

UNITED STATES BANKRUPTCY COURT  
WESTERN DISTRICT OF TEXAS  
SAN ANTONIO DIVISION

In re: § Chapter 11  
§  
THE NATIONAL BENEVOLENT §  
ASSOCIATION OF THE CHRISTIAN § Case No. 04-50948 (RBK)  
CHURCH (DISCIPLES OF CHRIST), et al. §  
§  
Debtors. § Jointly Administered

**FIRST AMENDED JOINT DISCLOSURE STATEMENT FOR  
FIRST AMENDED JOINT PLAN OF REORGANIZATION**

***IMPORTANT DATES***

- Date by which Ballots must be received: **February 25, 2005, at 4:00 p.m.** (Central Time)
- Date by which Objections to Confirmation of the Plan must be filed and served: **February 25, 2005, at 4:00 p.m.** (Central Time)
- Hearing on confirmation of the Plan: **March 2, 2005, at 9:30 a.m.** (Central Time)

HAYNES AND BOONE, LLP  
112 E. Pecan St., Suite 1600  
San Antonio, TX 78205  
Telephone: (210) 978-7000  
Telecopier: (210) 978-7450  
Robert D. Albergotti  
State Bar No. 00969800  
John D. Penn  
State Bar No. 15752300  
Eric Terry  
State Bar No. 00794729

ATTORNEYS FOR THE OFFICIAL  
COMMITTEE OF UNSECURED CREDITORS

LANGLEY & BANACK, INC.  
Trinity Plaza II  
745 East Mulberry, Suite 900  
San Antonio, TX 78212-3166  
Telephone: (210) 736-6600  
Telecopier: (210) 735-6889  
R. Glen Ayers, Jr.  
State Bar No. 01467500  
Emerson Banack, Jr.  
State Bar No. 01667000  
David S. Gragg  
State Bar No. 08253300

ONE OF THE ATTORNEYS FOR THE  
DEBTORS

Dated: January 20, 2005

## IMPORTANT NOTICE

**THIS DISCLOSURE STATEMENT HAS NOT BEEN APPROVED OR DISAPPROVED BY THE SECURITIES AND EXCHANGE COMMISSION, NOR HAS THE SECURITIES AND EXCHANGE COMMISSION PASSED UPON THE ACCURACY OR ADEQUACY OF THE STATEMENTS CONTAINED HEREIN.**

**AS TO CONTESTED MATTERS, ADVERSARY PROCEEDINGS, AND OTHER ACTIONS OR THREATENED ACTIONS, THIS DISCLOSURE STATEMENT SHALL NOT CONSTITUTE OR BE CONSTRUED AS AN ADMISSION OF ANY FACT OR LIABILITY, STIPULATION, OR WAIVER, BUT RATHER AS A STATEMENT MADE IN SETTLEMENT NEGOTIATIONS. THIS DISCLOSURE STATEMENT SHALL NOT BE ADMISSIBLE IN ANY NON-BANKRUPTCY PROCEEDING NOR SHALL IT BE CONSTRUED TO BE CONCLUSIVE ADVICE ON THE TAX, SECURITIES, OR OTHER LEGAL EFFECTS OF THE PLAN AS TO HOLDERS OF CLAIMS AGAINST, OR EQUITY INTERESTS IN, THE DEBTORS OR THE REORGANIZED DEBTORS.**

**UNLESS THE PLAN IS CONFIRMED, NOTHING CONTAINED IN THIS DISCLOSURE STATEMENT SHALL HAVE ANY PRECLUSIVE EFFECT AGAINST ANY PARTY IN INTEREST IN THESE CASES (WHETHER BY WAIVER, ADMISSION, ESTOPPEL OR OTHERWISE) IN ANY CAUSE OR PROCEEDING WHICH MAY EXIST OR OCCUR IN THE FUTURE. THIS DISCLOSURE STATEMENT SHALL NOT BE CONSTRUED OR DEEMED TO CONSTITUTE AN ACCEPTANCE OF FACT OR AN ADMISSION BY ANY PARTY IN INTEREST REGARDING ANY OF THE STATEMENTS MADE HEREIN, AND ALL RIGHTS AND REMEDIES OF INTERESTED PARTIES ARE EXPRESSLY RESERVED IN THIS REGARD. ALL SUCH DISCLOSURES SHOULD BE READ AS ASSERTIONS OF SUCH PARTIES. TO THE EXTENT ANY PARAGRAPH DOES NOT CONTAIN AN EXPRESS REFERENCE THAT IT CONSTITUTES AN ASSERTION OF A PARTICULAR PARTY, IT SHOULD BE READ AS AN ASSERTION OF THE PARTY INDICATED BY THE MEANING OR CONTEXT OF SUCH PARAGRAPH.**

**THIS DISCLOSURE STATEMENT INCLUDES FORWARD LOOKING STATEMENTS BASED LARGELY ON THE CURRENT EXPECTATIONS OF THE DEBTORS AND PROJECTIONS ABOUT FUTURE EVENTS AND FINANCIAL TRENDS AFFECTING THE FINANCIAL CONDITION OF THE DEBTORS OR THE REORGANIZED DEBTORS' BUSINESS. THE WORDS "BELIEVE," "MAY," "WILL," "ESTIMATE," "CONTINUE," "ANTICIPATE," "INTEND," "EXPECT" AND SIMILAR EXPRESSIONS IDENTIFY THESE FORWARD LOOKING STATEMENTS. THESE FORWARD LOOKING STATEMENTS ARE SUBJECT TO A NUMBER OF RISKS, UNCERTAINTIES AND ASSUMPTIONS, INCLUDING THOSE DESCRIBED BELOW UNDER THE CAPTION "RISK FACTORS." IN LIGHT OF THESE RISKS AND UNCERTAINTIES, THE FORWARD LOOKING EVENTS AND CIRCUMSTANCES DISCUSSED IN THIS DISCLOSURE STATEMENT MAY NOT OCCUR AND ACTUAL RESULTS COULD DIFFER MATERIALLY FROM THOSE ANTICIPATED IN THE FORWARD LOOKING STATEMENTS. NEITHER THE DEBTORS, NOR THE**

**REORGANIZED DEBTORS, NOR THE CREDITORS COMMITTEE UNDERTAKE ANY OBLIGATIONS TO UPDATE OR REVISE ANY FORWARD LOOKING STATEMENTS, WHETHER AS A RESULT OF NEW INFORMATION, FUTURE EVENTS OR OTHERWISE.**

**NO REPRESENTATIONS OR OTHER STATEMENTS CONCERNING THE DEBTORS (PARTICULARLY AS TO THEIR FUTURE BUSINESS OPERATIONS OR THE VALUE OF THEIR ASSETS) ARE AUTHORIZED BY THE DEBTORS, OTHER THAN THOSE EXPRESSLY SET FORTH IN THIS DISCLOSURE STATEMENT. ANY REPRESENTATIONS OR INDUCEMENTS MADE TO SECURE YOUR ACCEPTANCE, WHICH ARE OTHER THAN AS SET FORTH IN THIS STATEMENT, SHOULD NOT BE RELIED UPON BY YOU IN ARRIVING AT YOUR DECISIONS. ANY SUCH ADDITIONAL REPRESENTATIONS AND INDUCEMENTS SHOULD BE REPORTED TO COUNSEL FOR THE DEBTORS, WHO SHALL DELIVER SUCH INFORMATION TO THE BANKRUPTCY COURT, WHICH MAY TAKE SUCH ACTION AS IT DEEMS APPROPRIATE.**

**THE INFORMATION CONTAINED HEREIN HAS NOT BEEN INDEPENDENTLY AUDITED, EXCEPT AS SPECIFICALLY REFERENCED HEREIN. THE INFORMATION CONTAINED IN THIS DISCLOSURE STATEMENT HAS BEEN SUBMITTED BY THE DEBTORS, UNLESS SPECIFICALLY STATED TO BE FROM OTHER SOURCES. THE JOINT PLAN IS AN INTEGRAL PART OF THIS DISCLOSURE STATEMENT, AND EACH CREDITOR IS URGED TO REVIEW THE JOINT PLAN PRIOR TO VOTING ON IT.**

**NEITHER THE DEBTORS NOR THE CREDITORS COMMITTEE MAKE ANY REPRESENTATIONS WITH RESPECT TO THE EFFECTS OF TAXATION (STATE OR FEDERAL) ON THE INTEREST HOLDERS OR CREDITORS WITH RESPECT TO THE TREATMENT OF THEIR CLAIMS OR INTERESTS UNDER THE PLAN, AND NO SUCH REPRESENTATIONS ARE AUTHORIZED BY THE DEBTORS OR THE CREDITORS COMMITTEE. CREDITORS AND INTEREST HOLDERS ARE ENCOURAGED TO SEEK THE ADVICE OF THEIR OWN PROFESSIONAL ADVISORS IF THEY HAVE ANY SUCH QUESTIONS.**

Please note that if there is any inconsistency between the Plan (including any supplements to the Plan and the Confirmation Order confirming such Plan), on the one hand, and the descriptions in the Disclosure Statement, on the other hand, the terms of the Plan (and any supplements to the Plan and the Confirmation Order confirming such Plan) will govern.

Additional financial information about the Debtors can be found in the Annual Financial Information for the Twelve Months Ended December 31, 2003 (the "2003 Financial Information") and the monthly operating reports filed by the Debtors in their Reorganization Cases. The 2003 Financial Information is available on the Internet at [www.nbacares.org](http://www.nbacares.org). The Debtors' monthly operating reports are available on the Bankruptcy Court's Electronic Case Filing System ("PACER"), which can be found at [www.txwb.uscourts.gov](http://www.txwb.uscourts.gov), the official website for the Bankruptcy Court. PACER requires registration and payment of fees.

The summaries of the Plan and other documents related thereto are qualified in their entirety by the Plan and the documents and exhibits contained in the Plan. The Proponents will file the Confirmation Schedules with the Bankruptcy Court at least ten (10) days before the Confirmation Hearing. The Debtors will also post the documents set forth in the Confirmation Schedules at [www.nbacares.org](http://www.nbacares.org) as such documents become available. The financial and other information included in this Disclosure Statement is being communicated for settlement purposes only.

**TABLE OF CONTENTS**

**ARTICLE I. Introduction ..... 1**

    1.1 Filing of the Debtors' Chapter 11 Cases ..... 1

    1.2 Purpose of Disclosure Statement ..... 1

    1.3 Plan Balloting and Confirmation Procedures ..... 2

        1.3.1 Holder of Claims and Interests Entitled to Vote ..... 2

        1.3.2 Voting Procedures ..... 2

            1.3.2.1 Voting by Holders of Fixed Rate Bonds ..... 3

        1.3.3 Voting Requirements for Class Acceptance of the Plan ..... 3

        1.3.4 Confirmation Hearing ..... 4

**ARTICLE 2. Description of the Debtors' Businesses ..... 4**

    2.1 Historical Overview of the Debtors ..... 4

    2.2 Overview of the Debtors' Businesses ..... 5

    2.3 Pre-Effective Date Board and Post-Effective Date Debtors ..... 6

**ARTICLE 3. Financial Information, Projections, and Valuation Analysis ..... 6**

    3.1 Selected Historical Financial Information ..... 6

        3.1.1 Consolidated Balance Sheets for 2002, 2003, and 2004 (Unaudited) ..... 7

        3.1.2 Consolidated Profitability Summary for 2002, 2003, and 2004 (Unaudited) ..... 8

        3.1.3 Consolidated Statements of Cash Flow for 2002, 2003, and 2004 (Unaudited) .... 9

        3.1.4 Cash and Investment Accounts ..... 9

    3.2 Projections ..... 11

        3.2.1 Principal Assumptions ..... 12

        3.2.2 Projected Three Year Consolidated Balance Sheets (Unaudited) ..... 13

        3.2.3 Projected Three Year Consolidated Profitability Summary (Unaudited) ..... 15

        3.2.4 Projected Three Year Consolidated Statements of Cash Flow (Unaudited) ..... 19

    3.3 Sources of Plan Distributions ..... 20

        3.3.1 Prepaid Insurance Policies ..... 20

        3.3.2 Cash on Hand ..... 20

        3.3.3 Cash Flow from Operations ..... 20

        3.3.4 Liquidation of Assets ..... 20

        3.3.5 Cash and Investment Accounts ..... 20

**ARTICLE 4. Reasons for Chapter 11 Filing ..... 22**

    4.1 Events Leading to the Commencement of the Chapter 11 Case ..... 22

        4.1.1 Factors Negatively Impacting the Debtors' Financial Condition ..... 22

4.1.2	Payment Defaults Under the Debtors' Debt Instrument.....	23
4.2	Pending Litigation and Other Proceedings.....	24
4.2.1	Debt Instrument Litigation.....	24
4.2.2	Normal Course Litigation.....	24
4.2.3	Missouri Attorney General's Notice of Intent to Sue.....	25
<b>ARTICLE 5.</b>	<b>Significant Events During the Chapter 11 Case .....</b>	<b>26</b>
5.1	Significant Motions .....	26
5.1.1	Payment of Employee Wages and Benefits .....	26
5.1.2	Cash Management, Bank Accounts, and Investment Guidelines.....	26
5.1.3	Entrance Fees and Gift Annuities.....	26
5.1.4	Debtor-in-Possession Financing.....	27
5.1.5	Key Employee Retention Program.....	27
5.1.6	Resident Refund Obligations .....	27
5.1.7	De Minimis Asset Sales .....	28
5.1.8	Objection to Retention of Case Professionals .....	28
5.1.9	Fee Auditor.....	28
5.2	Claims Process and Bar Date .....	28
5.2.1	Schedules and Statements .....	28
5.2.2	Bar Date.....	28
5.2.3	Residency Agreements.....	29
5.3	Appointment of the Statutory Committees.....	29
5.3.1	Creditors Committee .....	29
5.3.2	Residents Committee.....	30
5.4	Mediation and Sale of Senior Living Facilities.....	31
5.5	Resolution of Claims and Releases for Creditors.....	32
5.6	The Debtors' Assertions Regarding Settlements.....	34
5.6.1	HUD .....	34
5.6.2	The Dow Lohnes Report and the Settlement of Interest Rate Issues .....	36
5.6.3	Avoidance Actions .....	37
<b>ARTICLE 6.</b>	<b>Summary of the Plan.....</b>	<b>38</b>
6.1	Identification of Classes.....	38
6.2	Unimpaired Classes.....	38
6.3	Impaired Classes .....	38
6.4	Administrative Claims Bar Date .....	38

6.5	Professional Fee Claims Bar Date.....	39
6.6	Payment of Administrative Claims and Professional Fee Claims.....	39
6.7	Treatment and Satisfaction of Allowed Priority Unsecured Tax Claims .....	39
6.8	U.S. Trustee Fees .....	39
6.9	Administrative Tax Claim Bar Date.....	39
6.10	Treatment of Class 1 Allowed Priority Unsecured Non-Tax Claims .....	39
6.11	Treatment of Class 2 Allowed Secured Claims of Taxing Authorities .....	40
	6.11.1 Determination of Class 2 Allowed Secured Claims of Taxing Authorities .....	40
	6.11.2 Treatment of Class 2 Allowed Secured Claims of Taxing Authorities .....	40
	6.11.3 Sale of Collateral.....	40
	6.11.4 Transfer of Collateral .....	40
	6.11.5 Other Agreements .....	40
	6.11.6 Cash Payment.....	40
	6.11.7 Retention of Lien.....	41
	6.11.8 Deficiency of Claim .....	41
6.12	Treatment of Class 3 Allowed Fixed Rate Bond Secured Claims.....	41
	6.12.1 Determination of Class 3 Allowed Fixed Rate Bond Secured Claims .....	41
	6.12.2 Treatment of Class 3 Allowed Secured Claims.....	41
	6.12.3 Retention of Lien.....	41
	6.12.4 Deficiency Claim.....	41
6.13	Treatment of Class 4 Allowed Secured Claims not included within another Class under the Plan.....	41
	6.13.1 Determination of Class 4 Allowed Secured Claims not included within another Class under the Plan .....	41
	6.13.2 Treatment of Class 4 Allowed Secured Claims.....	41
	6.13.3 Sale of Collateral.....	42
	6.13.4 Transfer of Collateral .....	42
	6.13.5 Other Agreements .....	42
	6.13.6 Cash Payment.....	42
	6.13.7 Retention of Lien.....	42
	6.13.8 Deficiency Claim.....	42
6.14	Treatment of Class 5 Allowed Unsecured Claims .....	42
	6.14.1 Subclasses.....	42
	6.14.2 Treatment of Class 5 Unsecured Claims .....	43
	6.14.2.1 Treatment of Funded Debt Claims .....	43

6.14.2.2	Treatment of Trade Debt Claims .....	44
6.15	Treatment of Class 6 Allowed Intercompany Claims .....	44
<b>ARTICLE 7.</b>	<b>Executory Contracts.....</b>	<b>44</b>
7.1	Assumption and Rejection.....	44
7.1.1	Annuity Contracts .....	45
7.2	Approval of Assumption or Rejection.....	45
7.3	Rejection Claims .....	45
7.4	Employee Contracts .....	45
7.5	Severance and Retiree Benefits.....	45
7.6	Insurance Policies.....	45
<b>ARTICLE 8.</b>	<b>Means for Execution of the Plan .....</b>	<b>46</b>
8.1	The Effective Date Escrow.....	46
8.2	Debtors' Deposits .....	46
8.3	Debtors to Transfer Cash and Investment Accounts .....	46
8.4	Confirmation Account.....	47
8.5	Adjustment of Postpetition Interest Rate.....	47
8.6	Postpetition Interest Rate for Disputed Claims .....	47
8.7	Timing .....	47
8.8	Conditions Precedent.....	47
8.9	The Closing .....	48
8.9.1	Execution and Ratification of the Escrow Agreement .....	48
8.9.2	Tax Treatment of the Effective Date Escrow .....	48
8.9.3	Amendment of Debtors' Articles of Organization and Bylaws .....	49
8.9.4	Execution of Documents and Company Action .....	49
8.9.5	Surrender of Instruments.....	49
8.10	Termination of the Committees.....	49
8.11	Bankruptcy Code Section 1145 Determination.....	49
8.12	Injunction Against Changing Tax Treatment of the Debtors .....	50
8.13	Board of Trustees .....	50
8.14	Appointment of Chief Financial Officer .....	50
8.15	Post-Effective Date Cash and Investment Accounts .....	50
<b>ARTICLE 9.</b>	<b>Effect of Confirmation .....</b>	<b>50</b>
9.1	Revesting of Property.....	50
9.2	Exculpation of Committee Professionals, Committee Members, and Officers and Managers .....	50



9.3	Board of Trustees and Officers .....	51
9.4	Mutual Release and Injunction.....	51
9.5	Reserved Claims.....	52
9.6	Discharge.....	52
9.7	Injunction Enjoining Claimholders Against Debtors .....	52
<b>ARTICLE 10. Certain Factors to Be Considered.....</b>		<b>53</b>
<b>ARTICLE 11. Alternatives to the Plan.....</b>		<b>54</b>
11.1	General .....	54
11.2	Alternative Plans of Reorganization.....	54
11.3	Liquidation Under Chapter 7.....	54
11.4	Liquidation Analysis .....	55
11.5	Dismissal of the Case .....	55
<b>ARTICLE 12. Confirmation of the Plan .....</b>		<b>55</b>
12.1	Feasibility .....	55
12.2	Best Interests Test .....	55
<b>ARTICLE 13. Certain Federal Income Tax Consequences of the Plan of Reorganization.....</b>		<b>56</b>
13.1	Consequences to the Debtors .....	56
13.2	Consequences to Holders of Funded Debt Claims and General Debt Claims.....	56
13.3	Information Reporting and Withholding.....	57
<b>ARTICLE 14. Conclusion.....</b>		<b>58</b>

## **ARTICLE 1. Introduction**

This First Amended Joint Disclosure Statement is submitted by the Debtors and the Creditors Committee (the "Proponents"), in connection with the Proponents' efforts to solicit votes necessary to confirm the First Amended Joint Plan of Reorganization ("Plan"). A copy of the Plan is attached hereto as **Exhibit 1**.

