 2013, with the Securities and Exchange Commission.

In the opinion of management, these unaudited condensed consolidated interim financial statements reflect all adjustments necessary for a fair presentation of the Company s interim financial results. All such adjustments are of a normal and recurring nature. The results of operations for any interim period are not necessarily indicative of results for the full calendar year.

The accompanying unaudited condensed consolidated interim financial statements include the accounts of the Company, its wholly-owned subsidiaries and its majority ownership interests in DiscoverReady LLC (DiscoverReady), American Processing Company, LLC d/b/a NDeX (NDeX) and Legislative Information Services of America (LISA). The Company accounts for the percentage interests in DiscoverReady, NDeX and LISA that it does not own as noncontrolling interest (NCI).

All significant intercompany accounts and transactions have been eliminated in consolidation.

The Company sold its NDeX South, NDeX Indiana and NDeX Michigan operations within its Mortgage Default Processing Services segment in the third quarter of 2013. NDeX South refers to the entities serving the Texas, California, Georgia and Nevada markets. The Company committed to a plan of action to sell two of its stand-alone businesses within the Business Information segment, DataStream and LISA, in the first quarter of 2013. Accordingly, the Company has removed from its operating results for the three and nine months ended September 30, 2013 and 2012, the results of these businesses and has presented them within discontinued operations. The assets and liabilities of these operations, which are expected to be sold, are presented as held for sale at September 30, 2013. See Note 2 for further information on businesses held for sale.

In 2012, the Company sold The Colorado Springs Business Journal, The Mississippi Business Journal, and its NDeX Florida operations. The Company classified the results of these operations as discontinued operations.

Liquidity: For the nine months ended September 30, 2013, the Company incurred a before-tax loss of $138.2 million, primarily as a result of a before-tax $96.8 million impairment charge in discontinued operations related to certain long-lived assets, indefinite-lived assets, and goodwill and a $35.4 million impairment charge in continuing operations related to goodwill. Cash provided by operating activities from continuing operations, including changes in working capital, was $24.7 million for the nine months ended September 30, 2013.

The principal source of liquidity in the future will be cash flows from continuing operations. In order to operate profitably on a continuous basis in the future, the Company must increase revenue and eliminate costs to achieve and maintain positive operating margins. The Company has taken actions, including divestitures and workforce reductions, in seeking to achieve profitability and to meet the financial and non-financial obligations and covenants contained within the senior secured credit facility**.** The Company s ability to generate sufficient cash flows in 2013 has been negatively impacted by the business challenges in its mortgage default foreclosure business and public notice revenues. Any failure to comply with the credit facility covenants in the future may result in an event of default, which if not cured or waived, could result in the lenders accelerating the maturity of the Company s indebtedness or preventing access to additional funds under the credit facility, or requiring prepayment of outstanding indebtedness under the credit facility. If the maturity of the indebtedness is accelerated, sufficient cash resources to satisfy the debt obligations may not be available and the Company may not be able to continue operations as planned. The indebtedness under the credit agreement is secured by a security interest in substantially all tangible and intangible assets of the Company. If the Company is unable to repay such indebtedness, the banks could foreclose on these assets. Any noncompliance with the bank covenants, or a determination by the Company to take steps to avoid the risk of noncompliance with the bank covenants, may cause the Company to divest additional businesses, seek additional funds through the equity markets, raise funds through debt instruments, or curtail planned activities and operations. Additional funding may not be available on acceptable terms or at all. If additional funds are raised by issuing equity securities, dilution to existing shareholders may result.

Table of Contents

As described in Note 16, the senior secured credit facility was amended on October 31, 2013. Among other changes, the amendment changes the maturity date of the credit facility from December 6, 2015 to December 31, 2014 and requires the Company to generate $50.0 million in cash through one or more liquidity transactions separate from its operating activities, such as a sale of assets or issuance of equity or subordinated debt, by March 31, 2014 (or to have entered into a definitive agreement by March 31, 2014 for a transaction or transactions that will generate $50.0 million in cash by May 31, 2014) and to use the proceeds from such transaction or transactions to pay down outstanding loans under the credit facility.

Note 2. Assets Held for Sale and Discontinued Operations

The Company sold its NDeX South, NDeX Indiana and NDeX Michigan operations within its Mortgage Default Processing Services segment in the third quarter of 2013. The divestitures provided total consideration to the Company of $21.3 million, with a total of $5.7 million cash paid to the Company, three promissory notes totaling $13.1 million with payment terms between three to five years, and the remaining amount as an assumption by the buyers of certain liabilities. The Company recorded a net pretax loss of $1.1 million on the sale of these businesses during the quarter ended September 30, 2013. The operations and cash flows of these operations have been eliminated from ongoing operations as the Company will not have significant continuing involvement in the operations after the sale.

