

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

FORM S-1
REGISTRATION STATEMENT
UNDER
THE SECURITIES ACT OF 1933

ShiftPixy, Inc.

(Exact name of registrant as specified in its charter)

Wyoming (State or other jurisdiction of incorporation or organization)	3751 (Primary Standard Industrial Classification Code Number)	26-1449404 (I.R.S. Employer Identification No.)
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1 Venture, Suite 150
Irvine, CA 92618
(888) 798-9100

(Address, including zip code, and telephone number, including area code, of registrant's principal executive offices)

Scott Absher
Chief Executive Officer
1 Venture, Suite 150
Irvine, CA 92618
(888) 798-9100

(Name, address, including zip code, and telephone number, including area code, of agent for service)

Copies to:

Ivan K. Blumenthal, Esq.
Daniel A. Bagliebter, Esq.
Mintz, Levin, Cohn, Ferris, Glovsky and Popeo, P.C.
666 Third Avenue
New York, NY 10017
(212) 935-3500

Oded Har-Even, Esq.
Ron Ben-Bassat, Esq.
Sullivan & Worcester LLP
1633 Broadway Street
New York, NY 10019
(212) 660-3000

Approximate date of commencement of proposed sale to the public: As soon as practicable after the effective date of this registration statement.

If any of the securities being registered on this Form are to be offered on a delayed or continuous basis pursuant to Rule 415 under the Securities Act of 1933 check the following box.

If this Form is filed to register additional securities for an offering pursuant to Rule 462(b) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering. File No. 333-237457

If this Form is a post-effective amendment filed pursuant to Rule 462(c) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering.

If this Form is a post-effective amendment filed pursuant to Rule 462(d) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering.

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

- | | | | |
|-------------------------|-------------------------------------|---------------------------|-------------------------------------|
| Large accelerated filer | <input type="checkbox"/> | Accelerated filer | <input type="checkbox"/> |
| Non-accelerated filer | <input checked="" type="checkbox"/> | Smaller reporting company | <input checked="" type="checkbox"/> |
| | | Emerging growth company | <input checked="" type="checkbox"/> |

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 7(a)(2)(B) of the Securities Act.

CALCULATION OF REGISTRATION FEE

Title of Each Class of Securities to be Registered	Proposed Maximum Aggregate Offering Price ⁽¹⁾⁽²⁾⁽³⁾ (4)	Amount of Registration Fee

Common stock, par value \$0.0001 per share	\$	2,299,613.60	\$	298.49
Pre-funded warrants to purchase shares of common stock and common stock issuable upon exercise thereof ⁽⁵⁾	\$	--	\$	--
Warrants to purchase shares of common stock and shares of common stock issuable upon exercise thereof ⁽⁵⁾⁽⁶⁾⁽⁷⁾	\$	574,806.80	\$	74.61
Underwriter's warrants and shares of common stock issuable upon exercise thereof ⁽⁷⁾	\$	109,981.52	\$	14.28
Total	\$	2,984,401.92	\$	387.38

- (1) In accordance with Rule 462(b) promulgated under the Securities Act of 1933, as amended, the registrant is registering an additional amount of securities having a proposed maximum offering price of no more than 20% of the maximum aggregate offering price of the securities eligible to be sold under the related Registration Statement on Form S-1, as amended (File No. 333-237457).
- (2) Includes additional shares of common stock and warrants that the underwriters have the option to purchase solely to cover over-allotments, if any.
- (3) Estimated solely for the purpose of calculating the amount of the registration fee pursuant to Rule 457(o) of the Securities Act of 1933, as amended.
- (4) The proposed maximum aggregate offering price of the common stock proposed to be sold in the offering will be reduced on a dollar-for-dollar basis based on the aggregate offering price of the pre-funded warrants offered and sold in the offering, and therefore the proposed aggregate maximum offering price of the common stock and pre-funded warrants (including the common stock issuable upon exercise of the pre-funded warrants), if any, is \$2,299,613.60.
- (5) Pursuant to Rule 416 of the Securities Act of 1933, as amended, the securities being registered hereunder include such indeterminate number of additional securities as may be issued after the date hereof as a result of stock splits, stock dividends or similar transactions.
- (6) The warrants to purchase common stock are exercisable at a per share price equal to \$5.40. The additional proposed maximum aggregate public offering price of the shares of common stock issuable upon the exercise of the warrants to purchase common stock being registered is \$574,806.80.
- (7) Estimated solely for the purpose of calculating the registration fee pursuant to Rule 457(g) under the Securities Act of 1933, as amended. The underwriter's warrants are exercisable at a per-share exercise price equal to 110% of the public offering price per share of common stock. The additional proposed maximum aggregate offering price of the underwriter's warrants being registered is \$109,981.52.

The Registration Statement shall become effective upon filing in accordance with Rule 462(b) promulgated under the Securities Act of 1933, as amended.