### **1.1 Filing of the Debtors' Chapter 11 Cases**

On February 16, 2004 ("Petition Date" or "Filing Date"), Debtors each filed voluntary petitions under the Bankruptcy Code in the United States Bankruptcy Court for the Western District of Texas, San Antonio Division ("Court" or "Bankruptcy Court"). The Debtors continue to manage their affairs as Debtors-in-Possession pursuant to Bankruptcy Code Section 1107.

### **1.2 Purpose of Disclosure Statement**

The purpose of this Disclosure Statement is to provide you, as the holder of a Claim against the Debtors, with information to enable you to make a reasonably informed decision on the Plan before exercising your right to vote to accept or reject the Plan<sup>1</sup>.

On January 19, 2005, after notice and a hearing, the Bankruptcy Court approved this Disclosure Statement as containing information, of a kind and in sufficient detail, adequate to enable the holders of Claims against the Debtor to make an informed judgment to accept or reject the Plan. **THE BANKRUPTCY COURT'S APPROVAL OF THIS DISCLOSURE STATEMENT DOES NOT CONSTITUTE A GUARANTY OF THE ACCURACY OR COMPLETENESS OF THIS INFORMATION OR THE BANKRUPTCY COURT'S ENDORSEMENT OF THE PLAN.**

You should read all of this Disclosure Statement before voting on the Plan. **THE DISCLOSURE STATEMENT, HOWEVER, IS NOT INTENDED TO REPLACE A CAREFUL AND DETAILED REVIEW AND ANALYSIS OF THE PLAN BY EACH HOLDER OF A CLAIM. THE DISCLOSURE STATEMENT IS INTENDED TO AID AND SUPPLEMENT THAT REVIEW. THE DESCRIPTION OF THE PLAN IS A SUMMARY ONLY. HOLDERS OF CLAIMS AND INTERESTS AND OTHER PARTIES IN INTEREST ARE CAUTIONED TO REVIEW THE PLAN AND ANY RELATED ATTACHMENTS FOR A FULL UNDERSTANDING OF THE PLAN'S PROVISIONS. THE DISCLOSURE STATEMENT IS QUALIFIED IN ITS ENTIRETY BY REFERENCE TO THE PLAN.**

You are urged to consult with your own financial and other advisors in deciding whether to vote to approve or reject the Plan. No solicitation of votes may be made except pursuant to this Disclosure Statement, and no person has been authorized to use any information concerning the Debtors or their businesses other than the information contained in this Disclosure Statement.

#### **➤ About this Disclosure Statement:**

- The statements contained in this Disclosure Statement are made as of the date that the Bankruptcy Court enters an order approving this Disclosure Statement, unless another time is specified in this Disclosure Statement. Neither the delivery of this Disclosure Statement nor any action taken in

---

<sup>1</sup> Capitalized terms that are not defined in the Disclosure Statement are defined in the Plan.

connection with the Plan implies that the information contained in this Disclosure Statement is correct as of any time after that date.

- Unless the context requires otherwise: (a) the gender (or lack of gender) of all words used in this Disclosure Statement includes the masculine, feminine and neuter; (b) references to articles and sections (other than in connection with the Bankruptcy Code, the Bankruptcy Rules, another specified law or regulation or another specified document) refer to the articles and sections of this Disclosure Statement; and (c) “including” means “including, without limitation”.

- Many capitalized words used in this Disclosure Statement have been defined in the context of the provisions in which they first appear within this Disclosure Statement. Any other capitalized terms used in this Disclosure Statement are intended to have the meanings ascribed to them in the Plan. Any capitalized term not defined in the context of a provision or in the Plan shall have the meaning ascribed to that term in the Bankruptcy Code or Bankruptcy Rules, whichever is applicable.

- You may not rely on this Disclosure Statement for any purpose other than to determine how to vote on the Plan. Nothing contained in this Disclosure Statement constitutes or will be deemed to be advice on the tax or other legal effects of the Plan on holders of Claims or interests.

- Certain of the information contained in this Disclosure Statement is forward-looking. This Disclosure Statement contains estimates and assumptions that may prove not to have been accurate and financial projections that may be materially different from actual future experiences.

### **1.3 Plan Balloting and Confirmation Procedures**

#### ***1.3.1 Holder of Claims and Interests Entitled to Vote***

Only Classes of Claims and interests which are (i) “impaired” by a plan of reorganization and (ii) entitled to receive a distribution under such a plan are entitled to vote to accept or reject a plan under the Bankruptcy Code. In this case, only holders of Claims in Class 3 and Class 5 are impaired by the Plan and entitled to vote to accept or reject the Plan. Claims in Classes 1, 2, and 4 are unimpaired by the Plan, and the holders thereof are conclusively presumed to have accepted the Plan. Class 6 will receive no distributions under the Plan and would normally be deemed to have rejected the Plan. However, the Debtors have consented to this treatment and therefore are deemed to have accepted the Plan and shall not vote. The holders of Claims in Class 3 and Class 5 entitled to vote to accept or reject the Plan are the holders of such Claims as of 11:59 p.m. local time on January 18, 2005 (the “Voting Record Date”).

#### ***1.3.2 Voting Procedures***

If you are entitled to vote to accept or reject the Plan, a Ballot (the “Ballot”) for acceptance or rejection of the Plan and a pre-addressed envelope for return of the Ballot are enclosed; provided that, if you are a holder of a Fixed Rate Bond, your ballot will be provided to you in accordance with the procedures of section 1.3.2.1 hereof “Voting By Holders of Fixed Rate Bonds.” **BALLOTS FOR ACCEPTANCE OR REJECTION OF THE PLAN ARE BEING PROVIDED ONLY TO HOLDERS OF CLAIMS IN CLASS 3 AND CLASS 5 BECAUSE THEY ARE THE ONLY HOLDERS OF CLAIMS THAT MAY VOTE TO ACCEPT OR REJECT THE PLAN.** If you were the holder of a Claim in one of these Classes as of January 18, 2005, and did not receive a Ballot, received a damaged or illegible Ballot, or lost your Ballot, or if you are a party in interest and have any questions concerning the voting procedures in respect thereof, please contact the following (the “Solicitation Agent”):

### **Bondholder Communications Group**

Attn: Natalie Andrews  
30 Broad Street, 46<sup>th</sup> Floor  
New York, New York 10004  
Telephone: (888) 385-BOND (888-385-2663)  
Facsimile: (212) 422-0790  
Email: nandrews@bondcom.com

After carefully reviewing this Disclosure Statement, please indicate your acceptance or rejection of the Plan by voting in favor of or against the Plan on the Ballot. If you are a holder of a Fixed Rate Bond, please return your Ballot in accordance with the procedures set forth in section 1.3.2.1 hereof, "Voting By Holders of Fixed Rate Bonds." If you are not a holder of a Fixed Rate Bond, please return the Ballot to the Solicitation Agent at the address set forth on the Ballot, in the enclosed return envelope by 5:00 p.m. (Central Time) on February 25, 2005 (the "Voting Deadline"). Any Ballot not indicating an acceptance or rejection will be deemed an acceptance of the Plan. You may also return your Ballot by courier or fax by following the instructions on the Ballot. ANY BALLOTS RECEIVED AFTER THE VOTING DEADLINE WILL NOT BE COUNTED, UNLESS THE VOTING DEADLINE IS EXTENDED BY THE BANKRUPTCY COURT.

#### ***1.3.2.1 Voting By Holders of Fixed Rate Bonds***

Each holder of a Fixed Rate Bond is entitled to vote as a member of Class 3 and Class 5. A vote by a Fixed Rate Bondholder to accept or reject the Plan shall be deemed to be a vote to accept or reject in both Classes 3 and 5 of the Plan, and a Fixed Rate Bondholder shall not be entitled to a separate or inconsistent vote in Class 3 and Class 5. Any ballot that indicates a separate and inconsistent vote in Classes 3 and 5 shall be deemed to be disqualified.

Any beneficial holder of a Fixed Rate Bond in certificated form shall receive a ballot directly from the Solicitation Agent and shall complete and return such ballot directly to the Solicitation Agent no later than the Voting Deadline in accordance with the provisions of this section 1.3.2 hereof, "Voting Procedures."

Under the terms of the order approving the Disclosure Statement, the Solicitation Agent will attempt to locate and solicit votes on the Plan from the holders of Fixed Rate Bonds that are not in certificated form through the record owners and nominees of such beneficial holders. All such nominees, and any record owners who serve as nominees for such beneficial owners, are directed to distribute a beneficial holder ballot to each of their beneficial owners as soon as possible. Instead of returning their ballot to the Solicitation Agent, each such beneficial holder shall return their completed ballot to their nominee, who shall collect, tabulate and submit to the Solicitation Agent a master ballot that summarizes the vote of the beneficial holders. Each such master ballot must be received by the Solicitation Agent no later than the Voting Deadline.

#### ***1.3.3 Voting Requirements for Class Acceptance of the Plan***

Your acceptance of the Plan is important. In order for the Plan to be "accepted" by Creditors and interest holders whose claims are impaired, at least sixty-six and two-thirds percent (66.66%) in amount of Allowed Claims and more than fifty percent (50%) in number of Allowed Claims

voting in each Class must accept the Plan. By not voting, a Creditor favoring acceptance of the Plan jeopardizes confirmation.

### **1.3.4 Confirmation Hearing**

The Bankruptcy Court has entered an order fixing March 2, 2005, at 9:30 a.m. (Central Time), Courtroom 3, 5<sup>th</sup> Floor, Old United States Post Office and Courthouse, 615 East Houston St., San Antonio, Texas as the date, time and place for the initial commencement of a hearing on confirmation of the Plan, and fixing February 25, 2005 at 4:00 p.m. (Central Time), as the time by which all objections to confirmation of the Plan must be filed with the Bankruptcy Court and served on counsel for the Debtors and the Creditors Committee. The confirmation hearing may be adjourned from time to time without further notice except for the announcement of the adjourned time and date at the confirmation hearing or any adjournment thereof.

Section 1128(a) of the Bankruptcy Code provides that any party in interest may object to confirmation of a plan. Any objection to confirmation of the Plan must be in writing, conform to Federal Rules of Bankruptcy Procedure and Local Rules of the Bankruptcy Court, set forth the name of the objecting party, the nature and amount of the Claim or interest held or asserted by the objecting party against the Debtors' Estates, the basis for the objection and the specific grounds therefor. The objection, together with proof of service thereof, must be filed with the Bankruptcy Court, with copies served upon the following and upon the Limited Service list in this case:

**LANGLEY & BANACK, INC.**

Attn: David Gragg  
Trinity Plaza II  
745 East Mulberry, Suite 900  
San Antonio, Texas 78212-3166

**HAYNES AND BOONE, LLP**

Attn: John Penn  
201 Main Street, Suite 2200  
Fort Worth, Texas 76102

ONE OF THE ATTORNEYS FOR THE DEBTORS

ATTORNEYS FOR THE OFFICIAL  
COMMITTEE OF UNSECURED CREDITORS

**UNLESS AN OBJECTION IS TIMELY AND PROPERLY SERVED AND FILED BY FEBRUARY 25, 2005, AT 4:00 P.M. (CENTRAL TIME), IT MAY NOT BE CONSIDERED BY THE BANKRUPTCY COURT.**

## **ARTICLE 2.**

### **Description of the Debtors' Businesses**

#### **2.1 Historical Overview of the Debtors**

NBA, a Missouri nonprofit corporation organized in March of 1887, serves as a separately incorporated general administrative unit of the Christian Church (Disciples of Christ) (the "Church"), to provide certain social and health services related to the mission and ministry of the Church. The purpose of the NBA is to provide for the physical, moral, intellectual and spiritual needs of those who may seek its protection and aid. At December 31, 2003, the NBA operated twenty units providing care for the elderly and specialized services for children, youth, families and others ("Service Units") and managed under contract seventy-six adult low-income residential housing projects ("Managed Units" and together with the Service Units, the "Units"), financed by loans from the U.S. Department of Housing and Urban Development ("HUD").

In conjunction with a mediation process ordered by the Bankruptcy Court, the NBA, in September 2004, entered into an agreement pursuant to which it agreed to sell, subject to higher or better

offers, eleven Service Units providing services to older adults. Following a competitive bidding process, Fortress NBA Acquisition LLC, a Delaware limited liability company (“Fortress”), was determined to be the winning bidder. This agreement was approved by the Bankruptcy Court on December 1, 2004.

Following the commencement of the bankruptcy proceedings, HUD expressed concerns with respect to the NBA’s continued ability to sponsor and manage the Managed Units, and the NBA is undertaking to transition its management contracts to another manager or managers. The NBA has filed a motion with the Bankruptcy Court seeking to either reject or assume and assign its management contracts, which motion is scheduled to be heard by the Bankruptcy Court on February 3, 2005.

## **2.2 Overview of the Debtors’ Businesses**

The NBA, all of its Service Units and six other nonprofit corporations affiliated with the NBA are Debtors. None of the Managed Units are Debtors. The NBA is organized under the Missouri Nonprofit Corporation Act. Of the remaining twenty-five Debtors, twenty-three are organized under the nonprofit corporate laws of the following states: Alabama, California, Colorado, Florida, Georgia, Illinois, Indiana, Iowa, Missouri and Texas. The remaining two Debtors are organized on a nonstock, nonprofit basis under the general corporate laws of Kansas and Oklahoma. The NBA and each of the other Debtors are exempt organizations under Section 501(c)(3) of the Internal Revenue Code of 1986 (the “Code”) and are exempt from Federal income tax under Section 501(a) of the Code by virtue of a group ruling issued by the Internal Revenue Service, which covers the Church and its subordinate organizations.

As of December 31, 2003, eighty-four NBA Units provided care for the elderly, and twelve provided specialized services for children, youth, families and others. In 2003, these eighty-four Units served more than 20,000 individuals. At December 31, 2003, of the twenty-six Debtors, eleven operated senior care facilities, three provided special care services, four provided children’s care services, and the remaining Debtors either conducted NBA’s corporate and foundation activity, provided ancillary services, or were inactive corporations. During 2004, the NBA closed one Service Unit providing special care services and transferred the operation of one Service Unit providing children’s care services to a local nonprofit organization. As of February 9, 2004, the Debtors employed 2,645 persons.

The Debtors derive their revenues from: (i) payments received from residents, including monthly occupancy payments, payments for ancillary services, and lump-sum payments made by certain residents at the times that they become new residents of retirement living units (such fees are known as “*entrance fees*”); (ii) funding from state, federal, and local governments, including, among other things, Medicare and Medicaid reimbursements; (iii) income from the Debtors’ existing cash and investment funds; and (iv) charitable gifts made by individuals, foundations, corporations, churches, civic organizations, and other groups, including restricted and unrestricted gifts, gifts made in conjunction with charitable gift annuities, and gifts made in trust. Since 2001, NBA has raised over \$42 million in charitable gifts, including approximately \$6 million during the ten (10) months ending October 31, 2004.

For the ten (10) months ending October 31, 2004, the Debtors’ consolidated revenues, gains, and charitable support totaled \$104 million. For the same period, the Debtors reported a net consolidated gain of approximately \$3.2 million, which excludes restructuring expenses and post-petition interest. This gain represents a significant improvement from the Debtors’ net consolidated annual loss of approximately \$13.5 million in 2003, which excludes restructuring expenses. On October 31, 2004, the Debtors had assets with a book value of \$348.9 million, which amount includes the approximately \$103.2 million in cash and investments held in the Debtors’ Cash and Investment Accounts.

For the ten (10) month period from May 2003 until the filing of the bankruptcy petition in February, 2004, the Debtors spent \$15,799,543.00 in pre-petition restructuring efforts (including \$5 million in pre-petition retainers paid to professionals). The post-petition professional fees billed to date total \$17.2 million (excluding UMB, KBC and US Bank professionals). The total estimated post-petition cost of professionals through the Effective Date is \$34 million, including \$4.3 million for UMB, KBC and US Bank professionals. The grand total of pre-petition and post-petition incurred and estimated professional fees and expenses is approximately \$44.8 million.

Additional financial information about the Debtors can be found in the 2003 Financial Information and the monthly operating reports filed by the Debtors in their Reorganization Cases. The 2003 Financial Information is available on the Internet at [www.nbacares.org](http://www.nbacares.org). The Debtors' monthly operating reports are available on the Bankruptcy Court's Electronic Case Filing System, which can be found at [www.txwb.uscourts.gov](http://www.txwb.uscourts.gov), the official website for the Bankruptcy Court.

### **2.3 Pre-Effective Date Board and Post-Effective Date Debtors**

The Debtors anticipate that, as of the date of the hearing on this Disclosure Statement, the Debtors' Board will consist of the Rev. David Mindel, Mr. Dennis Hagemann, Ms. Susan Pamerleau, and the Rev. Chris Hobgood. As the General Minister and President of the Christian Church (Disciples of Christ), Rev. Hobgood sits *ex officio*, as does Mr. Hagemann, as Acting President. All other directors will have departed.

After the Effective Date, the Reorganized Debtors will operate child care facilities (Christian Services for Children in Alabama, Inc., NBA ECHO / Emergency Children's Home, and The Olive Branch) and special care facilities (Woodhaven Learning Center and Serra Residential Center, Inc.). The Reorganized Debtors will continue to maintain a central office scaled to the size of the reorganized business and, as discussed in more detail below, will continue to manage and administer the Cash and Investment Accounts, except as provided under Section 3.3.5 (dealing with certain accounts). Also as discussed in more detail throughout this Disclosure Statement, the Reorganized Debtors will no longer own or operate the Senior Living Facilities or manage the Managed Units and will not raise funds or conduct any business in the State of Texas until the Reorganized Debtors are approved by the Texas Attorney General.

As discussed in more detail below, after making distributions required by the Plan (other than future payments to holders of Allowed Annuity Claims), the Reorganized Debtors will retain certain cash and unrestricted investments available for general use and certain investments earmarked for specific uses (including funds held in trust, annuities and temporarily and permanently restricted funds). Additionally, this Disclosure Statement contains detailed projected financial information reflecting the Reorganized Debtors' operations during periods subsequent to the Effective Date.

## **ARTICLE 3.**

### **Financial Information, Projections, and Valuation Analysis**

#### **3.1 Selected Historical Financial Information**

This section provides financial information concerning the recent financial condition and results of operations of the Debtors. The financial information includes consolidated balance sheets, profitability summary, and statements of cash flow for 2002, 2003, and 2004 (with November and December 2004 being projected). Subject to the matters described in this section, the Debtors prepared the accompanying historical financial information and the Creditors Committee makes no comments regarding the information.