The Company committed to sell NDeX South in the second quarter of 2013 and, as such, recorded a non-cash held-for-sale impairment charge of $58.4 million in discontinued operations consisting of $55.1 million in finite-lived intangible assets (specifically, the services agreement and customer list) reducing its carrying value of $59.6 million to $4.5 million, and an impairment of $3.3 million in indefinite-lived intangible assets, reducing the original carrying value of $4.2 million to $0.9 million. The Company committed to sell NDeX Indiana in the first quarter of 2013. The Company recorded a charge to bad debt for $1.2 million related to unbilled receivables due from its NDeX Indiana law firm customer in the second quarter.

Due to the continued depressed operating results in the Mortgage Default Processing Services segment, the Company performed impairment tests on the NDeX Michigan long-lived assets in the second quarter of 2013. As a result of the impairment test, the Company recorded a total of $27.7 million in non-cash impairment charges in the second quarter to reduce the carrying value of these assets, of which $1.8 million was property and equipment, $23.6 million was finite-lived intangible assets (specifically long-term service contracts) and $2.3 million was indefinite-lived intangible assets.

The Company committed to a plan of action to sell two of its stand-alone businesses within the Business Information segment, DataStream and LISA in the first quarter of 2013. The businesses operations and cash flows have been eliminated from ongoing operations as a result of the anticipated sales and the Company will not have significant continuing involvement in the operations after the sales. The Company classified the assets and liabilities of these operations as held for sale.

As part of the held-for-sale impairment test in the first quarter of 2013, the Company impaired $1.3 million in indefinite-lived assets, reducing the original carrying value of $1.7 million to $0.4 million. The Company allocated $2.2 million of the Business Information segment s goodwill to the disposal group and impaired $0.6 million of the allocated goodwill. The Company measured the property and equipment and finite-lived assets of the disposal group at the lower of its carrying amount or fair value less cost to sell. This resulted in a $0.9 million and $7.9 million impairment on property and equipment and finite-lived assets, respectively. The Company recorded a total of $10.7 million in non-cash impairment charges in the quarter in discontinued operations.

7

Table of Contents

In 2012, the Company sold The Colorado Springs Business Journal, The Mississippi Business Journal, and its NDeX Florida operations. The Company classified the results of these operations as discontinued operations.

The assets and liabilities of these businesses and operations classified as held for sale as of September 30, 2013, are summarized as follows (in thousands):

	September 30, 2013
Property and Equipment	$ 347
Intangible Assets and Goodwill	4,638
Total assets held for sale	$ 4,985

The following amounts have been segregated from continuing operations and are reflected as discontinued operations for the three and nine months ended September 30, 2013 and 2012 (in thousands):

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2013	2012	2013	2012
Total revenues	$ 4,423	$ 26,418	$ 36,321	$ 86,742
Discontinued operations before income taxes	$ (1,469)	$ (165,357)	$ (109,090)	$ (164,337)
Income tax benefit (expense)	417	54,264	(152)	53,565
Discontinued operations, net of tax	$ (1,052)	$ (111,093)	$ (109,242)	$ (110,772)

Note 3. Basic and Diluted Loss Per Share

Basic per share amounts are computed, generally, by dividing net loss attributable to The Dolan Company by the weighted-average number of common shares outstanding. The Company has employed the two-class method to calculate loss per share, as it relates to the redeemable noncontrolling interest in NDeX, based on net loss attributable to its common stockholders. At September 30, 2013, there were 700,000 shares of preferred stock issued and outstanding. There were no shares of preferred stock issued and outstanding as of December 31, 2012. Dividends on preferred stock increase the net loss allocable to common stockholders. Diluted per share amounts assume the conversion, exercise, or issuance of all potential common stock instruments (see Note 14 for information on stock options and restricted stock) unless their effect is anti-dilutive, thereby reducing the loss per share or increasing the income per share.