**EXPLANATORY NOTE AND
INCORPORATION OF CERTAIN INFORMATION BY REFERENCE**

This Registration Statement (the "Registration Statement") is being filed with the Securities and Exchange Commission (the "Commission") pursuant to Rule 462(b) under the Securities Act of 1933, as amended. The Registration Statement incorporates by reference the contents of, including all amendments and exhibits thereto, the Registration Statement on Form S-1, as amended (File No. 333-237457) (the "Prior Registration Statement"), which the Commission declared effective on May 20, 2020, and is being filed solely for the purpose of registering an increase in the maximum aggregate offering price of \$2,299,613.60. The additional securities that are being registered for sale are in an amount and at a price that together represent no more than 20% of the maximum aggregate offering price set forth in the Calculation of Registration Fee table contained in the Prior Registration Statement. The required opinion and consents are listed on the Exhibit Index attached hereto and filed herewith.

EXHIBIT INDEX

Exhibit No.	Description
5.1	Opinion of Bailey, Stock, Harmon, Cottam, Lopez LLP.
23.1	Consent of Marcum, LLP, Independent Registered Public Accounting Firm.
23.2	Consent of Bailey, Stock, Harmon, Cottam, Lopez LLP (included in Exhibit 5.1).
24.1	Power of Attorney (included on the signature page of the Registration Statement on Form S-1, as amended (File No. 333-237457), filed with the Securities and Exchange Commission on March 30, 2020 and incorporated herein by reference).

SIGNATURES

Pursuant to the requirements of the Securities Act of 1933, as amended, the Registrant has duly caused this Registration Statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of Irvine, CA on the day of May 20, 2020.

ShiftPixy, Inc.

By: /s/ Scott W. Absher
Name: Scott W. Absher
Title: Chief Executive Officer
(Principal Executive Officer)

Pursuant to the requirements of the Securities Act of 1933, as amended, this Registration Statement has been signed by the following persons in the capacities and on the dates indicated.

Signature	Title	Date
<u>/s/ Scott W. Absher</u> Scott W. Absher	Chief Executive Officer and Director (Principal Executive Officer)	May 20, 2020
<u>*</u> Domonic Carney	Chief Financial Officer (Principal Financial Officer and Principal Accounting Officer)	May 20, 2020
<u>*</u> Kenneth Weaver	Director	May 20, 2020
<u>*</u> Whitney White	Director	May 20, 2020
<u>*</u> Christopher Sebes	Director	May 20, 2020
<u>*</u> Amanda Murphy	Director	May 20, 2020

ShiftPixy, Inc.

*By: /s/ Scott W. Absher
Scott W. Absher
Attorney-in-Fact

80 E. 1ST Ave.
P. O. Box 850
Afton, WY 83110
307-885-7745

221 East 21st Street
P.O. Box 1557
Cheyenne, Wyoming 82003
307-638-7745



Henry F. Bailey, Jr.
Lance T. Harmon*
Wallace L. Stock
Dale W. Cottam**
Douglas W. Bailey*
Ronald J. Lopez
Andrew Bailey

*Also licensed in Colorado

May 20, 2020

ShiftPixy, Inc.
1 Venture Suite 150
Irvine, CA 92618
Ladies and Gentlemen:

We have acted as counsel to ShiftPixy, Inc., a Wyoming corporation (the “Company”), in connection with the filing by the Company of a Registration Statement with the Securities and Exchange Commission pursuant to Rule 462(b) (the “Additional Registration Statement”) promulgated under the Securities Act of 1933, as amended, in connection with an underwritten public offering (the “Offering”) of (i) up to 1,898,850 shares (the “Shares”) of the Company’s common stock, par value \$0.0001 per share (the “Common Stock”), (ii) warrants to purchase up to 1,111,080 shares of Common Stock (the “Common Warrants”), (iii) pre-funded warrants to purchase up to 323,310 shares of Common Stock (the “Pre-Funded Warrants”), (iv) warrants to be issued to A.G.P./Alliance Global Partners (the “Representative”) as underwriter compensation to purchase up to 111,108 shares of Common Stock (the “Underwriter Warrants”; together with the Common Warrants and the Pre-Funded Warrants, the “Warrants”), and (v) the shares of Common Stock issuable upon exercise of the Warrants (collectively, the “Warrant Shares”; together with the Shares and the Warrants, the “Securities”). The Securities will be sold pursuant to an underwriting agreement (the “Agreement”) between the Company and the Representative. The Registration Statement on Form S-1 (No. 333-237457), as amended, which was declared effective on May 20, 2020, including the prospectus which forms a part of such Registration Statement (the “Prospectus”), and including the Additional Registration Statement is herein referred to as the “Registration Statement.”

In connection with this opinion, we have:

- (i) examined and relied upon: (A) the Registration Statement and Prospectus, (B) the form of Common Warrant filed as an exhibit to the Registration Statement, (C) the form of Pre-Funded Warrant filed as an exhibit to the Registration Statement, (D) the form of Underwriter Warrant filed as an exhibit to the Registration Statement, (E) the Company’s Articles of Incorporation and Bylaws, as currently in effect, (F) the Agreement, and (G) the originals or copies certified to our satisfaction of such records, documents, certificates, memoranda and other instruments as in our judgment are necessary or appropriate to enable us to render the opinion expressed below; and
- (ii) assumed that the Securities to be sold to the underwriters by the Company will be sold at a price and on terms established by the Board of Directors of the in accordance with the Wyoming Business Corporation Act. As to certain factual matters, we have relied upon representations of an officer of the Company and have not independently verified such matters.