**3.1.1 Consolidated Balance Sheets for 2002, 2003, and 2004 (Unaudited) (\$000)**

	<u>Dec-02</u>	<u>Dec-03</u>	<u>Projected 12/31/04</u>
<b>ASSETS</b>			
<b>CURRENT ASSETS</b>			
Cash and Cash equivalents	6,435	11,225	11,879
Accounts and interest receivable	13,364	9,239	11,527
Contributions receivable - short term	1,655	364	312
Inventories and prepaid expenses	1,735	1,694	3,120
Marketable securities	82,141	58,014	50,596
Other Investments	4,500	13,134	13,393
<b>Total Current Assets</b>	<b>109,829</b>	<b>93,670</b>	<b>90,827</b>
<b>NONCURRENT ASSETS</b>			
Bond proceeds held by trustee	16,635	14,534	9,138
Contributions receivable - long term	303	589	453
Land, buildings, and equipment	227,927	215,154	207,550
Goodwill	3,104	3,001	2,910
Long-term investments	30,471	31,633	29,727
Unamortized debt issuance costs	5,383	5,006	4,412
Other noncurrent assets	4,018	5,116	3,919
<b>Total Noncurrent Assets</b>	<b>287,840</b>	<b>275,033</b>	<b>258,109</b>
<b>TOTAL ASSETS</b>	<b><u>397,670</u></b>	<b><u>368,703</u></b>	<b><u>348,936</u></b>
<b>LIABILITIES &amp; NET ASSETS</b>			
<b>CURRENT LIABILITIES</b>			
Accounts payable Pre-Petition	7,437	8,460	3,089
Accounts payable Post-Petition, including Professional Fees	-	-	15,503
Accrued interest	3,052	2,998	3,657
Deferred Income / Refundable advances	2,290	799	467
Current portion of annuity obligation	1,875	1,969	1,856
Current portion of long term debt	4,837	42,140	42,137
Other current liabilities	318	310	55
<b>Total Current Liabilities</b>	<b>19,808</b>	<b>56,676</b>	<b>66,764</b>
Long-term debt	216,351	177,639	177,699
Other noncurrent liabilities	10,308	7,331	6,792
Annuity obligation (less current portion)	7,241	7,489	6,902
Funds held in trust	7,024	5,818	5,124
Unearned entrance fees	40,702	38,427	31,382
<b>TOTAL LIABILITIES</b>	<b><u>301,434</u></b>	<b><u>293,380</u></b>	<b><u>294,663</u></b>
Unrestricted	70,212	48,547	
Temporarily restricted	7,270	7,626	
Permanently restricted	18,753	19,150	
<b>TOTAL NET ASSETS</b>	<b><u>96,235</u></b>	<b><u>75,323</u></b>	<b><u>54,273</u></b>
<b>TOTAL LIABILITIES &amp; NET ASSETS</b>	<b><u>397,670</u></b>	<b><u>368,703</u></b>	<b><u>348,936</u></b>



### 3.1.2 Consolidated Profitability Summary for 2002, 2003, and 2004 (Unaudited)

	<u>CY 2002</u>	<u>CY 2003</u>	<u>Projected CY 2004</u>
<b>Revenue:</b>			
Program Revenue	124,434,962	118,902,186	121,661,571
Entrance Fee Amortization	3,483,085	3,359,007	2,566,938
Other Revenue	9,625,693	8,193,402	7,232,630
Development Revenue	12,685,256	10,027,864	8,031,776
Support Fees	6,718,752	6,317,622	5,661,273
Investment / Transfer Income	(8,705,797)	4,337,566	3,641,471
<b>Total Revenue</b>	<b>148,241,951</b>	<b>151,137,647</b>	<b>148,795,659</b>
<b>Operating Expenses:</b>			
Salaries and Wages	80,275,297	71,841,061	66,525,592
Employee Benefits	9,752,077	8,433,255	8,557,910
Employer Payroll Taxes	8,676,592	8,849,379	8,050,563
Professional Fees	4,665,963	3,912,770	4,137,140
Supplies	10,145,930	9,659,285	9,679,363
Occupancy	8,389,042	7,158,548	6,815,069
Insurance	5,370,671	4,181,378	2,122,921
Furniture and Equipment	2,631,716	2,477,121	2,048,286
Depreciation	12,187,277	12,190,186	11,729,679
Transportation & Travel	3,044,502	2,668,244	2,223,781
Personal Services	1,631,467	884,672	1,347,714
Medicare	1,163,551	1,269,099	2,661,152
Postage, Telephone, etc	2,690,495	1,949,740	1,498,855
Communications	511,219	404,416	348,756
Support Fees	6,718,752	6,317,622	5,661,273
Development	874,333	671,133	392,696
Other	4,928,585	8,516,854	7,316,386
Marketing Expense	1,045,347	838,651	980,320
Bond Interest Payment	12,517,445	12,372,184	1,095,355
<b>Total Operating Expenses</b>	<b>177,220,261</b>	<b>164,595,598</b>	<b>143,192,809</b>
<b>Change in Net Assets</b>	<b>(28,978,310)</b>	<b>(13,457,951)</b>	<b>5,602,851</b>
Plus: Interest	12,517,445	12,372,184	1,095,355
Plus: Depreciation	12,187,277	12,190,186	11,729,679
Less: Discontinued Operations	(5,816,786)	(1,664,042)	-
Less: Entrance Fee Amortization	3,483,085	3,359,007	2,566,938
<b>EBITDAR</b>	<b>(1,939,887)</b>	<b>9,409,454</b>	<b>15,860,947</b>
Less: CAPEX	7,932,427	5,762,262	4,268,157
Less: Interest	12,517,445	12,372,184	1,095,355
Less: Principal	4,435,000	4,775,000	-
Less: Restructuring Expenses	-	8,299,885	25,655,278
Plus: Discontinued Operations	(5,816,786)	(1,664,042)	-
Plus: Entrance Fee Deposits	10,727,393	7,812,598	3,945,442
Less: Entrance Fee Refunds	5,406,411	6,727,110	5,800,194
<b>Free Cash Flow</b>	<b>(27,320,563)</b>	<b>(22,378,431)</b>	<b>(17,012,595)</b>

### 3.1.3 Consolidated Statements of Cash Flow for 2002, 2003, and 2004 (Unaudited) (\$000)

	CY 2002	CY 2003	Projected CY 2004
<b>Operating Activities</b>			
Change in net Assets	(28,978)	(13,458)	5,603
Adjustments to reconcile change in net assets to net cash (used in) provided by operating activities:			
Depreciation and Amortization	12,187	12,190	11,730
Amortization of Entrance Fees	(3,483)	(3,359)	(4,337)
Amortization of Bond Costs	378	378	386
Restructuring Expenses	-	(8,300)	(25,655)
Decrease (Increase) in Operating Assets:			
Cash and Cash equivalents	1,778	(4,790)	(654)
Accounts and interest receivable	1,232	4,125	(2,288)
Contributions Receivable (ST & LT)	801	1,004	188
Inventories and Prepaid expenses	433	41	(1,426)
Other Current Investments	(4,500)	(8,634)	(258)
Increase (decrease) in operating liabilities:			
Accounts payable Pre-Petition	(1,313)	1,023	(5,371)
Accounts payable Post-Petition	-	-	15,503
Accrued interest	198	(54)	659
Deferred Income / Refundable advances	802	(1,491)	(332)
Other current liabilities	(11)	(8)	(255)
Other noncurrent liabilities	2,476	(2,977)	(539)
Net cash used in operating activities	<b>(18,000)</b>	<b>(24,310)</b>	<b>(7,047)</b>
<b>Investing Activities</b>			
Net transfers of bond proceeds to/from trustee	1,163	2,101	5,396
Purchase/Sale of fixed assets, net	(1,302)	583	(4,022)
Investment/Sale of Goodwill	430	103	(17)
Investment/Sale of LT Investments	1,932	(1,162)	1,906
Purchase/Disposal of other noncurrent assets	2,828	(1,098)	1,197
Net cash provided by investing activities	<b>5,051</b>	<b>527</b>	<b>4,460</b>
<b>Financing activities</b>			
Issuance/Payments of long-term debt	1,294	(1,409)	57
Write-off of Assets upon Discontinuation of Facility	(3,736)	(7,454)	-
Write-off of Liabilities upon Confirmation of Plan	-	-	-
Debt issuance costs incurred (retired)	273	377	208
Net additions/reductions of annuity obligation (ST & LT)	(1,068)	343	(700)
Net additions/reductions of funds held in trust	(1,462)	(1,206)	(694)
Additions of entrance fees, net of refunds	5,322	1,084	(2,708)
Net cash provided by (used in) financing activities	<b>(1,965)</b>	<b>(8,265)</b>	<b>(3,837)</b>
<b>Net (dec.) inc. in cash &amp; marketable sec.</b>	<b>(14,914)</b>	<b>(32,048)</b>	<b>(6,424)</b>

### 3.1.4 Cash and Investment Accounts

As charitable organizations, the Debtors rely on charitable gifts and income generated from such charitable gifts. The Debtors received their first charitable gift in 1899 and have received gifts every year since that time. Charitable contributions, bequests, gift annuities, entrance fees, and other excess funds are deposited into the Debtors' Cash and Investment Accounts, which are held as "cash and

cash equivalents,” “marketable securities,” “long-term investments,” and “other investments,” and are intended to generate income to help the Debtors continue their charitable mission.

As of October 31, 2004, the Debtors’ financial statements report that they held “Marketable securities” aggregating approximately \$48.2 million (projected on the Consolidated Balance Sheet to be approximately \$50.6 million at the end of December 2004)<sup>2</sup> and comprised of the following: (1) \$21.8 million in stocks, bonds and funds (the “*Stocks, Bonds and Funds*”) that include (i) cash generated by operations, (ii) donations received for general use by NBA and the other Debtors, (iii) entrance fees available for general use by NBA and the other Debtors, (iv) proceeds of asset sales and (v) interest earned on Cash and Investment Accounts; (2) \$6.9 million in entrance fees received from residents of the Cypress Village and Robin Run Senior Living Facilities, which will be transferred to Fortress upon consummation of the Fortress Asset Purchase Agreement; (3) \$5.3 million in funds designated for the Fellowship of John,<sup>3</sup> which is used to finance the occupation of the Senior Living Facilities by certain residents who can no longer afford to occupy the Senior Living Facilities; (4) \$12.0 million received pursuant to annuity agreements (the “*Annuity Funds*”); and (5) \$3.3 million in temporarily restricted funds.

As of October 31, 2004, the Debtors’ financial statements report that “Long-term investments” are held aggregating approximately \$29.7 million (projected on the Consolidated Balance Sheet to remain approximately \$29.7 million at the end of December 2004) and comprised of the following: (1) \$10.65 million in funds held in trust by NBA typically on behalf of other entities; (2) \$827,000 in donor advised funds, which are funds that have been donated to the Debtors on the condition that the Debtors consult with the donor prior to expending such funds; and (3) \$18.25 million in permanently restricted funds, which are essentially endowment funds because the donor has directed that the corpus be preserved and that only earnings be used.

The Debtors believe that all of the Stocks, Bonds and Funds in the Cash and Investment Accounts, except the “Fellowship of John” funds, are “unrestricted” and available to repay creditors. Accordingly, the Stocks, Bonds and Funds are a major source of funds available to make cash distributions on account of Allowed Claims under the Plan. Additionally, the Debtors intend to continue to use a portion of the Annuity Funds to satisfy the Debtors’ obligations under the Plan to holders of Allowed Annuity Claims.

After funding the Plan, the Reorganized Debtors will retain the balance of the Cash and Investment Accounts and comply with any legal restrictions on the use of such funds, maintain an investment nucleus to generate funds to help finance future operations of the Reorganized Debtors and maintain sufficient liquidity for operations.

---

<sup>2</sup> The projected increase to \$50.6 million as of December 2004 is attributable to an increase in the Stocks, Bonds and Funds (as defined below) due to projected positive Cash flow from operations and projected proceeds from the sale of minor assets.

<sup>3</sup> Among the approximately \$5.3 million reported in accounts named “Fellowship of John” as of November 30, 2004, the Debtors’ books and records indicate that approximately \$350,000 is shown as “Temporarily Restricted” under GAAP, approximately \$1.95 million is shown as “Permanently Restricted”, and approximately \$3 million is shown as Unrestricted. The Unrestricted accounts include approximately \$2.4 million in accounts designated as Funds Functioning as Endowment.

### 3.2 Projections

The following projected *pro forma* balance sheets, profitability summaries and cash flows (the “*Projections*”) reflect the Debtors’ projections of the operations of the Reorganized Debtors and its Affiliated Entities (including Debtors and non-Debtors).

It is important to note that the Projections may differ from actual performance and are highly dependent on significant assumptions concerning the future operations of these businesses. These assumptions include the growth of certain lines of business, labor and other operating costs, inflation, and the level of investment required for capital expenditures and working capital (see assumptions below).

The Projections assume that the Plan will be confirmed and consummated in accordance with its terms and that there will be no material changes in the current regulatory environment that will have an unexpected impact on the Debtors’ operations. The Projections assume an Effective Date of February 28, 2005, with Allowed Claims treated in accordance with the Plan. Expenses incurred as a result of the reorganization are assumed to be paid upon the Effective Date. If the Debtors do not emerge from chapter 11 on or prior to February 28, 2005, as assumed for purposes of this analysis, additional bankruptcy expenses will be incurred until such time as a Plan is confirmed. These expenses could significantly impact the Debtors’ results of operations and cash flows.

The Projections should be read in conjunction with the assumptions, qualifications, and footnotes to the Projections set forth herein, the historical consolidated financial information (including the notes and schedules thereto), and the unaudited actual results reported in the monthly operating reports of the Debtors. The Projections were prepared by the Debtors in good faith based upon assumptions believed to be reasonable and applied in a manner consistent with past practice.

NBA does not, as a matter of course, publicly disclose projections as to its future revenues, earnings, or cash flow, although the Texas Attorney General believes that it should. Accordingly, none of NBA, the other Debtors, Reorganized NBA or the other Reorganized Debtors intends to update or otherwise revise the Projections to reflect circumstances existing since their preparation, the occurrence of unanticipated events, or changes in general economic or industry conditions. However, in the event that the underlying assumptions are shown to be materially in error, such errors shall be disclosed to the Court.

The Projections were not prepared with a view towards complying with the guidelines for financial statements published by the American Institute of Certified Public Accountants. (GAAP does not apply to prospective financial statements.) The Projections have not been compiled, or prepared for examination or review, by the Debtors’ independent auditors (who accordingly assume no responsibility for them). Furthermore, the Projections have been prepared to reflect projected estimates of cash balances on hand (in bank balances) and not cash balances according to generally accepted accounting principles. Finally, neither the Creditors Committee nor its financial advisor expresses any opinions regarding the information since it is presented by the Debtors.

WHILE PRESENTED WITH NUMERICAL SPECIFICITY, THE PROJECTIONS ARE BASED UPON A VARIETY OF ASSUMPTIONS AND ARE SUBJECT TO SIGNIFICANT BUSINESS, ECONOMIC, AND COMPETITIVE UNCERTAINTIES AND CONTINGENCIES, MANY OF WHICH ARE BEYOND THE CONTROL OF THE DEBTORS AND CREDITORS COMMITTEE. CONSEQUENTLY, THE INCLUSION OF THE PROJECTIONS HEREIN SHOULD NOT BE REGARDED AS A REPRESENTATION BY EITHER THE DEBTORS OR THE CREDITORS COMMITTEE (OR ANY OTHER PERSON) THAT THE PROJECTIONS WILL BE REALIZED, AND ACTUAL RESULTS MAY VARY MATERIALLY FROM THOSE PRESENTED BELOW. THE

INDUSTRY IN WHICH THE DEBTORS COMPETE IS HIGHLY COMPETITIVE AND THE DEBTORS' EARNINGS MAY BE SIGNIFICANTLY ADVERSELY AFFECTED BY CHANGES IN THE COMPETITIVE ENVIRONMENT, CHANGES IN SUPPLY AND DEMAND DYNAMICS, THE PRICE EROSION OF SERVICES PROVIDED, REGULATORY CHANGES AND FUTURE IMPROVEMENTS IN TECHNOLOGY. DUE TO THE FACT THAT THE PROJECTIONS ARE SUBJECT TO SIGNIFICANT UNCERTAINTY AND ARE BASED UPON ASSUMPTIONS THAT MAY NOT PROVE TO BE CORRECT, NEITHER THE DEBTORS, THE CREDITORS COMMITTEE, NOR ANY OTHER PERSON ASSUMES ANY RESPONSIBILITY FOR THEIR ACCURACY OR COMPLETENESS.

The following Projections include assumptions as to the value of the Reorganized Debtors, certain write-downs of their assets to fair market value and estimates of their liabilities as of the Effective Date. The Reorganized Debtors will be required to reflect such estimates or actual balances as of the Effective Date. Such determination will be based upon the fair value of their assets as of that date, which could be materially greater or lower than the values assumed in the foregoing estimates.

### ***3.2.1 Principal Assumptions***

The Projections are based upon the Debtors' forecasts of operating results. The following is a list of the principal assumptions that were used to develop the Projections (assumptions used to develop specific Projections follow such Projections below).

- a. The Effective Date will be February 28, 2005.
- b. The Debtors will finance their exit as described in the Plan.
- c. The sale of the Senior Living Facilities to Fortress will be consummated on January 31, 2005.
- d. The Debtors and the other Affiliated Entities will no longer be affiliated with HUD (as described below).
- e. As of February 28, 2005, the Reorganized Debtors' businesses will be comprised of three (3) child care facilities (Christian Services for Children in Alabama, Inc., NBA ECHO / Emergency Children's Home, and The Olive Branch), two (2) special care facilities (Woodhaven Learning Center and Serra Residential Center, Inc.) and the management and administration of the Cash and Investment Accounts (including future fundraising) and other assets.
- f. A delay of the sale closing of the Senior Living Facilities to Fortress and a corresponding delay in the Effective Date as contemplated by the Projections (i.e., 30 days later), will have a minimal impact on the Debtors' liquidity since the incremental professional fees and post-petition interest on the claims will be offset by the cash flow generated from the Senior Living Facilities (assuming the sale delay does not result in an increase in the Post-Petition Interest Payment Rate).