The following table computes basic and diluted net loss attributable to The Dolan Company per share (in thousands except for per share amounts):

Nine Months Ended

	Three Months Ended September 30, 2013	2012	September 30, 2013	2012
Net loss attributable to The Dolan Company	$ (27,476)	$ (103,504)	$ (175,079)	$ (98,417)
Income allocated to preferred shares	(372)		(992)	
Net loss attributable to The Dolan Company common stockholders	$ (27,848)	$ (103,504)	$ (176,071)	$ (98,417)
Basic and Diluted:				
Shares used in the computation of basic net income per common share	30,537	30,327	30,445	30,260
Net loss attributable to The Dolan Company common stockholders per share basic and diluted	$ (0.91)	$ (3.41)	$ (5.78)	$ (3.25)

For the three and nine months ended September 30, 2013, options to purchase approximately 3.3 million and 3.1 million weighted shares of common stock, respectively, were excluded from the computation because their effect would have been anti-dilutive. For the three and nine months ended September 30, 2012, options to purchase approximately 2.6 million and 2.2 million weighted shares of common stock, respectively, were excluded from the computation because their effect would have been anti-dilutive. For the three and nine months ended September 30, 2013, and 2012, options to purchase approximately 0.1 million weighted shares of common stock were excluded from the computation because of the reported net loss.

Note 4. Business Combinations

Management is responsible for determining the fair value of the assets acquired and liabilities assumed at the acquisition date. The fair values of the assets acquired and liabilities assumed represent management s estimate of fair values. Management determines valuations through a combination of methods, which include discounted cash flow models, outside valuations and appraisals and market conditions. The results of the business combinations are included in the accompanying consolidated statement of operations from the respective transaction dates forward.

On July 25, 2011, the Company, through DiscoverReady, completed the acquisition of substantially all of the assets of ACT Litigation Services, Inc. (ACT), and as such, the results of ACT s operations are included in the Company s financial statements from that date forward. The acquisition included a $5.0 million holdback by the Company to secure certain obligations of ACT and its shareholders and certain earnout payments, which management estimates at each reporting date. In March 2013, ACT and its former shareholders released the Company from the $5.0 million holdback. In 2012, the Company made net payments of $13.7 million related to earnouts. The Company and ACT have agreed that there will be no further amounts paid in conjunction with these earnouts and holdbacks. The earnout liability was a Level 3 fair value measurement within the FASB s fair value hierarchy, and such liability was adjusted to fair value at each reporting date, with the adjustment reflected in fair value and other adjustments on earnout liabilities.

Note 5. Derivative Instruments

The Company has entered into two interest rate swap agreements to manage the risk associated with a portion of its floating-rate long-term debt. The Company does not utilize derivative instruments for speculative purposes. Both interest rate swaps involve the exchange of fixed-rate and variable-rate payments without the exchange of the underlying notional amount on which the interest payments are calculated. The notional amount of the first interest rate swap agreement was $50.0 million through December 30, 2012, is $35.0 million from December 31, 2012 through December 30, 2013, and $25.0 million from December 31, 2013 through June 30, 2014. The notional amount of the second interest rate swap agreement is $25.0 million through December 31, 2014. The Company has designated both swaps as cash flow hedges and has determined that they qualify for hedge accounting treatment. Changes in fair value of the cash flow hedge are recorded in other comprehensive loss (net of tax) until income or loss from the cash flows of the hedged item is realized.

At September 30, 2013, and December 31, 2012, the Company had $0.2 million and $0.9 million, respectively, in other accumulated comprehensive loss related to unrealized losses (net of tax) on the cash flow hedges. Unrealized gains and losses are reflected in net loss when the related cash flows or hedged transactions occur and offset the related performance of the hedged item.

Table of Contents

The cash flow hedges were highly effective for the nine months ended September 30, 2013. The Company does not expect to reclassify any amounts from other comprehensive income to net loss during 2013. The occurrence of these related cash flows and hedged transactions remains probable.

The Company had liabilities of $0.7 million and $1.4 million resulting from interest rate swaps at September 30, 2013, and December 31, 2012, respectively, which are included in other liabilities on the balance sheet. Total floating-rate borrowings not offset by the swap agreements at September 30, 2013, totaled $71.3 million.

By their nature, derivative instruments are subject to market risk. Derivative instruments are also subject to credit risk associated with counterparties to the derivative contracts. Credit risk associated with derivatives is measured based on the replacement cost should the counterparty with a contract in a gain position to the Company fail to perform under the terms of the contract. The Company does not anticipate nonperformance by the counterparty.

Note 6. Fair Value of Financial Instruments

The Company s financial assets and liabilities are measured at fair value as the price that would be received to sell an asset or paid to transfer a liability in an orderly transaction between market participants at the measurement date (exit price). The Company classifies the inputs used to measure fair value into the following hierarchy:

Level 1	Quoted prices in active markets for identical assets or liabilities.
Level 2	Quoted prices in active markets for similar assets or liabilities, or quoted prices for identical or similar assets or liabilities in markets that are not active, or inputs other than quoted prices that are observable or can be corroborated by observable market data for the asset or liability.
Level 3	Unobservable inputs for the asset or liability that are supported by little or no market activity. These fair values are determined using pricing models for which the assumptions utilize management s estimates or market participant assumptions.