In rendering this opinion, we have assumed the genuineness and authenticity of all signatures on signed documents; the authenticity of all documents submitted to us as originals; the conformity to originals of all documents submitted to us as copies; the accuracy, completeness and authenticity of certificates of public officials; and the due authorization, execution and delivery of all documents where due authorization, execution and delivery are a prerequisite to the effectiveness thereof (except we have not made such assumption with respect to the Company).

Our opinion herein is expressed solely with respect to the general corporate law of the State of Wyoming and, as to the Warrants constituting valid and binding obligations of the Company, the laws of the State of Wyoming. We express no opinion to the extent that any other laws are applicable to the subject matter hereof and provide no assurance as to compliance with any federal or state securities law, rule or regulation. With regard to our opinion concerning the Warrants constituting valid and binding obligations of the Company:

- (i) Our opinion is subject to, and may be limited by, (a) applicable bankruptcy, reorganization, insolvency, moratorium, fraudulent conveyance, debtor and creditor, and similar laws which relate to or affect creditors' rights generally, and (b) general principles of equity (including, without limitation, concepts of materiality, reasonableness, good faith and fair dealing) regardless of whether considered in a proceeding in equity or at law.
- (ii) Our opinion is subject to the qualification that the availability of specific performance, an injunction or other equitable remedies is subject to the discretion of the court before which the request is brought.
- (iii) We express no opinion as to any provision of the Warrants that: (a) provides for liquidated damages, buy-in damages, monetary penalties, prepayment or make-whole payments or other economic remedies to the extent such provisions may constitute unlawful penalties, (b) relates to advance waivers of claims, defenses, rights granted by law, or notice, opportunity for hearing, evidentiary requirements, statutes of limitations, trial by jury, or procedural rights, (c) restricts non-written modifications and waivers, (d) provides for the payment of legal and other professional fees where such payment is contrary to law or public policy, (e) relates to exclusivity, election or accumulation of rights or remedies, or (f) provides that provisions of the Warrants are severable to the extent an essential part of the agreed exchange is determined to be invalid and unenforceable.
- (iv) We express no opinion as to whether a state court outside of the State of Wyoming or a federal court of the United States would give effect to the choice of Wyoming law provided for in the Warrants.

With respect to the Warrant Shares, we express no opinion to the extent that, notwithstanding its current reservation of shares of Common Stock, future issuances of securities, including the Warrant Shares, of the Company and/or adjustments to outstanding securities, including the Warrants, of the Company may cause the Warrants to be exercisable for more shares of Common Stock than the number that remain authorized but unissued. Further, we have assumed the Exercise Price (as defined in the Warrants) will not be adjusted to an amount below the par value per share of the Common Stock.

On the basis of the foregoing, and in reliance thereon, we are of the opinion that:

- (i) the Shares, when sold and issued in accordance with the Registration Statement and the Prospectus, will be validly issued, fully paid and nonassessable;
- (ii) provided that the Common Warrants have been duly executed and delivered by the Company and duly delivered to the purchasers thereof against payment therefor, the Common Warrants, when sold and issued as contemplated in the Registration Statement and the Prospectus, will be valid and binding obligations of the Company,
- (iii) provided that the Pre-Funded Warrants have been duly executed and delivered by the Company and duly delivered to the purchasers thereof against payment therefor, the Pre-Funded Warrants, when sold and issued as contemplated in the Registration Statement and the Prospectus, will be valid and binding obligations of the Company,
- (iv) provided that the Underwriter Warrants have been duly executed and delivered by the Company and duly delivered to the Representative in accordance with the Agreement, the Underwriter Warrants, when sold and issued as contemplated in the Registration Statement and the Prospectus, will be valid and binding obligations of the Company, and
- (v) the Warrant Shares, when issued and paid for in accordance with the terms of the Warrants, will be validly issued, fully paid and non-assessable.

We consent to the reference to our firm under the caption “Legal Matters” in the Prospectus included in the Registration Statement and to the filing of this opinion as an exhibit to the Additional Registration Statement.

Very truly yours,

BAILEY | STOCK | HARMON | COTTAM | LOPEZ LLP

/s/ Dale W. Cottam

Dale W. Cottam

INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM'S CONSENT

We consent to the incorporation by reference in this Registration Statement of Shiftpixy, Inc. (the "Company") on Form S-1 pursuant to Rule 462(b) under Securities Act of 1933, as amended, of our report dated December 13, 2019, except as to Note 16 as to which the date is March 27, 2020 and Notes 3 and 13 as to which the date is May 19, 2020, which includes an explanatory paragraph as to the Company's ability to continue as a going concern, with respect to our audit of the financial statements of Shiftpixy, Inc. as of August 31, 2019 and 2018 and for each of the two years in the period ended August 31, 2019, appearing in the Registration Statement on Form S-1, as filed (File No. 333-237457), of Shiftpixy, Inc.

/s/ Marcum LLP

Marcum LLP
New York, NY
May 20, 2020