3.2.2 *Projected Three Year Consolidated Balance Sheets (Unaudited) (\$000)*

	<u>Projected Dec-05</u>	<u>Projected Dec-06</u>	<u>Projected Dec-07</u>
<b>ASSETS</b>			
<b>CURRENT ASSETS</b>			
Cash and Cash equivalents	3,000	3,000	3,000
Accounts and interest receivable	1,314	1,347	1,381
Contributions receivable - short term	120	120	120
Inventories and prepaid expenses	166	166	166
Marketable securities	23,434	22,601	21,732
Other Investments	8,293	7,693	7,093
<b>Total Current Assets</b>	<u>36,327</u>	<u>34,927</u>	<u>33,492</u>
<b>NONCURRENT ASSETS</b>			
Contributions receivable - long term	525	405	285
Land, buildings, and equipment	7,221	6,958	6,688
Long-term investments	29,727	29,727	29,727
Other noncurrent assets	886	886	886
<b>Total Noncurrent Assets</b>	<u>38,359</u>	<u>37,976</u>	<u>37,586</u>
<b>TOTAL ASSETS</b>	<u><b>74,686</b></u>	<u><b>72,904</b></u>	<u><b>71,078</b></u>
<b>LIABILITIES &amp; NET ASSETS</b>			
<b>CURRENT LIABILITIES</b>			
Accounts payable	865	882	900
Current portion of annuity obligation	600	600	600
<b>Total Current Liabilities</b>	<u>1,465</u>	<u>1,482</u>	<u>1,500</u>
Other noncurrent liabilities	6,192	5,592	4,992
Annuity obligation (less current portion)	7,558	6,958	6,358
Funds held in trust	4,404	3,684	2,964
<b>TOTAL LIABILITIES</b>	<u>19,619</u>	<u>17,716</u>	<u>15,814</u>
<b>TOTAL NET ASSETS</b>	<u>55,067</u>	<u>55,188</u>	<u>55,264</u>
<b>TOTAL LIABILITIES &amp; NET ASSETS</b>	<u><b>74,686</b></u>	<u><b>72,904</b></u>	<u><b>71,078</b></u>

### ***Balance Sheet Assumptions***

- Cash is maintained in the amount of \$3 million, which represents approximately two (2) months of operating expenses.
- The Debtors and the other Affiliated Entities will transfer all HUD Units to a new managing firm on February 28, 2005, and all accounts receivable attributable to HUD-related activities will be written off.
- Accounts receivable for the projected period are assumed for each facility based on 2004 DSO. The Debtors' consolidated DSO is projected at 37 days.
- Charitable contribution receivables (short-term and long-term) are projected to be collected at the annual rate of \$120,000.
- Inventory, prepaid expenses and non-current assets are projected to remain flat going forward, taking into account all portfolio changes and liquidation of assets discussed below.
- All cash flow losses or surpluses for 2004-2007 are reflected in marketable securities.
- Capital Expenditures for 2004 through 2007 are estimated to be \$4.3 million, \$0.5 million, \$0.1 million and \$0.1 million, respectively. Depreciation expense is estimated to be \$11.7 million, \$1.4 million, \$0.4 million and \$0.4 million in 2004 through 2007, respectively.
- Long-term investments, which consist of permanently restricted funds and funds held in trust, are projected to remain constant.
- Pre-petition accounts payable are projected to remain constant until they are paid under the Plan.
- Post-petition accounts payable for the Debtors are carried forward at a DPO consistent with current DPO calculations for the "going concern" facilities (36 Days).
- Long-term and short-term debts are projected to be paid under the Plan.
- Current and long-term annuity liability is assumed to decrease \$0.6 million a year from 2004 through 2007 to reflect the annual payments made by the Debtors pursuant to the gift annuity program. Additionally, the projections do not include new annuitant contracts because NBA does not currently offer new annuitant contracts.
- Annual obligations under the annuity agreements are projected to be \$1.32 million, funded from funds held in trust (\$720,000) and from annuity obligations short and long term (\$600,000).
- Other investments and other noncurrent liabilities decrease from 2005 to 2007 as NBA expects to pay \$50,000 a month in workers compensation claims. These amounts will be paid from other investments, which will reduce the other noncurrent liability on the balance sheet.

### 3.2.3 Projected Three Year Consolidated Profitability Summary (Unaudited)

	<u>2005</u>	<u>2006</u>	<u>2007</u>
<b>Revenue:</b>			
Program Revenue	21,131,933	12,484,123	12,796,226
Entrance Fee Amortization	286,514	-	-
Other Revenue	1,523,208	987,582	1,017,210
Development Revenue	2,228,959	1,986,718	2,086,054
Support Fees	925,700	568,957	586,124
Investment / Transfer Income	1,098,724	911,361	922,857
<b>Total Revenue</b>	<u>27,195,038</u>	<u>16,938,740</u>	<u>17,408,470</u>
<b>Operating Expenses:</b>			
Salaries and Wages	13,370,431	8,893,996	9,116,346
Employee Benefits	2,086,609	1,556,449	1,595,360
Employer Payroll Taxes	1,815,451	1,245,159	1,276,288
Professional Fees	1,057,936	686,589	707,186
Supplies	960,055	298,939	307,907
Occupancy	1,119,845	633,598	652,606
Insurance	427,559	570,347	655,899
Furniture and Equipment	324,382	157,395	162,117
Depreciation	1,375,029	400,459	412,472
Transportation & Travel	904,170	782,779	806,263
Personal Services	476,523	450,974	464,503
Medicare	148,585	-	-
Postage, Telephone, etc	359,515	253,097	260,690
Communications	50,272	20,811	21,436
Support Fees	925,700	568,957	586,124
Development	96,444	79,777	82,170
Other	689,398	210,240	216,548
Marketing Expense	171,826	8,350	8,600
<b>Total Operating Expenses</b>	<u>26,359,731</u>	<u>16,817,918</u>	<u>17,332,518</u>
<b>Change in Net Assets</b>	<u><b>835,307</b></u>	<u><b>120,822</b></u>	<u><b>75,952</b></u>
Plus: Depreciation	1,375,029	400,459	412,472
Less: Entrance Fee Amortization	286,514	-	-
<b>EBITDAR</b>	<u><b>1,923,822</b></u>	<u><b>521,281</b></u>	<u><b>488,425</b></u>
Less: CAPEX	457,063	138,081	142,224
Less: Restructuring Expenses	11,500,000	-	-
Plus: Entrance Fee Deposits	419,171	-	-
Less: Entrance Fee Refunds	281,499	-	-
<b>Free Cash Flow</b>	<u><b>(9,895,569)</b></u>	<u><b>383,200</b></u>	<u><b>346,201</b></u>



### ***Profitability Summary Assumptions***

#### ➤ *Revenue: All Facilities Except Central Office*

- Program revenue and other revenue for special care and children's care are projected in 2004 and 2005 utilizing census and rates consistent with current levels. The assumption thereafter for these facilities is that the census will remain flat and rates will increase by 2.5% per annum in 2006 and 2007.
- Facility development revenue (which includes donations, bequests, and trusts) is projected to increase 5% per annum as the Debtors move away from their chapter 11 stigma.
- Investment income (i.e., earnings on investments) is projected to be 3% of the total investment balance.

#### ➤ *Revenue: Central Office*

- Other revenue (e.g., royalties from oil and gas reserves of \$250,000 per year) are projected to increase 3% per year from 2005 through 2007.
- Central office development revenue (which includes donations, bequests and trusts) is projected to drop by approximately 50% in 2005 due to the loss of the senior care facilities, and increase 5% over the prior year in each of 2006 and 2007 due to the expectation that development will improve as the Debtors move away from their Chapter 11 stigma.
- Investment income is projected to be 3% of the total investment balance. It is assumed that the Reorganized NBA will be able to utilize approximately one half of such income in operations.

#### ➤ *Expenses: All Facilities Except Central Office*

- Salaries and Wages are projected:
  - On a detailed employee specific basis using November 2004 headcount by facility.
  - Hourly and part-time employees are projected to work 36 hours per week on average, which is consistent with current practice.
  - Salary rates are projected to increase annually by 3% for 2005 and 2.5% for each of 2006 and 2007.
- Benefits and payroll taxes represent 17.5% and 14% of salaries and wages, respectively.
- Insurance increases 20% in 2005 and 15% per annum thereafter.
- All other expenses (e.g., supplies, professional fees, occupancy, furniture and equipment, depreciation, transportation and travel, personal services, Medicare, postage and telephone, communications, development, and other) were budgeted based on a 3% annual increase from historical expenses for the period from January 1, 2003 through October 31, 2004.
- Capital expenditures are budgeted to increase 3% per annum from prior comparable capital expenditures.
- Marketing expenses are minimal after the sale of the senior care facilities and are expected to increase 3% annually.

➤ *Expenses: Central Office*

- The Debtors' Central Office will have to decrease staffing in all departments. The Debtors intend to complete four reductions in force ("*RIF*") over six months, which will reduce the Debtors' central office staff from 66 to 14 employees (the first *RIF* has already been completed and some of these people have resigned before they were terminated). The assumed details are below:
  - On December 3, 2004, the Debtors completed a *RIF* of 18 employees. This reduction totaled \$1.1 million in annual salaries and \$1.4 million in annual benefits.
  - On January 31, 2005, upon completion of the sale of the Senior Living Facilities, the Debtors will complete another *RIF*, which will total seven employees (reduction of \$0.4 million in annual salaries). Please note some of these people have already submitted their resignations. Further, negotiations with Fortress anticipate some continued use of the Reorganized Debtors' staff for transition and continuity; pursuant to the terms of the Fortress APA, the Reorganized Debtors would be reimbursed for such work.
  - On February 28, 2005, upon NBA exiting chapter 11, the Debtors will complete another *RIF*, which will total 18 employees and a reduction of \$1.1 million in annual salaries, including
    - All nine HUD-related employees (reduction of \$0.6 million in annual salaries).
  - On April 30, 2005, the Debtors will complete their last *RIF*, which will include nine employees (reduction of \$0.6 million in annual salaries).
  - The Debtors will employ a CEO with an annual salary of less than \$130,000. Starting March 1, 2005, it is projected that some remaining senior management will receive pay adjustments.
- On May 1, 2005, the Debtors will have 14 employees, including: Accounting (4); Development (5); Human Resources (2); Information Technology (2); and Operations (1).
- Salaries and Wages are projected:
  - On an employee-specific basis using November 2004 headcount after giving effect to the above-referenced headcount reductions.
  - Hourly and part-time employees are projected to work 36 hours per week on average, which is consistent with current practice.
  - Benefits and payroll taxes represent 17.5% and 14% of salaries and wages, respectively.
  - Salary rates are NOT projected to increase for 2005, and are projected to increase by 2.5% per annum for 2006 and 2007.
- Insurance is projected to cost \$100,000 annually after the sale of the Senior Living Facilities, with increases of 15% in each of 2006 and 2007.
- Professional fees and communications are expected to equal 10% of 2004 levels after the sale of the Senior Living Facilities, with increases of 3% per annum in 2006 and 2007.
- Occupancy expense is projected to drop 50% from 2004 levels after the sale of the Senior Living Facilities, with increases of 3% in 2006 and 2007.

- 2005 supplies, furniture and equipment, and transportation and travel are expected to drop to approximately 25% of 2004 expenses after the sale of the Senior Living Facilities, with increases of 3% in 2006 and 2007.
- Other expenses are expected to drop to 5% of 2004 levels after the sale of the Senior Living Facilities, with increases of 3% in each of 2006 and 2007.
- Capital expenditures are budgeted to increase 3% per annum from prior comparable capital expenditures.
- Marketing Expenses are minimal after the sale of the Senior Living Facilities and are expected to increase 3% annually.
- The vast majority of restructuring expenses are assumed to end on February 28, 2005, with exceptions in the amount of \$150,000 for each of March and April 2005 for claims and estate wrap-up work.

### 3.2.4 Projected Three Year Consolidated Statements of Cash Flow (Unaudited) (\$000)

	<u>CY 2005</u>	<u>CY 2006</u>	<u>CY 2007</u>
<b>Operating Activities</b>			
Change in net Assets	835	121	76
Adjustments to reconcile change in net assets to net cash (used in) provided by operating activities:			
Depreciation and Amortization	1,375	400	412
Amortization of Entrance Fees	(367)	-	-
Restructuring Expenses	(11,500)	-	-
Decrease (Increase) in Operating Assets:			
Cash and Cash equivalents	8,879	-	-
Accounts and interest receivable	10,213	(33)	(34)
Contributions Receivable (ST & LT)	120	120	120
Inventories and Prepaid expenses	2,954	-	-
Other Current Investments	5,100	600	600
Increase (decrease) in operating liabilities:			
Accounts payable Pre-Petition	(3,089)	-	-
Accounts payable Post-Petition	(14,638)	17	18
Accrued interest	(3,657)	-	-
Deferred Income / Refundable advances	(467)	-	-
Other current liabilities	(55)	-	-
Other noncurrent liabilities	(600)	(600)	(600)
Net cash used in operating activities	<b>(4,896)</b>	<b>625</b>	<b>592</b>
<b>Investing Activities</b>			
Net transfers of bond proceeds to/from trustee	9,138	-	-
Purchase/Sale of fixed assets, net	198,954	(138)	(142)
Investment/Sale of Goodwill	2,910	-	-
Purchase/Disposal of other noncurrent assets	3,033	-	-
Net cash provided by investing activities	<b>214,035</b>	<b>(138)</b>	<b>(142)</b>
<b>Financing activities</b>			
Issuance/Payments of long-term debt	(219,836)	-	-
Write-off of Assets upon Discontinuation of Facility	19,122	-	-
Write-off of Liabilities upon Confirmation of Plan	(7,664)	-	-
Debt issuance costs incurred (retired)	4,412	-	-
Net additions/reductions of annuity obligation (ST & LT)	(600)	(600)	(600)
Net additions/reductions of funds held in trust	(720)	(720)	(720)
Additions of entrance fees, net of refunds	(31,016)	-	-
Net cash provided by (used in) financing activities	<b>(236,302)</b>	<b>(1,320)</b>	<b>(1,320)</b>
<b>Net (dec.) inc. in cash &amp; marketable sec.</b>	<b><u>(27,163)</u></b>	<b><u>(833)</u></b>	<b><u>(870)</u></b>

### **3.3 Sources of Plan Distributions**

The Debtors anticipate that under the Plan they will (i) distribute approximately \$265.7 million to holders of Claims and to professionals retained by the Debtors and the Official Committees and (ii) pay approximately \$8.7 million in the future to holders of Allowed Annuity Claims. Of the \$265.7 million paid out, the Debtors anticipate distributing \$7.0 million to trade creditors; \$234.1 million to bond and bank creditors, \$7.8 million in accrued expenses, \$16.6 million in professional fees and \$0.2 million in priority tax and KERP payments (see the Schedule of Allowed Claims and Schedule of Estimated Claims for further detail).

As discussed in more detail below, the Debtors will satisfy these obligations from the following sources: (1) prepaid insurance policies; (2) cash on hand; (3) cash flow from operations; (4) the liquidation of various assets; and (5) assets in the Cash and Investment Accounts.

After liquidating certain assets, making distributions under the Plan and paying professionals, the Debtors anticipate that they will retain approximately \$3.0 million in Operating Cash and approximately \$55.3 million in other restricted and unrestricted Cash and Investment Accounts.

#### **3.3.1 Prepaid Insurance Policies**

As of October 31, 2004, the Debtors had paid approximately \$4.5 million into prepaid, rent-a-captive insurance policies that are available to satisfy certain litigation Claims against the Debtors. The Debtors believe that such insurance policies will cover all payments, if any, that they may ultimately make on account of such Claims.

#### **3.3.2 Cash on Hand**

As of October 31, 2004, the Debtors had cash on hand of approximately \$11.9 million. The Debtors will retain approximately \$3.0 million in cash to provide liquidity for operations subsequent to the Effective Date. Accordingly, the Debtors expect to have approximately \$8.9 million in cash available to fund Plan distributions on the Effective Date.

#### **3.3.3 Cash Flow from Operations**

The Debtors project that their operations will generate approximately \$3.7 million in cash from November 1, 2004 through the projected Effective Date (February 28, 2004). All such amounts are available for distribution to the Debtors' creditors.

#### **3.3.4 Liquidation of Assets**

The Debtors expect the liquidation of the following assets to generate approximately \$221.8 million in proceeds available for distribution to the Debtors' creditors: (1) approximately \$210 million from the sale of the Senior Living Facilities; (2) approximately \$7.8 million from the sale of various other properties, including Colorado Christian Home, the central office building and land, HUD-related properties and land owned by Gateway Homes, Inc.; (3) professional retainer balances of approximately \$454,000; (4) accounts receivable in the face amount of approximately \$5.6 million owed in respect of the Senior Living Facilities and projected to be recovered at a discount; and (5) approximately \$600,000 of non-current assets including miscellaneous real estate. To the extent that proceeds of these assets are not needed to fund distributions under the Plan, they will be retained by the Reorganized Debtors.

#### **3.3.5 Cash and Investment Accounts**

As of October 31, 2004, the Debtors held approximately \$21.8 million in Stocks, Bonds and Funds. As discussed above, the Debtors believe that the Stocks, Bonds and Funds in the Cash and

Investment Accounts may be used to repay creditors. Accordingly, the Debtors expect to have such amount (which is exclusive of increases in amounts held in Stocks, Bonds and Funds due to positive cash flow from operations and the liquidation of assets, both of which are accounted for in the preceding subsections) available for distribution to their creditors. After making distributions under the Plan, the Debtors anticipate that they will retain approximately \$5.7 million in unrestricted Stocks, Bonds and Funds. Also included as a source of cash is the debt service reserve fund, which was approximately \$12.45 million on the Commencement Date.

Because the Debtors do not expect to make any distributions on the Effective Date from the long term investments (\$29.7 million), the Debtors expect to retain the entire amount of such assets, which include permanently restricted funds, funds held in trust and donor advised funds. In addition to the long term investments, the Debtors expect to retain annuitant funds and temporarily restricted funds, which aggregate approximately \$15.3 million. In addition, the Debtors will retain certain Fellowship of John funds as provided below. Of these retained assets, the Debtors believe that the Annuity Funds in the amount of approximately \$12 million as of October 31, 2004 will be more than sufficient to fund the Debtors' estimated obligation to pay approximately \$8.7 million in the future to holders of the Allowed Annuity Claims.

On or before the Confirmation Date, the Reorganized Debtors shall file with the Bankruptcy Court and supply to the Attorneys General in each state in which Debtors' owned a facility that solicited funds for the "Fellowship of John" to assist residents of senior care facilities ("FOJ"), a listing based on their books and records as of the close of the prior month listing the accounts and amount of FOJ funds (including marketable securities) the Debtors had on hand that had been contributed to be used for the FOJ (the "FOJ Account Listing"). The FOJ Account Listing shall include the name and location of each facility as well as the balance of FOJ funds. The FOJ funds (including marketable securities) shall include only those funds specifically designated "Fellowship of John" and shall not include funds held in operating accounts or accounts designated as "Funds Functioning as Endowment" (as indicated by the "FFE" designation in the account's name in the Debtors' books and records).

Within thirty (30) days after the FOJ Account Listing is filed, any of the various Attorneys General that wish to have the funds shown on the FOJ Account Listing related to a facility in the respective Attorney General's state transferred to a charity operating in that state may file a Notice with the Bankruptcy Court indicating their request that the funds in the FOJ account(s) for a facility in their respective state be transferred to a designated charity operating in that State pursuant to the doctrine of *cy pres*. If such a Notice is filed, the funds in the affected account(s) shall be transferred to such designated charity or charities. None of the Attorneys General is required to file such a Notice.

The funds remaining in the Reorganized Debtors' possession after all such transfers have been made and that are revested in the Reorganized Debtors and all restrictions and other donor intentions associated with such Cash and Investment Accounts shall be honored by the Reorganized Debtors.

Please refer to the following chart.

**National Benevolent Association (Disciples of Christ)  
Estimated Proceeds (Sources of Cash) Assuming 1/31/05 Sale Date and 2/28/05  
Effective Date; Debtors' Estimates**

(\$ thousands)	<u>1/11/2005 DEBTORS' ESTIMATE</u>
<u>Senior Facilities' Sale:</u>	\$ 210,000
<u>Other Real Estate Sales:</u>	8,400
Asset Dispositions	<u>218,400</u>
<u>Other Assets:</u>	7,106
<u>Cash and Investment Funds</u>	
Cash	8,879
Marketable Securities	21,806
Other	3,600
Bond Proceeds Held By Trustee (a)	<u>12,450</u>
Total C&I	46,735
Total Proceeds (Sources of Cash)	<u>\$ 272,241</u>

Note: The estimate was done on 1/11/2005 using book values as of 10/31/2004.

(a) As of February 16, 2004

**ARTICLE 4.  
Reasons for Chapter 11 Filing<sup>4</sup>**

**4.1 Events Leading to the Commencement of the Chapter 11 Cases**

**4.1.1 Factors Negatively Impacting the Debtors' Financial Condition**

The Debtors believe, as discussed in more detail below, prior to the Commencement Date, the Debtors' financial condition had been negatively impacted by a number of factors including, among other things: (i) reduced federal and state government program reimbursements; (ii) reduced investment earnings resulting from the prolonged downturn in the securities markets; (iii) increased insurance costs; and (iv) operating losses experienced at certain of the Debtors' facilities, due, in part, to negative publicity which resulted in substantially fewer sales of units at particular senior living facilities.