Assets and Liabilities Measured at Fair Value on a Recurring Basis. The fair value hierarchy requires the use of observable market data when available. In instances where inputs used to measure fair value fall into different levels of the fair value hierarchy, the fair value measurement has been determined based on the lowest level input that is significant to the fair value measurement in its entirety. The Company s assessment of the significance of a particular item to the fair value measurement in its entirety requires judgment, including the consideration of inputs specific to the asset or liability.

The fair value of interest rate swaps are determined by the counterparty based on interest rate changes. Interest rate swaps are valued based on observable interest rate yield curves for similar instruments. The fair value of the redeemable noncontrolling interest in DiscoverReady is determined by management using a market approach, calculated as trailing 12 month earnings before interest, taxes, depreciation and amortization multiplied by an estimated multiple of earnings, less net debt.

The following table summarizes the balances of liabilities measured at fair value on a recurring basis as of September 30, 2013 (in thousands):

	Level 1	Level 2	Level 3	Total
Interest rate swaps	$	$ 711	$	$ 711
Redeemable noncontrolling interest in DiscoverReady			7,836	7,836
Total	$	$ 711	$ 7,836	$ 8,547

The following table summarizes the balances of liabilities measured at fair value on a recurring basis as of December 31, 2012 (in thousands):

	Level 1	Level 2	Level 3	Total
Interest rate swaps	$	$ 1,421	$	$ 1,421
Redeemable noncontrolling interest in DiscoverReady			7,283	7,283
Total	$	$ 1,421	$ 7,283	$ 8,704

Table of Contents

The following table summarizes the changes in fair value for all liabilities measured at fair value on a recurring basis using significant unobservable inputs (Level 3) for the three months ended September 30, 2013 (in thousands):

	Redeemable NCI in DiscoverReady
Balance at June 30, 2013	$ 14,946
Minority partners share of earnings	(78)
Distributions to minority partners	(246)
Fair value adjustment included in additional paid-in capital	(6,786)
Balance at September 30, 2013	$ 7,836

The following table summarizes the changes in fair value for all liabilities measured at fair value on a recurring basis using significant unobservable inputs (Level 3) for the nine months ended September 30, 2013 (in thousands):

	Redeemable NCI in DiscoverReady
Balance at December 31, 2012	$ 7,283
Minority partners share of earnings	892
Distributions to minority partners	(498)
Fair value adjustment included in additional paid-in capital	159
Balance at September 30, 2013	$ 7,836

Non-Financial Assets and Liabilities Measured at Fair Value on a Non-Recurring Basis. Certain assets and liabilities are measured at fair value on a nonrecurring basis and are subject to fair value adjustments in certain circumstances (e.g., when there is evidence of impairment).

The following table summarizes the adjusted basis of non-financial assets measured at fair value on a non-recurring basis as of September 30, 2013 (in thousands):

	Level 1	Level 2	Level 3	Total
Long-lived assets, indefinite lived assets, and goodwill held for sale (a)	$	$	$ 4,985	$ 4,985
Goodwill (b)			23,899	23,899
	$	$	$ 28,884	$ 28,884

The following table summarizes the adjusted basis on non-financial assets measured at fair value on a non-recurring basis as of December 31, 2012 (in thousands):

	Level 1	Level 2	Level 3	Total
Long-lived assets held and used (c)	$	$	$ 1,120	$ 1,120

(a) In the first quarter of 2013, the Company recorded held for sale impairment charges of $10.7 million, of which $0.9 million was property and equipment, $7.9 million was finite-lived intangible assets, $1.3 million was indefinite-lived intangible assets, and $0.6 million was goodwill, related to two of its stand-alone businesses within the Business Information segment, reducing the original carrying value of these assets from $15.7 million to $5.0 million. See Note 2 for additional discussion of these impairments recorded within discontinued operations.

Table of Contents

(b) The Company recorded a preliminary goodwill impairment charge of $35.4 million during the third quarter of 2013 in its Business Information segment. This impairment reduced goodwill in the Business Information segment to a carrying value of $23.9 million. See Note 8 for additional discussion of this impairment.
(c) The Company recorded an impairment charge of $19.9 million, of which $0.3 million was property and equipment and $19.6 million was finite-lived intangible assets, in 2012 related to certain long-lived assets held and used in its Mortgage Default Processing Services segment. This impairment reduced the original carrying value of these assets from $21.0 million to $1.1 million.