---

<sup>4</sup> The Creditors Committee expresses no opinions regarding Article 4.

Over the past several years, the Debtors experienced significant reductions in federal and state reimbursements for Medicaid and other state and federal government assistance programs. These reductions have been both prospective and retroactive. Given the retroactive nature of the cuts, the Debtors were required fully to fund certain previously incurred expenses for which they had reasonably expected to be reimbursed and were further required to repay amounts for which they had previously been reimbursed by government entities. Additional limitations in Medicare programs have restricted the Debtors' ability to fill vacancies in their facilities with patients who qualify for program reimbursements.

As a result of the depressed stock and bond markets, the Debtors were unable to generate sufficient returns on their Cash and Investment Accounts to cover losses that would have otherwise been covered by their investment income. For example, in 1998 and 1999, the Debtors realized income in the amount of approximately \$13.8 million and \$15.5 million, respectively, from their Cash and Investment Accounts, while in 2002 the Debtors experienced a loss of \$8.8 million and in 2003, they realized a gain of only \$1.8 million of income from this source. This decrease in the value of marketable securities, combined with the need to liquidate certain unrestricted securities to support operating costs, depleted the Cash and Investment Accounts. As of December 31, 2003, the market value of the cash and investments held in the Cash and Investment Accounts was approximately \$89.6 million, down from \$112 million as of December 31, 2002, \$129.8 million as of December 31, 2001, and \$157.1 million as of December 31, 2000.

Beginning in January 2000, the Debtors' insurance costs increased, and that trend continued into 2004. In 1999, the Debtors' total insurance costs were slightly more than \$3 million, while their total insurance costs for 2003 were slightly more than \$9 million. These rapidly escalating insurance costs have created a significant financial burden for the Debtors, since overall revenues have risen at a far slower rate than insurance premiums. In light of these conditions, the Debtors evaluated alternative forms of commercial insurance coverage. In early 2003, the Debtors completed this evaluation and, as of June 15, 2003, elected to replace their existing primary and excess general and professional liability insurance coverage with an "exposure buy-back program" that is underwritten by Columbia Casualty Company, a member of the CNA Group.

Operating losses at certain of the Debtors' facilities further negatively impacted the Debtors' financial condition prior to the Commencement Date. These operating difficulties are attributable to a variety of factors including, but not limited to, significant federal and state government funding cuts, an oversupply of assisted living space and independent living units, and weakened demand for such units.

Also, the Attorneys General of the States of Texas and Missouri have been very vocal in their criticisms of the Debtors and their management. The two Attorneys General have questioned the wisdom of the decision made by the Debtors' board and management to file and prosecute these Chapter 11 cases because the Debtors, as a consolidated group, were solvent. Further, the Attorneys General have questioned the substantial cost of professionals, both pre-petition and after the filing of these Chapter 11 cases, incurred by the Debtors for the Debtors' professionals. The Debtors disagree with these contentions.

#### ***4.1.2 Payment Defaults Under the Debtors' Debt Instruments***

The Debtors, taking into consideration the severe negative impact of the aforementioned factors on the Debtors' businesses, did not repay certain of their obligations that came due under various debt instruments in late 2003.



First, a revolving credit note in the principal amount of \$1,000,000 issued under the First Bank Credit Agreement matured on September 29, 2003. NBA did not make the payment upon maturity, and First Bank made a written demand for payment in November 2003. On December 3, 2003, First Bank commenced suit against NBA for such payment (the “*First Bank Litigation*”).

Second, under the terms of the KBC Reimbursement Agreements, NBA was obligated to make aggregate payments to KBC Bank of approximately \$7.9 million on December 1, 2003. NBA did not make these payments and, as a result, on December 2, 2003, KBC Bank sent NBA a Notice of Default and Acceleration accelerating all obligations due under the KBC Reimbursement Agreements. On December 3, 2003, KBC Bank commenced suit against NBA (the “*KBC Bank Litigation*”).

Finally, on December 1, 2003, the principal and/or interest on several series of the Fixed Rate Bonds became due, and NBA did not make these payments. As a result, UMB Bank, as the Master Trust Indenture Trustee, sent NBA a Notice of Default and Acceleration seeking to accelerate all amounts outstanding under the Master Notes, which support the Fixed Rate Bonds. Each Debtor (other than Kennedy Memorial Christian Home, Inc.) is jointly and severally liable under each of the Master Notes. On December 11, 2003, the Master Trust Indenture Trustee commenced suit against NBA for payments due under the Master Notes (together with the First Bank Lawsuit and the KBC Bank Lawsuit, the “*Debt Instrument Litigation*”).

Both prior and subsequent to the payment defaults, the Debtors (and/or their representatives) held several meetings and engaged in numerous discussions with First Bank, KBC Bank, the Master Trust Indenture Trustee, and other creditors (and/or their respective representatives) to attempt consensually to resolve the problems created by the Debtors’ financial difficulties. The Debtors and these creditors, however, were unable to reach agreement.

With the Debt Instrument Litigation pending, the Debtors filed for chapter 11 protection under the Bankruptcy Code on February 16, 2004. The Debtors believed that continuing to operate without a financial restructuring was not in the best interests of the Debtors, their constituents, their employees, their residents, or their creditors. The Debtors believed that they had to reduce their indebtedness, control expenses, cut costs, maintain optimum occupancy levels and quality payor mix, and continue to provide quality services to the senior citizens, children, and families they serve. The Debtors determined that the most effective manner to implement the restructuring was through a chapter 11 restructuring, a position with which the Texas Attorney General disagrees.

## **4.2 Pending Litigation and Other Proceedings**

### ***4.2.1 Debt Instrument Litigation***

As described above, the Debtors are subject to or party to the Debt Instrument Litigation relating to their alleged failure to repay monies allegedly owed under various letters of credit, loan agreements, and promissory notes. The amount of damages alleged in pending actions and the amount of damages that could be alleged in future actions is significant and includes, among other things, accrued interest, attorneys’ fees, and court costs. All Debt Instrument Litigation has been stayed, however, as a result of these Bankruptcy cases being filed.

### ***4.2.2 Normal Course Litigation***

As discussed in more detail below, in the normal course of operating their businesses, the Debtors face occasional litigation primarily relating to their residents/patients and their current and/or former employees.

The management and administration of facilities that provide care for the elderly and specialized services for children, families, and the developmentally disabled entail risks of liability. From time to time, the Debtors are subject to various actions and claims arising from the acts or omissions of their employees, affiliates, or other parties. In the normal course of business, the Debtors receive reports relating to personal injury and other serious incidents involving residents/patients enrolled in their facilities. Such incidents occasionally give rise to claims against the Debtors. Many of these actions and claims received by the Debtors seek substantial damages and therefore require the defendant to incur significant fees and costs related to their defense.

The management and administration of various housing and care facilities also entail risks of employee-related liability. From time to time, the Debtors are subject to actions and claims by employees or former employees relating to, among other things, allegations of wrongful discharge or employment discrimination based upon, among other things, age, race, national origin, and/or gender. Many of these actions and claims received by the Debtors seek substantial damages, including, among other things, actual damages as well as compensatory damages, punitive damages, interest, attorneys' fees, and injunctive relief, and therefore require the Debtors to incur significant fees and costs related to their defense.

Claims and actions against the Debtors alleging professional negligence, wrongful discharge, employment discrimination, or a similar claim have generally not resulted in material liabilities, and the Debtors do not believe that any such pending action will have a material adverse effect on the them. There can be no assurance, however, that any such pending or future actions or claims will not have a material adverse effect on the Debtors.

Finally, the Debtors also may be subject to or party to other litigation, claims, and civil suits relating to their operations and business practices.

Any litigation has been stayed as a consequence of the commencement of the reorganization cases. The Debtors believe that any such Claims constitute prepetition Trade Debt Claims and will be in Class 5 under the Plan.

#### ***4.2.3 Missouri Attorney General's Notice of Intent to Sue***

The Missouri Attorney General, on December 17, 2004, filed with the Bankruptcy Court a "Notice of Intent to Sue." In that pleading, the Missouri Attorney General has stated that he intends to take action under the laws of the State of Missouri in order to take control of the Debtors. The Missouri Attorney General believes that the Board and the NBA's President have breached their fiduciary duties to the NBA and other Debtors. In order to take control of the Debtors, the Debtor understands that the Missouri Attorney General must file an action in the state courts to replace the current Board, although other remedies, such as dissolution of the charity, may be available. To date, no such action has been filed in Missouri.

The Debtors hope that no such litigation will be filed prior to consideration of this Plan. As discussed below, under the terms of the proposed Plan, the Board of the Reorganized Debtor will be replaced by persons who have significant experience relating to the business of the NBA and who have been reviewed by the Office of the Missouri Attorney General and are not objectionable to the General Assembly of the Christian Church (Disciples of Christ). The Debtors, however, can offer no assurance that the Missouri Attorney General (or any other state official in any other state, including Texas) will not move forward with state court litigation prior to approval of this Disclosure Statement or prior to approval of this or any other proposed Plan.

**ARTICLE 5.**  
**Significant Events During the Chapter 11 Case**

**5.1 Significant Motions**

On and after the Commencement Date, the Debtors filed a number of motions designed to minimize any disruption of the Debtors' operations and to facilitate their reorganization. Certain of these motions are described below.

**5.1.1 *Payment of Employee Wages and Benefits***

The Debtors' employees are essential to the Debtors' continued operations, their charitable mission, and a successful reorganization. In order to ensure that the relationship with their employees continues, the Debtors believe that it was critical that they satisfy all obligations to employees and continue those personnel policies, programs, and procedures that were in effect prior to the Commencement Date. Accordingly, the Debtors obtained court approval to honor and pay prepetition employee obligations, including the payment of salaries, wages, benefits, and other amounts owed to or with respect to employees, with no single employee being paid more than \$4,650 on account of prepetition claims without further Bankruptcy Court order. The Debtors also obtained approval of the Bankruptcy Court to continue all employee policies, procedures, and programs in a manner consistent with the Debtors' prepetition practices.

**5.1.2 *Cash Management, Bank Accounts, and Investment Guidelines***

In order to minimize costs and disruption to their operations, the Debtors sought Bankruptcy Court approval to continue collecting and disbursing funds in accordance with their prepetition cash management system, to continue to fund certain of the obligations of their Affiliated Entities and to allocate such costs among the various Affiliated Entities through intercompany accounts. The Debtors sought such authority to avoid the disruption and delay in the Debtors' payroll activities and operations that would necessarily result from closing the prepetition bank accounts and opening new accounts. The Debtors obtained interim approval of the Bankruptcy Court to continue the centralized cash management system maintained by the Debtors prior to the Commencement Date, including making advances to their non-debtor Affiliated Entities in the ordinary course and maintaining certain existing bank accounts and business forms.

Furthermore, the Debtors sought and obtained interim Bankruptcy Court approval to invest certain investment funds in accordance with the Debtors' proposed investment guidelines. These guidelines allow the Debtors to maintain the security of their investments, as required by section 345 of the Bankruptcy Code, while at the same time providing them with the flexibility that they require to maximize the yield on their investments.

The Bankruptcy Court granted and extended all of the foregoing relief on an interim basis on February 20, 2004 and March 25, 2004, respectively. The Bankruptcy Court has continued the hearing on the foregoing relief until January 5, 2005.

**5.1.3 *Entrance Fees and Gift Annuities***

In order to prevent disruption to the revenue that the Debtors generate from new residents and to maintain donor contributions, the Debtors sought court approval to honor obligations related to entrance fees and gift annuities. Certain new residents are required to pay the Debtors a substantial lump-sum entrance fee, which is returned to a resident in whole or in part pursuant to the terms of their Residency Agreement. Given that the entrance fees are sizeable and new residents would be reluctant to pay such fees if the Debtors did not honor their countervailing obligations, the Debtors requested and obtained authority from the Bankruptcy Court to honor such obligations. Furthermore, in connection with

their continuing efforts to obtain charitable donations, the Debtors enter into annuity agreements whereby the annuitant transfers property to the Debtors in exchange for the Debtors' promise to pay the annuitant a fixed stream of income for life, with any remaining amounts attributable to a particular gift annuity reverting to the Debtors to further their charitable mission. If the Debtors were not to honor their obligations, the Debtors believe that potential donors would be unwilling to enter into new annuity agreements, negatively impacting the Debtors' ability to procure donations. Accordingly, the Debtors obtained authority from the Bankruptcy Court to honor their obligations under the annuity agreements. Pursuant to such authority, the Debtors have paid approximately [\$1,596,099] in respect of entrance fee obligations and [\$1,041,469] in respect of annuity obligations from the Commencement Date through October 31, 2004.

#### ***5.1.4 Debtor -in-Possession Financing***

On February 18, 2004, the Debtors filed a motion seeking authority to obtain postpetition financing on a secured basis pursuant to section 364 of the Bankruptcy Code. Numerous parties objected to the motion for postpetition financing. After hearing oral argument on the motion, the Bankruptcy Court denied the Debtors' request by order dated April 30, 2004.

As a result of the denial of the postpetition financing motion, the Debtors partially financed their operations after the Commencement Date with unrestricted principal funds from their Cash and Investment Accounts. Additionally, certain of the Debtors' professionals sought payment for their services first from retainer funds established for such professionals prior to the Commencement Date. The sources of the remainder of the financing of the Debtors' postpetition operations are payments from residents, income from the Cash and Investment Accounts, and charitable gifts.

#### ***5.1.5 Key Employee Retention Program***

The Debtors' ability to maximize their estates in the chapter 11 process is dependent upon the continued employment, active participation, and ongoing commitment of certain key employees. Around the Commencement Date, the Debtors sought approval from the Bankruptcy Court for the payment of a retention bonus to 44 key employees based upon a percentage of their annual salary, at an estimated total cost of \$712,712 (the "*KERP Program*"). These key employees have been employed by the Debtors for over eight years on average and possess special knowledge and experience. Notably, the key employees to whom the Debtors will pay retention bonuses pursuant to the *KERP Program* do not include the President of NBA or the other members of NBA's senior management team. The *KERP Program* was revised consensually through discussions with the Creditors Committee, the Attorneys General and the Residents Committee, and on August 18, 2004 the Bankruptcy Court entered an order approving the revised *KERP Program* for [42] employees and an estimated total cost of [\$693,121].

#### ***5.1.6 Resident Refund Obligations***

The various markets in which the Debtors provide services are highly competitive. When certain of the Debtors' residents terminate an occupancy agreement or rental agreement, the Debtors are required to return any applicable pro rated monthly service and rent for unused services and security deposit (excluding entrance fees). If the Debtors did not honor these prepetition obligations, the Debtors' residents would be alienated and negative word-of-mouth would detrimentally impact the Debtors' operations and ability to attract prospective residents. To avoid the deleterious effects of such negative publicity, the Debtors obtained Bankruptcy Court authority to honor amounts due for resident refund obligations as of the Commencement Date, which aggregated less than \$56,000. The Debtors have continued to honor their obligations during their Bankruptcy Cases and have paid a total of \$1.6 million through October 31, 2004.

### **5.1.7 *De Minimis Asset Sales***

In furtherance of their restructuring, the Debtors are attempting to sell various *de minimis* assets that are not necessary to the Debtors' restructuring. Such assets include undeveloped lots, resort lots, residential lots, commercial lots, and burial crypts. To facilitate the quick and cost-effective sale of these assets, the Debtors obtained authorization from the Bankruptcy Court to sell *de minimis* assets for a sale price of less than \$60,000 pursuant to expedited and streamlined procedures.

### **5.1.8 *Objection to Retention of Case Professionals***

On March 15, 2004, the Attorney General of the State of Texas filed with the Bankruptcy Court its Omnibus Objection to Retention of Case Professionals, which sought to limit the Debtors in their intended outlay of funds for case professionals and other consultants. The Texas Attorney General filed the motion in an attempt to protect and preserve charitable assets alleging that the Debtors were poised to spend an unusual and excessive amount on professionals in this case. The Attorneys General for the states of Missouri, Tennessee, Florida, and Illinois joined in the Objection.

### **5.1.9 *Fee Auditor***

On September 20, 2004, the Attorneys General for the States of Texas, Missouri, Illinois, Tennessee and Florida filed with the Bankruptcy Court a Motion for the Appointment of an Automated Fee Auditor Pursuant to 11 U.S.C. § 105. The Attorneys General amended this motion on September 22, 2004, and the Court entered an Order granting the motion on October 26, 2004.

## **5.2 Claims Process and Bar Date**

### **5.2.1 *Schedules and Statements***

On April 16, 2004, the Debtors filed with the Bankruptcy Court a statement of financial affairs, schedules of assets and liabilities, and schedules of executory contracts and unexpired leases for each of the Debtors. On May 4, 2004, the Debtors filed amended versions of the foregoing documents.

### **5.2.2 *Bar Date***

On March 30, 2004, the Debtors filed a motion requesting that, pursuant to Bankruptcy Rule 3003(c)(3), the Bankruptcy Court fix June 22, 2004 at 4:30 P.M. (Central Time) as the date and time by which proofs of claim are required to be filed in the Reorganization Cases (the "*Bar Date Motion*"). By order dated April 26, 2004 (the "*Bar Date Order*"), June 22, 2004 at 4:30 P.M. (Central Time) (the "*Bar Date*") was fixed as the last time by which proofs of claim must be filed in order to share in the distributions in connection with the Plan. The bar date applicable to governmental entities was August 17, 2004 at 4:30 P.M. Central Time. Notice of the Bar Date and the obligation to file proofs of claim was given as provided in the Bar Date Order. On June 8, 2004, the Bankruptcy Court entered an order clarifying (i) that the Bar Date did not apply as to parties to residency agreements that had not yet been rejected and (ii) that each resident would have 30 days from any such rejection to file a proof of claim. However, any claim of a resident unrelated to the rejection of a residency agreement (such as personal injury claims, tort claims, and other claims that did not arise under the residency agreement) had to file a proof of claim by August 17, 2004.

On September 7, 2004, the Bankruptcy Court extended the Bar Date for HUD to file a proof of claim (extended to October 22, 2004). HUD elected not to file a claim by that date.

To date, more than 1,000 proofs of claim have been filed against the Debtors in the aggregate amount of approximately \$7,425,000,000.<sup>5</sup> The Debtors have commenced a claims

---

<sup>5</sup> The reason for this figure is the result of numerous duplicative claims.

reconciliation process by identifying particular categories of proofs of claim that may be targeted for reclassification, disallowance, and/or expungement. To avoid improper recovery by claimants and to reduce the aggregate number and dollar amount of claims, the Debtors plan to file a number of omnibus objections to various categories of claims, which may well reduce the amount of debt significantly.

The Debtors believe that the total amount of claims that will be allowed against the Estates is significantly less than the amount of filed claims.

### **5.2.3 Residency Agreements**

Residency Agreements, including the obligation to pay amounts upon the respective unit's being reoccupied, shall be treated in accordance with the *Final Order and Stipulation Regarding the Debtors' Motion to Maintain and Honor Obligations Relating to Entrance Fee Programs at the Debtors' Senior Care Living Facilities*, which was entered on May 6, 2004 and the *Order Pursuant to Rule 9019 of the Federal Rules of Bankruptcy Procedure and Section 105(A) of the Bankruptcy Code (i) Approving Supplemental Agreement with Respect to Asset Purchase Agreement and (ii) Binding Certain Residents to Certain of the Terms Thereof* on December 1, 2004. Obligations under any Residency Agreement that are not dealt with by either of the Orders referenced above shall be paid by the Reorganized Debtors in accordance with the terms of the Residency Agreement. It is the Debtors' intent that any obligation arising under a Residency Agreement to pay an amount to a previous resident upon the reoccupation of such resident's unit that is due and payable on or before the closing of the sale of the Senior Living Facilities shall be paid in full in the ordinary course.