Fair Value of Financial Instruments: The carrying value of cash equivalents, accounts receivable, notes receivable, accounts payable and accrued expenses approximate fair value because of the short-term nature of these instruments. The carrying value of the Company s debt is the remaining amount due to its debtors under borrowing arrangements. To estimate the fair value of its debt, the Company estimates an interest rate it would be required to pay if it had to refinance its debt. At September 30, 2013, the fair value of variable-rate debt under the Company s senior credit facility approximated its carrying value.

Note 7. Investments

Investments consisted of the following at September 30, 2013, and December 31, 2012 (in thousands):

	Accounting Method	Percent Ownership	September 30, 2013	December 31, 2012
The Detroit Legal News Publishing, LLC	Equity	35.0%	$ 7,733	$ 9,535
Other	Cost	13.0%	534	534
Total			$ 8,267	$ 10,069

For the three and nine months ended September 30, 2013, and 2012, the equity in (loss) earnings of affiliates is as follows (in thousands):

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2013	2012	2013	2012
The Detroit Legal News Publishing, LLC	$ (132)	$ 401	$ (227)	$ 1,452
Other		(5)		(32)
Total	$ (132)	$ 396	$ (227)	$ 1,420

In 2012, the Company s ownership in other investments decreased to 13.0% from 19.5%. Because the Company has determined that it no longer has significant influence over this other investment s activities, the Company now accounts for this investment under the cost method.

The Detroit Legal News Publishing, LLC: The Company owns a 35% membership interest in The Detroit Legal News Publishing, LLC (DLNP). DLNP publishes ten legal newspapers, along with one quarterly magazine, all located in southern Michigan. The Company accounts for this investment using the equity method. Under DLNP s membership operating agreement, the Company receives quarterly distributions based on its ownership percentage.

The difference between the Company s carrying value and its 35% share of the members equity of DLNP relates principally to an underlying customer list at DLNP that is being amortized over its estimated economic life through 2015.

12

Table of Contents

The following tables summarize certain key information relating to the Company s investment in DLNP as of September 30, 2013, and December 31, 2012, and for the three and nine months ended September 30, 2013 and 2012 (in thousands):

	As of September 30, 2013	As of December 31, 2012
Carrying value of investment	$ 7,733	$ 9,535
Underlying finite-lived customer list, net of amortization	3,267	4,398

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2013	2012	2013	2012
Equity in (losses) earnings of DLNP, net of amortization of customer list	$ (132)	$ 401	$ (227)	$ 1,452
Distributions received	280	784	1,575	2,247
Amortization expense	377	377	1,131	1,131

Note 8. Long-lived Assets and Goodwill

In the third quarter of 2013, due to the continued downturn in the mortgage default industry, particularly as it relates to the public notice revenues in the Company s Business Information segment, the Company performed impairment tests on the Business Information segment s long-lived assets and goodwill. As part of the goodwill impairment test, the fair value of the reporting unit was determined using a combination of discounted cash flows and market approach. An impairment on the Business Information segment was indicated. The Company then undertook the next steps in the impairment testing process by determining the fair value of assets and liabilities for the reporting unit. Although the impairment test is not complete as of the date of this filing, the Company believes an impairment loss is probable and recorded a preliminary $35.4 million non-cash goodwill impairment charge in the third quarter based upon its best estimate. Completion of the impairment test may result in an adjustment to this estimate.

The Company sold its NDeX South, NDeX Indiana and NDeX Michigan operations within its Mortgage Default Processing Services segment in the third quarter of 2013. As discussed in Note 2, certain long-lived assets were impaired in the second quarter of 2013. In the first quarter of 2013, the Company committed to a plan of action to sell two of its stand-alone businesses within the Business Information segment, DataStream and LISA. As part of the held for sale impairment test, the Company allocated a portion of the Business Information segment s goodwill to the disposal group of $2.2 million. As discussed in Note 2, the allocated goodwill and certain indefinite-lived intangible assets were tested for impairment and are reported as held for sale. The Company performed an interim test on the goodwill of the retained businesses in the Business Information segment, resulting in no impairment.

Goodwill: The Company reviews goodwill for impairment annually in the fourth quarter or whenever an indicator is identified which suggests impairment may be present. As discussed above, in the third quarter of 2013, the Company recorded a preliminary pre-tax goodwill impairment charge of $35.4 million in its Business Information segment as shown in the table below. As discussed above, in the first quarter of 2013, the Company allocated $2.2 million of its goodwill in its Business Information segment to the disposal group as shown in the table below and impaired $0.6 million of the allocated goodwill.