## **5.3 Appointment of the Statutory Committees**

### **5.3.1 Creditors Committee**

On February 25, 2004, the United States Trustee for Region 7, pursuant to its authority under section 1102 of the Bankruptcy Code, appointed the members of the Creditors Committee for the Reorganization Cases.

Since that appointment, the Debtors have consulted with the Creditors Committee on matters material to the administration of the Reorganization Cases. The Debtors have also discussed their operations with the Creditors Committee and its financial advisors and have sought concurrence of the Creditors Committee for actions and transactions outside of the ordinary course of business. The Creditors Committee has participated actively in reviewing the Debtors' operations, financial performance, and strategic plan.

The Creditors Committee consists of eight members, including UMB Bank, N.A., as Master Trust Indenture Trustee, the Chair of the Creditors Committee. The current members of the Creditors Committee, and the attorneys, financial advisors, and other professionals retained by the Creditors Committee, are set forth below:

#### **Creditors Committee Members**

FIT NBAS LLC  
c/o Fortress Investment Group LLC  
1251 Avenue of the Americas, 16th Fl.  
New York, NY 10020  
Tel. 212-798-6064  
Attn: Will Ketcham

Sterling Grace Municipal Securities  
Corp.  
100 Summerhill Rd.  
Spotswood, NJ 08884  
Tel. 732-251-2200  
Attn: Mark A. Doyle

KBC Bank N.V.  
125 West 55th Street  
New York, NY 10019  
Tel. 212-541-0708  
Attn: Michael V. Curran

Sysco Food Services of Kansas City  
1915 Kansas City Rd.  
Olathe, KS 66061  
Tel. 913-780-8462  
Attn: Terri Couture

Madison Liquidity Holdco1 LLC  
6143 S. Willow Dr., Suite 200  
Greenwood Village, CO 80111  
Tel. 303-957-2035  
Attn: Dana Fusaris

UMB Bank, N.A., as Trustee  
c/o 2401 Grand Blvd., Suite 200  
Kansas City, MO 64108  
Tel. 816-860-3250  
Attn: Frank Bramwell

National Cooperative Bank  
1725 I Street, N.W.  
Washington, D.C. 20006  
Tel. 202-336-7672  
Attn: Mark Hiltz

U.S. Bank National Association  
7th & Washington/SL-MO-T7CP  
St. Louis, MO 63101  
Tel. 314-418-2264  
Attn: David L. Orf

The Creditors Committee retained the following primary advisors:

Counsel

Haynes and Boone, LLP  
901 Main Street, Suite 3100  
Dallas, Texas 75202

Financial Advisors

Houlihan Lokey Howard & Zukin Capital  
123 N. Wacker Dr., 4th Fl.  
Chicago, IL 60606

### **5.3.2 Residents Committee**

On March 18, 2004, the United States Trustee for Region 7, pursuant to its authority under section 1102 of the Bankruptcy Code, appointed eligible residents/creditors of the Residents Committee.

Since that appointment, the Debtors have consulted with the Residents Committee on matters material to the administration of the Reorganization Cases. The Debtors have also discussed their operations with the Residents Committee and have sought concurrence of the Residents Committee for actions and transactions outside of the ordinary course of business. The Residents Committee has participated actively in reviewing the Debtors' operations, financial performance, and strategic plan.

The current Residents Committee includes the following members: A.J. Barr (Chairperson); C. Clark Fuller; John Johnson; Arthur S. Geren; Carl D. Gum, Jr.; Lloyd Lambert<sup>6</sup>; and Jerry Sullivan.

---

<sup>6</sup> Mr. Lambert replaced Lester Reschley, who originally had been appointed to the committee.

The Residents Committee has retained the following advisors:

Counsel

Cox Smith Matthews Incorporated  
112 East Pecan Street  
Suite 1800  
San Antonio, Texas 78205

Financial Advisors

FTI Consulting, Inc.  
2001 Ross Avenue  
Suite 400  
Dallas, Texas 75201

#### **5.4 Mediation and Sale of Senior Living Facilities**

On April 15, 2004, the Texas AG filed a motion seeking to refer the Debtors' Reorganization Cases to mediation. The Texas AG, according to state common law and statutory authority, represents the public interest in matters relating to charitable organizations. The Texas AG argued that mediation was in the best interests of the various parties in interest and would preserve the charitable assets that have been built by donations and efforts of the public. The Creditors Committee objected to this motion and, after notice and hearing oral argument, the Bankruptcy Court approved the motion and compelled the primary parties in interest in the Reorganization Cases to mediation by order entered on May 4, 2004. The Bankruptcy Court appointed the Honorable Leif M. Clark, United States Bankruptcy Judge for the Western District of Texas, to serve as mediator, and directed the parties to initiate the mediation process and determine the issues to be mediated. Through the mediation, the Debtors hoped to negotiate consensual terms for a plan, implementation of the KERP Program, and future management of the Debtors.

On June 14 and 15, 2004, the Creditors Committee, the Residents Committee, the Attorneys General for the States of Missouri and Texas and the Debtors engaged in mediation and reached an agreement on June 15, 2004 (the "*Mediation Agreement*") regarding, among other things, the marketing and sale of certain of the Debtors' assets in these cases primarily composed of the Senior Living Facilities. On June 17, 2004, the Court approved the Mediation Agreement.

The Mediation Agreement provided for the formation of an *ad hoc* committee composed of representatives of the Debtors, the Creditors Committee and the Residents Committee, and as *ex officio* members, the Attorneys General for the States of Missouri and Texas and Cain Brothers & Company, LLC (the "*Ad Hoc Committee*"), and charged the Ad Hoc Committee with exploring the merger, acquisition and/or financing alternatives with regard to Senior Living Facilities (collectively, the "*M&A Process*"). Pursuant to the Mediation Agreement, Houlihan Lokey Howard & Zukin Capital (the "*Transaction Broker*"), the financial advisor to the Creditors Committee, led the M&A Process with the assistance of the Debtors' management and Huron Consulting Group.

As part of the M&A Process, the Transaction Broker (in consultation with the Ad Hoc Committee) marketed the Senior Living Facilities. The Transaction Broker scheduled August 13, 2004 as the deadline for preliminary bid proposals. Of the parties that executed a confidentiality agreement, 36 parties (the "*Preliminary Bidders*") submitted a total of 44 bids (certain bidders submitted multiple bids for different facilities). The Transaction Broker and NBA Board of Trustees (in consultation with the Ad Hoc Committee) then narrowed the Preliminary Bidders to a pool of six (6) bidders that the Transaction Broker concluded had the greatest potential to provide the financial ability to consummate the purchase of all Senior Living Facilities.

After carefully evaluating the terms of the bids received, the Transaction Broker, in consultation with the Ad Hoc Committee and the Debtors, concluded that the offer of Fortress to purchase



all of the Senior Living Facilities should be pursued as the stalking horse bid because it most likely would provide the greatest economic and other benefits to the Debtors and their estates. Upon advice from the Transaction Broker that the bid of Fortress represented the highest and best offer received in the M&A Process, as conducted by the Transaction Broker, the Debtors, with the assistance of the Transaction Broker and Mintz Levin Cohn Ferris Glovsky & Popeo PC, counsel to the Master Trust Indenture Trustee, negotiated the terms of the Fortress Asset Purchase Agreement, which provided for the sale of all of the Senior Living Facilities to Fortress. Fortress voluntarily recused itself from all Creditors Committee meetings regarding issues affecting the sale.

After the solicitation of higher and better offers in preparation for an auction to be held on November 18, 2004, the Debtors, in consultation with the Transaction Broker, determined that they had not received any qualified bids necessitating an auction and Fortress was selected as the winning bidder for the Senior Living Facilities for \$210 million in cash plus the assumption of certain liabilities. At a hearing held on November 30, 2004, the Bankruptcy Court approved the sale of the Senior Living Facilities to Fortress.

The sale of the Senior Living Facilities to Fortress will be consummated upon the satisfaction of all conditions precedent pursuant to the Asset Purchase Agreement. Among such conditions are the receipt of all requisite regulatory approvals, including approvals of state regulatory authorities in each state in which a Senior Living Facility is located. The Debtors expect to use the net proceeds of the sale to make distributions under the Plan.

The proceeds from the sale of the Senior Living Facilities will be used first to pay the debt associated with those facilities and any remaining balance will be used to satisfy other debt. See the discussion of Class 5, below at Article 6.14 and elsewhere.

The Debtors, Attorneys General for Missouri and Texas, Residents Committee and Creditors Committee participated in a mediation to discuss the cash and investment funds, among other issues. An agreement was reached (the "*C&I Mediation Agreement*") as to a process that, if necessary, would explore the availability of the funds in the Cash and Investment Accounts. The Court approved the C&I Mediation Agreement and the parties spent two days at the Debtors' headquarters to create a work plan that could be implemented if later deemed necessary. As a result of the terms included in the Plan, this investigation was never undertaken.

## **5.5 Resolution of Claims and Releases for Creditors<sup>7</sup>**

From the Creditors Committee's perspective, the Plan represents a compromise with the Debtors on a number of points. The settlement factors will be discussed below. One overarching principle guiding the Creditors Committee's decision to settle was the firmly held belief that creditors realize the concept of the "time value of money" and prefer the swift payment of their Claims above delays that might increase the amount received but would delay the payment substantially. Leaving the disputes unresolved would also incur professional fees and expenses that would, in all likelihood, consume at least a portion of the increase that might otherwise have been available. With that principle in mind, the Creditors Committee resolved to eliminate potential disputes and issues which, if unresolved, would result in substantial delays in payment and additional professional fees and expenses.

The Creditors Committee asserts that, if the Funded Debt Claims were unimpaired (in that they preserved all of their rights), the total amount payable on those Claims would be considerably

---

<sup>7</sup> This section is submitted solely by the Creditors Committee, and the Debtors are not in any way responsible or accountable for its content.

more than they will receive under the Plan. The incremental interest at the non-default contract rate over the agreed upon rate alone is in excess of \$10 million. Creditors could have included possible default rate interest and other charges for certain of the notes that might require additional payments in the event that they are redeemed before their stated maturity.

The Creditors Committee asserts that, for these additional claims to be paid, the parties would have been required to undertake an extensive review and analysis of each of the thousands of sub-accounts that comprise the Debtors' Cash and Investment Accounts to evaluate both the securities held in the sub-accounts, the existence (or absence) of documentation that might reflect any donor's intentions regarding the contributions placed in each of the sub-accounts, transactions (both deposits and withdrawals) involving each of the sub-accounts and any other accounting records that might be available. Since some of the Debtors' have been operating for more than 100 years, this presented a daunting task that would require a substantial expense as well as delaying the Debtors' emergence from Chapter 11. It also presented the risk that such a review might indicate the possibility that fewer funds than were anticipated would be available to be used to pay creditors' claims.

The professionals for the Creditors Committee understood that, based on their discussions with the Debtors' professionals, the amount in the respective Cash and Investment Accounts (together with the anticipated proceeds from the sale of the Senior Living Facilities and other assets) will be adequate to fund the anticipated Allowed Claims (including Administrative Expenses) plus post-petition interest at the Post-Petition Interest Rate. Consequently, proposing that Claimholders be asked to accept a plan paying post-petition interest at the Post-Petition Interest Rate was consistent with a speedy disposition and payment.

The Creditors Committee asserts that another area of potential delays was the information contained in the "Dow Lohnes Report" commissioned by the Debtors. Although the Creditors Committee never received or reviewed a copy of that Report, the description of its contents was such that it was apparent that allowing the issues it raised to remain unresolved would materially delay the distribution of payments to Unsecured Claimholders. Consequently, the Creditors Committee requested and the Debtors agreed to release any claims or causes of action that might have been described in that Report.

Finally, the Creditors Committee believed that the area of avoidance actions was viewed as an issue that could delay distributions – particularly to holders of Trade Claims. The Creditors Committee requested and the Debtors agreed (for the reasons discussed) that avoidance actions and claims related thereto would be released. For full disclosure purposes, the Debtors state that they had approximately \$46.5 million of insider payments as of February 16, 2004. The Debtors state that they had approximately \$55.4 million of payments within 90 days of February 16, 2004.

By way of summary, the Creditors Committee proposes to resolve these potential claims by having the mutual releases under the Plan as a way of expediting payments to Claimholders. By including settlements embodied by the Plan, neither the Creditors Committee nor any of its members admit or concede the viability of any claims against creditors discussed above and should such claims be asserted, they reserve all rights and defenses regarding the same and demand strict proof of any allegations.

## 5.6 The Debtors' Assertions Regarding Settlements<sup>8</sup>

### 5.6.1 HUD

On November 29, 2004, the NBA filed a Motion to Assume Certain Housing Management Contracts, or in the alternative, to Reject Certain Housing Management Contracts (“HUD Motion”). The HUD Motion covered approximately 80 housing management contracts, two with respect to market rate housing facilities, and the remainder for low-income housing facilities (“HUD Units”) in which the rents are subsidized and/or which were financed with the assistance of the United States Department of Housing and Urban Development (“HUD”). As indicated in the HUD Motion, the NBA has made the business decision, based on the facts and circumstances, to discontinue its management of the HUD Units. The NBA is currently the sole member of eleven HUD Units and is the sponsor or co-sponsor on nearly all of the other HUD Units. The HUD Motion does not address ownership or sponsorship but only the housing management contracts. Traditionally, income from the housing management contracts has generated between 1.5% and 2% of the total revenues of the NBA. The NBA is currently exploring its options with respect to its role as sponsor and sole member with respect to certain of the HUD Units and is in the process of trying to sell the HUD Units in which it is the sole member.

At the time of the bankruptcy filing, according to the NBA's books and records, the HUD Units owed the NBA approximately \$2.3 million. There were other amounts owed that had been previously written-off or declared uncollectible. Shortly, after the filing of the bankruptcy cases, the NBA began a dialogue with HUD in an effort to address the account receivable situation and HUD's concern that no HUD monies be used to fund the Debtors. Beginning shortly thereafter, there were numerous meetings with HUD both in Washington D.C. and in St. Louis, culminating in an extensive review by HUD of all the NBA's HUD operations. During this time, the NBA had replaced existing HUD management with an experienced HUD operator. After the review, HUD disallowed the \$2.3 million in receivables and, as a result, that money has not been collected. The NBA continued cooperating with HUD and had extensive additional meetings.

On October 15, 2004, based on numerous factors including, but not limited to, (i) the changing of the bank accounts for all the HUD Units to LaSalle Bank, (ii) the distressed economic condition of various of the HUD Units because of the failure to secure rent increases, (iii) the handling of the insurance reserves and the way insurance was obtained and paid-for, (iv) the lack of experience of the housing management staff, and (v) control exerted by NBA over the local boards, HUD orally told the NBA that it did not want the NBA to continue managing the HUD Units. Based on discussions with HUD and after due deliberation, the NBA decided not to fight to continue managing the HUD properties. While the NBA believed that HUD's response had been excessive and that it had already remedied many of the operational issues raised by HUD, the NBA concluded that it was not a wise use of NBA's resources to engage in a prolonged fight with the government regulator that had the potential of impacting the five remaining NBA units. Specifically, HUD threatened to file claims totaling about \$3 million and to propose debarment of NBA's participation from all government programs. The NBA did not believe the alleged claims had merit or that the HUD would be successful in debarring NBA.. Nevertheless, because of the totality of the circumstances, the NBA elected voluntarily to discontinue management of the HUD Units. HUD had previously filed a motion to extend the bar date to file proofs of claim. Upon the filing of the HUD Motion and in consideration for the NBA's agreement to discontinue the management of the HUD Units, HUD dismissed its motion to extend the bar date as moot and has not

---

<sup>8</sup> This section is submitted solely by the Debtors, and the Creditors Committee is not in any way responsible or accountable for its content. As noted elsewhere in the Disclosure Statement, the assertions in this section are disputed.

filed any claims in these cases. In the HUD Motion, the NBA identified that it would not engage in the management of HUD Units for a period of at least five years to ensure that the other NBA programs were not jeopardized. The NBA and HUD are working to identify and propose new management alternatives to the local boards and to discontinue management of the HUD Units as soon as practicable.

From the inception of its discussions with HUD, the NBA was told that HUD had serious concerns about the NBA's HUD portfolio, for many of the units were in financial distress. During meetings in Washington, D.C. on May 12, 2004 and June 17, 2004, NBA asked HUD if it was HUD's goal to remove NBA from managing the HUD Units. The NBA was told that it was HUD's desire for the NBA to remedy any compliance issues and to have NBA continue as manager, although HUD repeatedly stated that there could be no assurances until after the review of the operations was conducted. During this period the NBA worked diligently to address all of HUD's concerns and cooperated fully with the review and audit undertaken by HUD at the NBA's headquarters in St. Louis and at the various HUD Units. On October 15, 2004, the NBA first learned that HUD wanted to terminate the NBA as manager. This position was communicated in person, orally, at a meeting in Washington, D. C. on October 22, 2004.

At the meeting on October 22, 2004, HUD requested (i) that the NBA either assume and assign the management contracts to a third party manager proposed by the local boards and acceptable to HUD, (ii) that the NBA reject the management contracts or (iii) or that the NBA consent to a motion to lift stay. Additionally, HUD requested a private undertaking by the NBA and certain unidentified individuals to voluntarily exclude them from any new business with HUD for a period of ten years. Such exclusion would include, but would not be limited to, ownership, sponsorship and management in the provision of social services to HUD insured and/or assisted projects. The NBA's agreements with HUD will in no way impact what HUD elects to do with respect to the unnamed individuals. The NBA did not bargain, in any way, on behalf of the individuals nor did HUD waive any rights to pursue sanctions against individuals. This voluntary exclusion applies only to new HUD business and does not apply to any other government program. The NBA and HUD have reached an agreement that the voluntary exclusion period is seven (7) years from date of confirmation order or dismissal of the case.

In addition, HUD requested (i) that the LaSalle Bank fees totaling approximately \$94,000 be set-off against management fees, (ii) that all security deposits be fully accounted for, (iii) that the insurance reserves be given back to the properties (in the approximate amount of \$300,000) (this \$300,000 was collected from the properties and was not advanced by the NBA), and (iv) for the NBA to continue cooperating in the transition. The NBA had already agreed to credit the LaSalle Bank fees. No problem has ever existed with the security deposits and it was always contemplated that the insurance escrows were going to be divided among the various properties. HUD never provided the NBA with a written list of its issues. HUD did orally provide a list of its concerns which are included in the items mentioned above. These items which HUD believes constitute claims against the NBA include (1) the purchase of the Great Plains accounting software (\$200,000), (2) the holding of the insurance reserves/escrows by the NBA (\$300,000), (3) alleged use of the residual reserve accounts to pay insurance (\$800,000), (4) alleged duplicate billings (\$780,000), (5) alleged excessive management fees (\$190,000), (6) alleged excess insurance costs (no amount given but alleged to be in the form of damages), (6) LaSalle Bank fees (\$94,000), and (7) alleged excess accounting fees (\$800,000). NBA disputed many of the items mentioned listed above but felt that it should not get in an adversarial relationship with HUD because it needed HUD's cooperation to obtain rent increases to stabilize the distressed HUD Units. Upon the NBA's filing of the HUD Motion, HUD agreed to forgo filing any proofs of claim and the filing of any administrative claim except as set for the below. HUD did not waive the LaSalle Bank fees, the security deposits and the insurance reserves (collectively the "Reserved Amounts"). There is no other document that currently memorializes these undertakings. The NBA has

requested that HUD enter into a settlement agreement that will set forth the various undertakings and will be expressly approved by the confirmation order. Specifically, the confirmation order will state that HUD is relinquishing its proofs of claim and administrative claims other than the LaSalle Bank fees, the security deposits and Directors and Officers, and Workers' Compensation insurance reserves which will be satisfied pursuant to consummation of the Plan. The proposed settlement agreement will be filed at least ten (10) days before the objection deadline on the Plan.