Table of Contents

The following table represents the balances of goodwill (in thousands):

	Mortgage Default Processing Services	Litigation Support Services	Business Information	Total
Goodwill as of December 31, 2011	$ 131,710	$ 80,272	$ 62,843	$ 274,825
Impairment	(131,710)			(131,710)
Goodwill as of December 31, 2012		80,272	62,843	143,115
Impairment			(35,414)	(35,414)
Allocated to disposal group			(2,244)	(2,244)
Goodwill as of September 30, 2013	$	$ 80,272	$ 25,185	$ 105,457

Indefinite-Lived Intangible Assets*:* Indefinite-lived intangible assets consist of trademarks and domain names that the Company has determined have an indefinite life and therefore will not be amortized. The Company reviews indefinite-lived intangible assets for impairment annually in the fourth quarter or whenever an indicator is identified which suggests impairment may be present. As discussed in Note 2, during the quarter ended June 30, 2013, the Company recorded an impairment charge of $5.6 million on indefinite-lived intangible assets in NDeX South and NDeX Michigan in the Mortgage Default Processing Services segment, reducing the carrying value of $6.5 million to $0.9 million. As discussed in Note 2, during the quarter ended March 31, 2013, the Company recorded an impairment charge of $1.3 million on indefinite-lived intangible assets in a certain disposal group in the Business Information segment, reducing the carrying value of $1.7 million to $0.4 million. All remaining indefinite-lived intangible assets of $0.4 million are reported as held for sale as of September 30, 2013.

As of December 31, 2012, there was $8.2 million in indefinite-lived intangible assets, of which $6.5 million was in the Mortgage Default Processing Services segment and $1.7 million was in the Business Information segment.

Finite-Lived Intangible Assets: As discussed in Note 2, during the quarter ended June 30, 2013, the Company recorded an impairment charge of $78.7 million on finite-lived intangible assets in NDeX South and NDeX Michigan in discontinued operations in the Mortgage Default Processing Services segment, reducing the carrying value of $84.5 million to $5.8 million. During the quarter ended March 31, 2013, the Company recorded an impairment charge of $7.9 million in the Business Information Segment. The following table summarizes the components of finite-lived intangible assets as of September 30, 2013 and December 31, 2012 (in thousands except amortization periods which are in years):

		As of September 30, 2013			As of December 31, 2012		
	Amortization Period	Gross Amount	Accumulated Amortization	Net	Gross Amount	Accumulated Amortization	Net
Mastheads	30	$ 11,045	$ (3,477)	$ 7,568	$ 11,045	$ (3,202)	$ 7,843
Customer lists/relationships	2-15	82,909	(39,709)	43,200	126,001	(46,586)	79,415
Noncompete agreements	4-5	1,764	(1,736)	28	5,302	(4,793)	509
Long-term service contracts	6-12	1,113	(115)	998	91,841	(27,758)	64,083

Trademark/domain names	10	1,635	(640)	995	1,651	(521)	1,130
Trade names	15	6,969	(2,487)	4,482	6,969	(1,865)	5,104
Technology	5-20				4,875	(747)	4,128
Total finite-lived intangibles		$ 105,435	$ (48,164)	$ 57,271	$ 247,684	$ (85,472)	$ 162,212

Total amortization expense for finite-lived intangible assets for the three months ended September 30, 2013 and 2012, was approximately $2.2 million and $2.4 million, respectively, and for the nine months ended September 30, 2013, and 2012, was approximately $6.7 million and $7.3 million, respectively.

Table of Contents

Note 9. Long-Term Debt, Capital Lease Obligation

A summary of long-term debt is as follows (in thousands):

	September 30, 2013	December 31, 2012
Senior secured debt (see below):		
Senior variable-rate term note	$ 106,831	$ 137,500
Senior variable-rate revolving note	24,500	28,200
Total senior secured debt	131,331	165,700
Capital lease obligations	216	343
	131,547	166,043
Less current portion	131,474	15,162
Long-term debt, less current portion	$ 73	$ 150,881

Senior Secured Debt: The Company and its consolidated subsidiaries had a credit agreement with a syndicate of banks for a $190.0 million senior secured credit facility comprised of a term loan facility with an outstanding balance of $131.3 million at September 30, 2013, due and payable in quarterly installments, and a revolving credit facility in an aggregate amount of up to $40.0 million (of which $24.5 million was drawn at September 30, 2013). On July 8, 2013, the Company entered into a fifth amendment to the Credit Agreement. Among other changes, this fifth amendment permits the Company to engage in certain divestiture transactions, and requires that a portion of the cash proceeds from such transactions be used to pay down outstanding loans under the Credit Agreement. On October 31, 2013, the Company entered into a sixth amendment to the Credit Agreement which changes the final maturity date from December 6, 2015 to December 31, 2014 and accelerates payment terms. As a result, all amounts outstanding under the Credit Agreement were classified as a current liability as of September 30, 2013. The Company paid fees of approximately $0.9 million in connection with the sixth amendment.

At September 30, 2013, the Company did not comply with the minimum adjusted EBITDA and total cash flow leverage ratio covenants in the Credit Agreement. However, the sixth amendment waived this default. Additional terms of the sixth amendment are described in Note 16.

Note 10. Common and Preferred Stock

In January 2013, the Company sold 700,000 shares (the Shares) of newly designated 8.5% Series B Cumulative Preferred Stock, par value $0.001 per share (the Series B Preferred Stock). The Shares were offered to the public at a price of $23.00 per share and have a $25.00 per share liquidation preference. Proceeds of $15.0 million, net of underwriting commission of $0.9 million and offering expenses of $0.2 million were used to pay existing debt under the senior credit facility. The Series B Preferred Stock is redeemable at the Company s option beginning on January 31, 2018, or upon a change in control, has no maturity date, and contains certain conversion rights to common stock in the event of a change in control. The Company paid a $0.4 million preferred stock dividend in the third quarter of 2013 and declared a $0.4 million preferred stock dividend payable to holders of record as of September 30, 2013, to be paid in the fourth quarter of 2013.

On September 17, 2013, the Company entered into a Rights Agreement in an effort to deter acquisitions of its common stock that would potentially limit its ability to use its built-in losses and any resulting net loss carryforwards to reduce potential future federal income tax obligations.

Under the Rights Agreement, after October 1, 2013, each share of Common Stock will carry with it one right (a Right) to purchase Series C Junior Participating Preferred Stock until the Rights become exercisable or expire on September 17, 2016. The Rights will work to impose a significant penalty upon any person or group that acquires 4.99% or more of the outstanding common stock without the approval of the Company s Board of Directors. The Board may, in its sole discretion, exempt any person or group for purposes of the Rights Agreement.

In conjunction with the Rights Agreement, the Company designated 50,000 shares of Series C Junior Participating Preferred Stock (the Series C Preferred Stock). The Series C Preferred Stock is not redeemable, entitles its holders to the same dividends, if any, paid on one share of Common Stock, and entitles its holders to a per share payment equal to the payment made on one share of Common Stock if shares of Common Stock are exchanged via merger, consolidation or a similar transaction.

Table of Contents

Note 11. Income Taxes

For the nine months ended September 30, 2013, the Company recorded an income tax expense of $40.9 million on losses from continuing operations. This amount includes a discrete tax expense of $48.8 million, primarily as a result of the Company recording a full valuation allowance against all of its federal and state deferred tax assets in the quarter ended June 30, 2013.

As previously discussed, during the third quarter ended September 30, 2013, the Company recorded a preliminary impairment charge of $35.4 million on goodwill in its Business Information segment. About two thirds of this charge reduced a related deferred tax liability, and accordingly the Company s net deferred tax assets. The corresponding valuation allowance reduction resulted in approximately $5.6 million of tax benefit for the nine months ended September 30, 2013. Additional tax benefit recorded for the nine-month period ended September 30, 2013, related to the portion of the current year tax loss which is expected to be carried back to 2011 for a cash refund of previously paid taxes.

For the nine months ended September 30, 2012, the Company recorded income tax expense of $2.5 million, or 48.2% of income from continuing operations before income taxes. The Company s tax rate for 2012 differed from the federal statutory rate of 35% due to state income tax expense, the impact of noncontrolling interests and discrete items recorded during the period related primarily to stock- based compensation and the recording of a valuation allowance against state net operating losses.

In determining that a valuation allowance should be established against its deferred tax assets the Company considered all available evidence, using a more likely than not standard. The Company considered both positive and negative evidence related to the likelihood of realization of deferred tax assets.

In making such assessments, more weight was given to objectively verified evidence. The Company s current and previous losses were given more weight than its future outlook. Under this approach, the recent cumulative losses were a significant piece of negative evidence which ultimately impacted the Company s ability to rely on future taxable income projections in determining the amount of valuation allowance to be recorded. Future sources of taxable income considered in determining the amount of recorded valuation allowance included:

- Taxable income in prior carryback years, if carryback is permitted under the tax law;
- Future reversals of existing taxable temporary differences, excluding those related to indefinite-lived intangible assets;
- Tax planning strategies; and
- Future taxable income exclusive of reversing temporary differences and carryforwards.