On January 5, 2005, the HUD Motion came on for hearing. At the time, the parties agreed (i) that the hearing on the HUD Motion would be continued until February 3, 2005, (ii) that HUD would send letters terminating all the management agreements effective in 30 days, and (iii) that any unit that wanted to separate itself from the NBA prior to February 3, 2005 could do so. Currently, four units have terminated their contracts with the NBA.

The NBA and HUD further agree that should the Court not approve in any aspect the agreement recited herein the Disclosure Statement, Plan of Reorganization and proposed settlement agreement that the parties are returned to their respective positions that existed prior to reaching this agreement between NBA and HUD. Specifically, this would include HUD's ability to seek amounts stated herein and any damages associated thereto. Further, the NBA agrees to provide notice of the plan confirmation hearing, the opportunity to object, the Court approved Disclosure Statement, and proposed Plan of Reorganization (and any amendments) to all of the approximately 80 HUD project boards. Further, the NBA will ensure that all of the HUD project boards have access to project books and records by February 28, 2005.

Frank Hungerford was the NBA employee responsible for the HUD portfolio and reported to Cindy Dougherty. Prior to 2004, NBA was advised by Pranschke & Holderle (Debtors' corporate counsel) with respect to certain matters related to the development or acquisition of additional HUD units as well as certain tenant related matters, employment related matters and other operational matters for individual HUD units. Each of the HUD Units through the local boards contracted and obtained their own audits. The NBA audit was done by Ernst & Young and did not include the results of the HUD units but only related to the revenue derived from the management fees.

#### ***5.6.2 The Dow Lohnes Report and the Settlement of Interest Rate Issues***

The Washington, D.C. law firm of Dow, Lohnes & Alberston was retained as Special Investigation Counsel by the Debtors to determine the nature, scope and extent of claims which the Debtors or one or more of its Affiliates might have against certain creditors. Dow, Lohnes produced an extensive report in early Fall, 2004, the contents of which have not been published. Based upon the contents of that report, the Debtors' Restructuring Committee contends that certain creditors utilized confidential information to assist in the purchase of claims against the Debtors' in an effort to allow such creditors to increase their presence in restructuring discussions with the Debtors. Other alleged misconduct investigated by Dow Lohnes included possible misconduct by the Debtors' creditors and use of an advisory report that the Debtors disagreed with.

Since the value of the Debtors' assets available for distribution to creditors exceeds the amount of debt to be paid, the Debtors are required to pay interest post-petition. While the Debtors believe that the Bankruptcy Court might establish a post-petition interest rate at the federal judgment rate on the Commencement Date of approximately 1.2%, the Creditors Committee has indicated that such a rate was not appropriate. The contract rate is substantially higher and the default interest rate is even higher still.

The Restructuring Committee believes that the existence and the content of the Dow Lohnes Report allowed them to reach a settlement with the Creditors Committee whereby the post-petition interest claims of the unsecured creditors would be set at the Post-Petition Interest Rate.

The Debtors assert that, as a result of this compromises, the Debtors will save approximately \$10 million in interest which the Court might have ordered paid and the Debtors will release claims which would have required extensive, expensive litigation with no certainty of success. The compromises benefit all creditors, since litigation over those issues could materially delay the consummation of the Plan.

### **5.6.3 Avoidance Actions**

The Plan releases all avoidance actions that the Debtors hold under various sections of the Bankruptcy Code, including avoidance actions for “preferences” and “fraudulent conveyances.” Ordinarily, in a bankruptcy, a Debtor is allowed to “avoid” or recapture transfers, including payments, which are “preferential” under 11 U.S.C. § 547 or “fraudulent” under 11 U.S.C. § 548. (Avoidance actions, if any, against the Debtors’ professionals are reserved and are not released.) Preferential transfers are transfers to non-insiders within 90 days of the date of the petition (here, within 90 days of the Commencement Date) which had the effect of preferring the payment of a legitimate creditor’s claims over the payment of another legitimate creditor. In other words, preferences are exactly what the term implies – favoring one creditor, by payment, over other creditors who do not receive payments. (Payment made to insiders within one year of the petition may also be avoided under certain circumstances.)

Fraudulent conveyances, on the other hand, are conveyances of a debtor’s property for less than fair or market value. Gifts are always considered fraudulent conveyances, but a transfer of a piece of property worth \$100 in satisfaction of a debt of \$50 would also be a “fraudulent conveyance.”

Preferences and most fraudulent conveyance actions, however, require a showing that the Debtor was insolvent at the time of the transfer or was rendered insolvent by the transfer. Rarely, a transfer for full value may be attacked as a fraudulent conveyance even when the debtor was not insolvent or rendered insolvent.

While there are other types of avoidance actions, including avoidance of unperfected liens and avoidance of certain post-petition transfers, the Debtors have not discovered that they hold any of those types of actions.

The Debtors propose to release all such causes of action because the Debtors were not insolvent on the Commencement Date. Further, even if there were evidence that the Debtors were insolvent, the Debtors will pay all claims in this case in full. An avoidance action that recovered funds for the Debtors would result in a claim, by the defendant in the avoidance action, for the full amount of the claim. So, if the Debtors were to prosecute some avoidance action of some type, and recover money, they would then pay that money back, in full, to the defendant. The only result would be to incur attorneys fees which the Debtors and the Defendants would have to pay.

The Texas Attorney General has raised certain objections or concerns. Pre- and Post-Petition, the Debtors utilized Sitrick and Company, Inc., for public relations. The Texas Attorney General has asserted that the fees paid, totaling approximately \$1.0 million, were disproportionate to the services received.

**ARTICLE 6.**  
**Summary of the Plan<sup>9</sup>**

**6.1 Identification of Classes.**

The following are the designations for Classes of Claims against the Debtors:

- Class 1 Allowed Priority Unsecured Non-Tax Claims – not impaired, deemed to accept
- Class 2 Allowed Secured Claims of Taxing Authorities – not impaired, deemed to accept
- Class 3 Allowed Fixed Rate Bond Secured Claims – impaired
- Class 4 Allowed Secured Claims not included within another Class under the Plan – not impaired, deemed to accept
- Class 5 Allowed Unsecured Claims – impaired
- Class 6 Allowed Intercompany Claims – impaired, consented to by Debtors and the Affiliated Entities, deemed to accept, and shall not vote

**6.2 Unimpaired Classes.**

Claims in Classes 1, 2 and 4 are not impaired under the Plan. Under Bankruptcy Code section 1126(f), Claimholders within Classes 1, 2 and 4 are conclusively presumed to have accepted the Plan, and therefore are not entitled to vote to accept or reject the Plan.

**6.3 Impaired Classes.**

Claims in Classes 3 and 5 are impaired under the Plan. Claimholders in Classes 3 and 5 are entitled to vote to accept or reject the Plan. Claimholders in Class 6 are impaired but the treatment has been consented to by the Debtors and therefore they are deemed to have accepted the Plan and are not entitled to vote.

**Treatment of Administrative Claims, Professional Fee Claims,  
and Allowed Priority Unsecured Tax Claims**

**6.4 Administrative Claims Bar Date.**

All applications or other requests for payment of Administrative Claims (except Professional Fee Claims) arising on or before the Confirmation Date must be filed with the Bankruptcy Court and served on counsel for the Debtors, the Effective Date Escrow Agent, the U.S. Trustee, and counsel for the Attorneys General, the Residents Committee, and the Creditors Committee, within thirty (30) days after the Effective Date, or by such earlier deadline governing a particular Administrative Claim contained in an order of the Bankruptcy Court entered before the Confirmation Date. Any such Administrative Claim (except Professional Fee Claims) for which an application or request for payment is not filed within the above-referenced time period shall be discharged and forever barred, and shall not be entitled to any Distributions under the Plan. Ordinary course post-petition bills will be paid in the

---

<sup>9</sup> In the event of an inconsistency between the Plan and the summary contained in Articles 6 through 9 of the Disclosure Statement, the terms of the Plan will control.

ordinary course of the Debtors' operations both before and after Confirmation (e.g., utilities, garbage, office supplies, etc.).

#### **6.5 Professional Fee Claims Bar Date.**

All final applications or other final requests for payment of Professional Fee Claims arising on or before the conclusion of the Effective Date must be filed with the Bankruptcy Court and served on counsel for the Debtors, the Effective Date Escrow Agent, the U. S. Trustee, and counsel for the Attorneys General, the Residents Committee and the Creditors Committee within forty-five (45) days after the Effective Date. Any such Professional Fee Claim for which an application or request for payment is not filed within that time period shall be discharged and forever barred, and shall not be entitled to any Distributions under the Plan. All applications for payment of Professional Fees filed under this section, shall comply with the provisions contained in the Order approving the appointment of a Fee Auditor in this case.

#### **6.6 Payment of Administrative Claims and Professional Fee Claims.**

Allowed Administrative Claims arising through the Confirmation Date shall be paid by the Debtors in cash on the Effective Date. Allowed Professional Fee Claims incurred through the conclusion of the Effective Date shall be paid by the Debtors within ten (10) days following the Allowance Date. Claims of professionals subject to Bankruptcy Code §§ 327 – 331 will be paid only if allowed by the Court following a hearing on notice. All applications for payment of Professional Fees, filed under this section, shall comply with the provisions contained in the Order approving the appointment of a Fee Auditor in this case.

#### **6.7 Treatment and Satisfaction of Allowed Priority Unsecured Tax Claims.**

Allowed Priority Unsecured Tax Claims shall be paid by the Debtors or Reorganized Debtors within ten (10) days following the Allowance Date.

#### **6.8 U.S. Trustee Fees.**

After the Closing Date and until the Bankruptcy Cases are closed, the Debtors shall pay all fees incurred under 28 U.S.C. § 1930(a)(6).

#### **6.9 Administrative Tax Claim Bar Date.**

Notwithstanding sections 3.1 and 3.2 of the Plan, any application or other request for payment of an Administrative Tax Claim must be filed with the Bankruptcy Court and served on counsel for the Debtors, the Effective Date Escrow Agent, U.S. Trustee, and counsel for the Attorneys General, the Residents Committee, and the Creditors Committee, by the later of (i) thirty (30) days after the Effective Date or (ii) ninety (90) days after the filing of any required tax return relating to the Administrative Tax Claim. Any Administrative Tax Claim for which an application or request for payment is not filed within the applicable time period shall be discharged and forever barred, and shall not be entitled to any Distributions under the Plan.

### **Treatment of Allowed Claims**

#### **6.10 Treatment of Class 1 Allowed Priority Unsecured Non-Tax Claims.**

Class 1 Allowed Priority Unsecured Non-Tax Claims shall be paid by the Debtors within ten (10) days following the Allowance Date.



## **6.11 Treatment of Class 2 Allowed Secured Claims of Taxing Authorities**

### ***6.11.1 Determination of Class 2 Allowed Secured Claims of Taxing Authorities.***

If there is more than one Class 2 Allowed Secured Claim, each Class 2 Allowed Secured Claim shall be classified in a separate subclass. The Debtors may seek a determination regarding the allowability of any Class 2 Secured Claim pursuant to the Bankruptcy Code and the Bankruptcy Rules. The Debtors (or Reorganized Debtors, as the case may be) may, at their sole option, initiate litigation seeking a determination of the amount, extent, validity, and priority of any Liens securing any Class 2 Secured Claim.

### ***6.11.2 Treatment of Class 2 Allowed Secured Claims of Taxing Authorities.***

Each Class 2 Allowed Secured Claim shall be satisfied in full at the election of the Debtors or Reorganized Debtors by (i) the sale of any collateral securing the Class 2 Allowed Secured Claim in accordance with section 4.2.3 of the Plan, (ii) the transfer of that collateral to the holder of the Allowed Secured Claim in accordance with section 4.2.4 of the Plan, (iii) an agreement reached between the holder of the Class 2 Allowed Secured Claim and the Debtors or Reorganized Debtors in accordance with section 4.2.5 of the Plan, or (iv) cash payments equal to the value of the collateral, plus interest and, if applicable, attorneys' fees.

### ***6.11.3 Sale of Collateral.***

The Debtors or Reorganized Debtors may sell for cash any property serving as collateral for a Class 2 Allowed Secured Claim. The holder of the Class 2 Allowed Secured Claim shall be entitled to bid at such sale in accordance with Bankruptcy Code section 363(k). Any proceeds generated by the sale of any property serving as collateral for a Class 2 Allowed Secured Claim shall be paid by the Debtors to the holder of the Class 2 Allowed Secured Claim in satisfaction of that Claim. Any net sale proceeds remaining after satisfaction of a Class 2 Allowed Secured Claim shall remain property of the Debtors free and clear of the Allowed Secured Claims of Taxing Authorities' Liens to the extent it is not required to be transferred to the Confirmation Account.

### ***6.11.4 Transfer of Collateral.***

The Debtors or Reorganized Debtors may satisfy any Class 2 Allowed Secured Claim by transferring and conveying to the holder of the Claim any property serving as collateral for the Class 2 Allowed Secured Claim to the extent of the amount of that Claim. Any collateral remaining after satisfaction of the Class 2 Allowed Secured Claim shall remain property free and clear of any Liens in favor of the Class 2 Claimants.

### ***6.11.5 Other Agreements.***

Notwithstanding sections 4.2.3 and 4.2.4 of the Plan, a Class 2 Allowed Secured Claim may otherwise be satisfied by a written agreement between the holder of that Claim and the Debtors or Reorganized Debtors. The treatment set forth in any such agreement will supersede the provisions of sections 4.2.3 and 4.2.4 of the Plan.

### ***6.11.6 Cash Payment.***

Notwithstanding sections 4.2.3, 4.2.4, and 4.2.5 of the Plan the Class 2 Allowed Secured Claim may otherwise be satisfied by the Debtors or Reorganized Debtors making a cash payment to the Class 2 Claimant equal to lesser of the value of the collateral or the amount of the Class 2 Allowed Secured Claim.

**6.11.7 Retention of Lien.**

Each holder of a Class 2 Allowed Secured Claim shall retain the Liens securing the Class 2 Allowed Secured Claim until it is satisfied in accordance with the Plan, or until an earlier date agreed to by the Claimholder and the Debtors.

**6.11.8 Deficiency Claim.**

If the holder of a Class 2 Allowed Secured Claim has an Allowed deficiency claim, it shall be treated under the Plan as either a Class 5 Unsecured Claim or a Priority Unsecured Tax Claim, as determined by the Bankruptcy Court.

**6.12 Treatment of Class 3 Allowed Fixed Rate Bond Secured Claims**

**6.12.1 Determination of Class 3 Allowed Fixed Rate Bond Secured Claims.**

If there is more than one Class 3 Allowed Fixed Rate Bond Secured Claim, each Class 3 Allowed Fixed Rate Bond Secured Claim shall be classified in a separate subclass.

**6.12.2 Treatment of Class 3 Allowed Secured Claims.**

Each holder of a Fixed Rate Bond Secured Claims shall receive a Payment on the Effective Date equal to their Pro Rata portion of the Fixed Rate Bond Secured Claim Amount.

**6.12.3 Retention of Lien.**

Holders of any Class 3 Allowed Fixed Rate Bond Secured Claim shall retain any Liens securing that Claim until it is satisfied in accordance with the Plan.

**6.12.4 Deficiency Claim.**

To the extent that a holder of a Class 3 Allowed Fixed Rate Bond Claim is not paid such Claim in full by the payment of its Pro Rata portion of the Fixed Rate Bond Secured Claim Amount, such deficiency shall be an Allowed Claim and shall be treated under the Plan as a Class 5 Unsecured Claim.

**6.13 Treatment of Class 4 Allowed Secured Claims not included within another Class under the Plan**

**6.13.1 Determination of Class 4 Allowed Secured Claims not included within another Class under the Plan.**

If there is more than one Class 4 Allowed Secured Claim, each Class 4 Allowed Secured Claim shall be classified in a separate subclass. The Debtors may seek a determination regarding the allowability of any Class 4 Secured Claim pursuant to the Bankruptcy Code and the Bankruptcy Rules. The Debtors (or Reorganized Debtors, as applicable) may, at their sole option, initiate litigation seeking a determination of the amount, extent, validity, and priority of any Liens securing any Class 4 Secured Claim.

**6.13.2 Treatment of Class 4 Allowed Secured Claims.**

Any Class 4 Allowed Secured Claim shall be satisfied in full at the election of the Debtors or Reorganized Debtors by (i) the sale of any collateral securing the Class 4 Allowed Secured Claim in accordance with section 4.4.3 of the Plan, (ii) the transfer of that collateral to the holder of the Class 4 Allowed Secured Claim in accordance with section 4.4.4 of the Plan, (iii) an agreement reached between the holder of the Class 4 Allowed Secured Claim and the Debtors or Reorganized Debtors in accordance with section 4.4.5 of the Plan, or (iv) cash payments equal to the value of the collateral.

### **6.13.3 Sale of Collateral.**

The Debtors, or Reorganized Debtors, as applicable, may sell for cash any property serving as collateral for a Class 4 Allowed Secured Claim. The holder of a Class 4 Allowed Secured Claim shall be entitled to bid at such sale in accordance with Bankruptcy Code section 363(k). Any proceeds generated by the sale of property serving as collateral for a Class 4 Allowed Secured Claim shall be paid by the Debtors or Reorganized Debtors to the holder of the Class 4 Allowed Secured Claim in satisfaction of that Claim. Any net sale proceeds remaining after satisfaction of a Class 4 Allowed Secured Claim shall remain property of the Debtors free and clear of all Liens securing Class 4 Allowed Secured Claims to the extent it is not required to be transferred to the Confirmation Account.

### **6.13.4 Transfer of Collateral.**

The Debtors or Reorganized Debtors may satisfy any Class 4 Allowed Secured Claim by transferring and conveying to the holder of the Claim any property serving as collateral for the Class 4 Allowed Secured Claim to the extent of the amount of that Claim. Any collateral remaining after satisfaction of the Class 4 Allowed Secured Claim shall remain property free and clear of any Liens in favor of Class 4 Allowed Secured Claimholders.

### **6.13.5 Other Agreements.**

Notwithstanding sections 4.3.3 and 4.3.4 of the Plan, and Class 4 Allowed Secured Claims may otherwise be satisfied by a written agreement between the holder of a Class 4 Allowed Secured Claim and the Debtors or Reorganized Debtors. The treatment set forth in any such agreement will supersede the provisions of sections 4.4.3 and 4.4.4 of the Plan.

### **6.13.6 Cash Payment.**

Notwithstanding sections 4.4.3, 4.4.4, and 4.4.5 of the Plan the Class 4 Allowed Secured Claim may otherwise be satisfied by the Debtors or Reorganized Debtors making a cash payment to the Class 4 Claimant equal to the lesser of the value of the collateral or the amount of the Class 4 Secured Claim.

### **6.13.7 Retention of Lien.**

Holders of any Class 4 Allowed Secured Claim shall retain any Liens securing that Claim until it is satisfied in accordance with the Plan, or until an earlier date agreed to by the holder of the Class 4 Allowed Secured Claim and the Debtors or Reorganized Debtors.