On a quarterly basis, we are required to evaluate all positive and negative evidence, as discussed above, in determining if the valuation allowance is fairly stated. Based on our review of this evidence, we continue to believe that a full valuation allowance against all of the Company s deferred tax assets at September 30, 2013 is appropriate.

Note 12. Major Customers

The Company has one litigation support services customer, a large financial services company, which accounted for 23.6% and 28.6% of the Company s total revenues for the three and nine months ended September 30, 2013, respectively.

Table of Contents

Note 13. Reportable Segments

The Company has two operating divisions: Professional Services and Business Information, and three reportable segments: (1) Mortgage Default Processing Services; (2) Litigation Support Services; and (3) Business Information. The Mortgage Default Processing Services and Litigation Support Services segments are part of the Professional Services Division as these segments provide professional services supporting, primarily, attorneys and/or their clients. The Business Information segment is part of the Business Information Division. The Mortgage Default Processing Services segment generates revenue from NDeX, which provides mortgage default processing and related services to its Minnesota customer. The Litigation Support Services segment generates revenue by providing discovery management and document review services through DiscoverReady and appellate services through Counsel Press. Both of these operating segments generate revenues through fee-based arrangements. The Business Information segment provides products, data and certain services through subscription-based products and a variety of media, including court and commercial newspapers, weekly business journals and the Internet. The Business Information segment generates revenues primarily from display and classified advertising (which includes events), public notices, and subscriptions and other. The Company determined its reportable segments based on the types of products sold and services performed.

The tables below reflect summarized financial information concerning the Company s reportable segments for the three and nine months ended September 30, 2013 and 2012 (in thousands):

	Professional Services				
	Mortgage Default Processing	Litigation Support	Business Information	Corporate	Total
Three Months Ended September 30, 2013					
Revenues	$ 505	$ 19,380	$ 15,575	$	$ 35,460
Direct operating expenses	(220)	(8,578)	(5,564)		(14,362)
Selling, general and administrative expenses	(173)	(6,713)	(7,177)	(2,040)	(16,103)
Amortization and depreciation	(28)	(2,341)	(989)	(268)	(3,626)
Impairment of long-lived assets and goodwill			(35,414)		(35,414)
Equity in loss of affiliates			(132)		(132)
Operating income (loss)	$ 84	$ 1,748	$ (33,701)	$ (2,308)	$ (34,177)
Three Months Ended September 30, 2012					
Revenues	$ 487	$ 26,950	$ 17,288	$	$ 44,725
Direct operating expenses	(192)	(10,234)	(6,125)		(16,551)
Selling, general and administrative expenses	(275)	(7,890)	(7,348)	(2,860)	(18,373)
Amortization and depreciation	(181)	(2,183)	(1,070)	(149)	(3,583)
Fair value and other adjustments on earnout liabilities		1,514			1,514
Impairment of long-lived assets and goodwill	(9,317)				(9,317)
Equity in earnings of affiliates			396		396
Operating (loss) income	$ (9,478)	$ 8,157	$ 3,141	$ (3,009)	$ (1,189)

	Professional Services Mortgage Default Processing	Professional Services Litigation Support	Business Information	Corporate	Total
Nine Months Ended September 30, 2013					
Revenues	$ 1,423	$ 68,212	$ 47,949	$	$ 117,584
Direct operating expenses	(658)	(29,993)	(17,660)		(48,311)
Selling, general and administrative expenses	(586)	(20,548)	(22,063)	(5,877)	(49,074)
Amortization and depreciation	(82)	(6,834)	(3,081)	(909)	(10,906)
Fair value and other adjustments on earnout liabilities		5,021			5,021
Impairment of long-lived assets and goodwill			(35,414)		(35,414)
Equity in loss of affiliates			(227)		(227)
Operating income (loss)	$ 97	$ 15,858	$ (30,496)	$ (6,786)	$ (21,327)
Nine Months Ended September 30, 2012					
Revenues	$ 1,587	$ 61,565	$ 53,313	$	$ 116,465
Direct operating expenses	(676)	(25,260)	(19,155)		(45,091)
Selling, general and administrative expenses	(829)	(22,520)	(23,006)	(6,318)	(52,673)
Amortization and depreciation	(705)	(6,529)	(3,225)	(467)	(10,926