### **6.13.8 Deficiency Claim.**

If the holder of a Class 4 Allowed Secured Claim has an Allowed deficiency claim, it shall be treated under the Plan as a Class 5 Unsecured Claim.

## **6.14 Treatment of Class 5 Allowed Unsecured Claims.**

Class 5 Allowed Unsecured Claims shall be satisfied in full, as provided herein, from Distributions from the Effective Date Escrow.

### **6.14.1 Subclasses.**

Subclass 5A – Funded Debt Claims.

Subclass 5B – Trade Debt Claims.

**6.14.2 Treatment of Class 5 Unsecured Claims.**

The Unsecured Effective Date Payments shall be made from the Effective Date Escrow. All Unsecured Effective Date Payments, other than those maintained in the Disputed Claims Reserve, shall be distributed substantially simultaneously from the Effective Date Escrow.

**6.14.2.1 Treatment of Funded Debt Claims.**

Funded Debt Effective Date Payments shall be paid first from (a) the gross proceeds from the sale of the Senior Care Facilities and all other assets for which tax exempt Funded Debt was raised, and then from (b) proceeds from the sale of other assets of the Debtors, the Debtors' Cash and Investment Accounts and all other assets of the Debtors.

**6.14.2.1.1** Holders of Funded Debt Claims constituting Class 5 Unsecured Claims shall receive a Payment on the Effective Date in an amount such that the total amount that such holders will have received pursuant to this Plan on account of their Funded Debt Claims (including as such amounts received, their Pro Rata portion of any Fixed Rate Bond Secured Claim Amount paid pursuant to Section 4.3 hereof), plus the amount that such holders have received, if any, on account of the distribution of monies made after the Commencement Date and prior to the Effective Date from the so-called debt service reserve funds securing a portion of the Funded Debt Claims, is equal to the following (which shall herein collectively be referred to as the "*Funded Debt Effective Date Payments*," and which is presented in the Schedule of Allowed Claims and the Schedule of Estimated Claims as an aggregate amount to be paid to all such holders): (i) the Prepetition Funded Debt Claim Amount, (ii) an amount such that each holder of a Funded Debt Claim shall have received a payment of interest accruing between the Commencement Date and the Effective Date on the principal portion of its Funded Debt Claim at the Postpetition Interest Payment Rate, and (iii) 100% of the fees and expenses incurred subsequent to the Commencement Date and reimbursable under the Funded Debt Agreements. In order to effectuate the Plan, the Fixed Rate Bonds shall be deemed accelerated under each of the applicable indentures on the Effective Date.

**6.14.2.1.2** In order to make the Funded Debt Effective Date Payments as described above, payments to holders of allowed Class 5 Claims other than holders of the Fixed Rate Bonds shall be made directly to such holders from the Effective Date Escrow by the Effective Date Escrow Agent. Payments to holders of the Fixed Rate Bonds shall be made from the Effective Date Escrow to the Master Trustee in the aggregate amount due to all holders of the Fixed Rate Bonds. The Master Trustee shall, in turn, calculate and distribute such funds to the applicable bond trustees for such holders in accordance with the terms of the applicable Funded Debt Agreements and so that all such holders are treated equally and in accordance with the rights of such holders under the plan of reorganization. Each party herein shall be responsible for its distributions and shall not be responsible for the distributions made by the other parties. Each such distribution to a holder of a Funded Debt Claim shall take into consideration the amount, if any, that each such holder received on account of the distribution of funds to such holder after the Commencement Date from the so-called debt service reserve funds securing a portion of such holder's Funded Debt Claim. Notwithstanding any provision of the applicable bond

indentures to the contrary, the bond trustees shall fix the date for payment of any amounts to be distributed to the holders of the Fixed Rate Bonds pursuant to the Plan by notice at least five (5) calendar days prior to such payment date (the “Fixed Rate Bond Payment Date”). Notwithstanding any provision of the applicable bond indentures to the contrary, the bond trustees shall be authorized to designate the Fixed Rate Bond Payment Date as the special record date for such payment within the meaning of the bond indentures. The bond trustees will set the Fixed Rate Bond Payment Date to be the same date as the Effective Date or as soon thereafter as practicable.

#### **6.14.2.2 Treatment of Trade Debt Claims.**

Trade Debt Claims shall receive a Payment on the Effective Date, including interest accruing between (1) the later of the Commencement Date or the date such claim is liquidated and (2) the Effective Date at the Postpetition Interest Payment Rate and all fees and expenses incurred subsequent to the Commencement Date and reimbursable under the applicable documents evidencing the Trade Debt Claims (collectively, the “Trade Debt Effective Date Payments”).

**6.14.2.2.1** Trade Debt Effective Date Payments shall be paid first from (a) the Debtors’ Cash and Investment Accounts and all other assets for which tax exempt Funded Debt was not raised, and then from (b) proceeds from the sale of other assets of the Debtors, excluding the net proceeds from the sale of the Senior Care Facilities and all other assets of the Debtors for which tax exempt Funded Debt was raised, and then from (c) the net proceeds from the sale of the Senior Care Facilities and all other assets of the Debtors for which tax exempt Funded Debt was raised.

**6.14.3** If, at any time, the Effective Date Escrow, including the Disputed Claims Reserve, should be insufficient to pay all Allowed Claims and Estimated Claims in accordance with the terms of the Plan, the Reorganized Debtors shall pay such additional sums into the Effective Date Escrow within five (5) business days after such determination is made.

#### **6.15 Treatment of Class 6 Allowed Intercompany Claims.**

Class 6 Allowed Intercompany Claims shall be cancelled on the date that the Creditors Committee is dissolved. Because the Debtors and the Affiliated Entities have consented to this treatment, the Class 6 Claims are unimpaired and, therefore, shall not vote on the Plan. (The NBA and other Debtors and the non-debtor Affiliates have released or will release all claims, each against the others.)

### **ARTICLE 7. Executory Contracts**

#### **7.1 Assumption and Rejection.**

All Executory Contracts not (a) listed on the Schedule of Rejected Contracts to be included in the Confirmation Schedules and (b) not otherwise assumed or rejected pursuant to a Final Order entered before the Effective Date shall be deemed assumed as of the Confirmation Date. To the extent required under Bankruptcy Code section 365(b)(1), any and all Cure that is not subject to a dispute shall be paid by the party to which the particular Executory Contract has been assigned. The Schedule of Rejected Contracts shall be filed no later than 10 days before the deadline for objections to confirmation of the Plan.

### **7.1.1 Annuity Contracts.**

Annuity Contracts shall be assumed as of the Confirmation Date, to the extent that such are executory contracts; otherwise, these agreements are ratified and affirmed by the Reorganized Debtors.

## **7.2 Approval of Assumption or Rejection.**

Entry of the Confirmation Order shall constitute the approval, under Bankruptcy Code section 365(a), of (i) the assumption or assumption and assignment of the Executory Contracts identified in accordance with section 5.1 of the Plan; (ii) the assumption of the remaining Executory Contracts; and (iii) the rejection of those contracts listed on the Schedule of Rejected Contracts as well as those identified in the Plan as being rejected

## **7.3 Rejection Claims.**

Unless the Bankruptcy Court, the Bankruptcy Code, or the Bankruptcy Rules establish an earlier deadline governing the rejection of particular Executory Contracts, any Claim arising out of the rejection of Executory Contracts under sections 5.1, 5.2 or 5.4 of the Plan, or arising out of the rejection of Executory Contracts after the Bar Date and before the Confirmation Date, must be filed with the Bankruptcy Court and served on counsel for the Debtors, Effective Date Escrow Agent, the U.S. Trustee, and counsel for the Attorneys General, and the Creditors Committee within thirty (30) days after the Confirmation Date. Any such Claims not filed within that time period will be extinguished and forever barred, and therefore will not be entitled to receive any Distributions under the Plan. Any Claims arising out of the rejection of an Executory Contract pursuant to a Final Order entered before the Bar Date must have been filed before the Bar Date or by the deadline specified in the relevant rejection order; otherwise those Claims are extinguished and forever barred, and therefore will not be entitled to receive any Distributions under the Plan. All Claims arising from the rejection of an Executory Contract shall be treated as a Class 5 Allowed Unsecured Claim under the Plan.

## **7.4 Employee Contracts.**

Employment contracts for Dennis Hagemann and Gary Zimmerman will be assumed as modified. Cindy Dougherty's employment contract shall be rejected. The Debtors anticipate that Ms. Dougherty and others will file claims for rejection of contracts equal to at least one year of compensation.

## **7.5 Severance and Retiree Benefits.**

Unless identified on the schedules of executory contracts and unexpired leases to be rejected pursuant to the Plan, all of the Debtors' savings plans, retirement plans, health care plans, performance-based incentive plans, retention plans, workers' compensation programs and life, disability, directors' and officers' liability and other insurance plans that represent enforceable contractual obligations against the Debtors will be assumed pursuant to the Plan, to the extent that such are executory contracts; otherwise, these agreements are ratified and affirmed by the Reorganized Debtors. Each of the reorganized Debtors will continue to pay the severance benefits that they are contractually obligated to pay in accordance with existing severance plans. Pursuant to section 1129(a) of the Bankruptcy Code, the reorganized Debtors will continue to pay the retiree benefits that they are contractually obligated to pay under enforceable obligations and contracts. Additionally, the Key Employee Retention Plan shall be continued as approved and/or modified by the Bankruptcy Court.

## **7.6 Insurance Policies.**

Unless identified on the Schedules of Rejected Contracts to be included in the Confirmation Schedules pursuant to the Plan, all of the Debtors' insurance policies will be assumed

pursuant to the Plan. The Debtors have in place liability insurance for claims against their officers and directors.

## **ARTICLE 8. Means for Execution of the Plan**

### **8.1 The Effective Date Escrow.**

Upon the respective closings occurring before the Effective Date, the following shall be placed in the Effective Date Escrow to be administered by Effective Date Escrow Agent pursuant to an escrow agreement to be executed by the appropriate parties and approved by the Debtors and the Creditors Committee (which escrow agreement shall provide for the appropriate distribution of the Unsecured Effective Date Payments by the Effective Date Escrow Agent in accordance with the applicable documents governing distributions under the Funded Debt Claims and Trade Debt Claims):

**8.1.1** The sales proceeds and other cash consideration from the sale of the Senior Living Facilities in accordance with the Asset Purchase Agreement; and,

**8.1.2** All other proceeds from the sale or other disposition or liquidation of the Debtors' assets (including but not limited to the Cash and Investment Accounts derived from the previous sale of the Colorado Christian Home's programs, the real estate proceeds derived from the Colorado Christian Home, the headquarters facility in St. Louis, the HUD contracts and assets, the collections of receivables related to the Senior Care Facilities subsequent to the closing of the sale transaction, the proceeds from the cancellation of insurance benefits relating to the sale of the Senior Care Facilities and other such prepaid amounts); provided, however, that after any deposit of such proceeds into the Effective Date Escrow, additional proceeds shall only be required to be deposited into the Effective Date Escrow when they accumulate to an amount that equals or exceeds \$500,000. Until the proceeds equal or exceed \$500,000, the Debtors shall maintain such proceeds in a designated reserve account under their control.

**8.1.3 Disputed Claims Reserve.** The Disputed Claims Reserve shall be in the maximum amount of all claims timely asserted against the Debtors (other than duplicative claims filed against one or more Debtors) and as to which either the Creditors Committee or the Debtors dispute the claimant's entitlement to any portion of the claimed amount. Funds held in the Disputed Claims Reserve shall only be released on the Allowance Date upon Final Order of the Bankruptcy Court resolving the dispute regarding the claimant's entitlement to such funds. The Debtors shall not pay any undisputed portion of a claim until resolution of the disputed portion of the claim.

### **8.2 Debtors' Deposits.**

Under no circumstances shall the Debtors be required to deposit any proceeds described in Sections 6.1.1 or 6.1.2 of the Plan into the Effective Date Escrow after the amount held in the Effective Date Escrow equals or exceeds the sum of the Effective Date Escrow Amount.

### **8.3 Debtors to Transfer Cash and Investment Accounts.**

At least eight (8) days before the date that the Confirmation Hearing commences, the Debtors shall transfer from their Cash and Investment Accounts to the Confirmation Account the difference between the amount held in the Effective Date Escrow as of that date and the sum of (a) the amount shown on the Schedule of Allowed Claims and (b) the amount shown on the Schedule of

Estimated Claims (including the Reserves described in Article 14) for a total that equals the Effective Date Escrow Amount. If the closing and funding of the sale of the Senior Living Facilities has not occurred before nine (9) days before the date the Confirmation Hearing commences, the transfer from the Cash and Investment Accounts to the Confirmation Account shall nevertheless be made as scheduled but the calculation of the amount to be paid will include a provisional credit in the amount of \$210 million to reflect the anticipated sales proceeds from the sale of the Senior Living Facilities.

#### **8.4 Confirmation Account.**

Not more than two (2) business days following the Confirmation Date, the Debtors shall transfer all of the funds in the Confirmation Account to the Effective Date Escrow Agent to become part of the Effective Date Escrow.

#### **8.5 Adjustment of Postpetition Interest Rate.**

If the Unsecured Effective Date Payments are not paid in full by the Debtors on or before February 28, 2005, then commencing on March 1, 2005, the Postpetition Interest Payment Rate shall increase by 400 basis points (to 6.17%) on the Funded Debt Claims and the Trade Debt Claims from such date forward; *provided, however*, that such increase shall not apply to the unpaid amount of any such claims that has not been paid on or before February 28, 2005, due to a delay that is solely attributable to (a) a buyer of the Senior Living Facilities or (b) obtaining any regulatory approval required to sell a Senior Living Facility that is caused by a party other than the Debtors for only that period of time solely attributable to (a) or (b); provided further, that either the Debtors or the Creditors Committee shall be able to refer any dispute over the cause of a delay to the Bankruptcy Court for determination.

#### **8.6 Postpetition Interest Rate for Disputed Claims.**

If the Debtors dispute a Claim and the objection(s) is denied in total, the Debtors shall pay interest on the Claim at the rate 6.17% per annum from and after the date that the interest rate changes pursuant to the Plan. If the Debtors' objection(s) to a Disputed Claim is sustained or granted in part, the Court shall determine the portion of the Claim that accrues interest at 2.17% per annum and the portion of the Claim that accrues interest at 6.17% per annum based upon the facts presented in each objection, including the amount in dispute and the undisputed amount that was not paid while the dispute was unresolved, unless otherwise agreed to by the parties.

#### **8.7 Timing.**

The Effective Date shall occur within ten (10) days after entry of the Confirmation Order, unless extended by the Creditors Committee on account of the closing and funding of the Senior Living Facilities occurring after the Confirmation Date. A notice of the same file with the Bankruptcy Court will reflect any such extension.

#### **8.8 Conditions Precedent.**

The Effective Date of the Plan will be conditioned upon prior satisfaction of the following conditions:

**8.8.1** The closing and funding of the sale of the Debtors' Senior Living Facilities in accordance with the Asset Purchase Agreement; provided that if, under the terms of the Asset Purchase Agreement, the sale of certain Senior Living Facilities are deferred (the "Deferred Facilities"), the Effective Date shall not be conditioned on the sale of the Deferred Facilities (the date upon which this condition is satisfied shall be referred to herein as the "Senior Living Closing Date");



**8.8.2** The effectiveness of all agreements and documents evidencing each element of this Plan to be executed by the Debtors and the counterparties to such an agreement;

**8.8.3** The receipt of all necessary or appropriate third party and governmental waivers, consents and approvals (other than with respect to the sale of the Deferred Facilities); and

**8.8.4** The full funding of the Effective Date Escrow, including the required transfer from the Confirmation Account.

## **8.9 The Closing.**

A Closing of the transactions required and contemplated under the Plan shall take place on the Closing Date at the law offices of Haynes and Boone, LLP, or at such other place identified in a notice provided to those parties identified in section 16.2 of the Plan. Debtors' counsel may continue the Closing by making an announcement at the originally scheduled Closing of the new date for the Closing; provided, however, that the new date for the Closing must occur within fifteen (15) days of the original Closing Date. A notice of the rescheduled Closing Date shall be filed with the Bankruptcy Court within two (2) days after the originally scheduled Closing Date. The actions described in sections 6.9.1 through 6.9.5 of the Plan shall occur at or before the Closing, and shall be effective as of the Closing Date.

### ***8.9.1 Execution and Ratification of the Escrow Agreement.***

The Escrow Agreement shall be executed by all necessary parties to the Escrow Agreement. Each holder of a Claim shall be deemed to have ratified and become bound by the terms of the Escrow Agreement. The execution and ratification date of the Escrow Agreement shall be no later than the Confirmation Date.

### ***8.9.2 Tax Treatment of the Effective Date Escrow***

The general purpose of the Effective Date Escrow established under the Effective Date Escrow Agreement is to provide a mechanism for the liquidation of the Effective Date Escrow Amount, and to distribute the proceeds of the liquidation, net of all Claims, expenses, charges, liabilities, and obligations of the Effective Date Escrow, to the holders of Beneficial Interests and certain Allowed Claims and in accordance with the terms of the Plan. The Effective Date Escrow will not conduct or engage in any trade or business activities, other than those associated with or related to the liquidation of the Effective Date Escrow Property and the Distributions to the Beneficiaries. It is intended that, commencing on the Effective Date, the Effective Date Escrow be classified for federal income tax purposes as a "liquidating Effective Date Escrow" within the meaning of Treasury Regulations § 301.7701-4(d). All parties shall treat the transfers into the Effective Date Escrow described in the Effective Date Escrow Agreement as transfers as of the Effective Date to the Beneficiaries for all purposes of the Internal Revenue Code of 1986, as amended (including §§ 61(12), 483, 1001, 1012, and 1274). All parties shall treat the transfers into the Effective Date Escrow as if all the transferred assets, including all the Effective Date Escrow Property, had been first transferred to the Beneficiaries as of the Effective Date and then transferred by the Beneficiaries to the Effective Date Escrow. The Beneficiaries shall be treated for all purposes of the Internal Revenue Code of 1986, as amended, as the grantors on the Effective Date of the Effective Date Escrow and the owners of the Effective Date Escrow as of the Effective Date. All income of the Effective Date Escrow accrued after the Effective Date shall be taxed directly to the Beneficiaries (except to the extent the IRS is a Beneficiary). With respect to periods after the Effective Date, the Effective Date Escrow Agent shall file returns for the Effective Date Escrow as a grantor Effective Date Escrow under Treasury Regulations § 1.671-4(a)

or (b). The parties, including the Effective Date Escrow Agent and the Beneficiaries, shall value the Property transferred to the Effective Date Escrow consistently, which valuations shall be used for all federal income tax purposes. The Beneficiaries (except to the extent the IRS is a Beneficiary) shall be responsible for payment of any taxes due with respect to the operations of the Effective Date Escrow after the Effective Date. The Effective Date Escrow shall terminate on the earlier of (i) the date that is 5 years after the date the Effective Date Escrow is created or (ii) the distribution of all available cash and Effective Date Escrow Property, unless its termination date is extended by the Bankruptcy Court as provided in the Effective Date Escrow Agreement. During its existence, the Effective Date Escrow shall not receive or retain cash or cash equivalents in excess of a reasonable amount necessary to meet Claims and contingent liabilities (including Disputed Claims) or to maintain the value of the Effective Date Escrow Property during liquidation. After the Effective Date, the Effective Date Escrow shall distribute at least annually to the Beneficiaries all its net income and all the net proceeds from the sale of Effective Date Escrow Property, less such net income or net proceeds reasonably necessary to maintain the value of the Effective Date Escrow Property or to meet Claims or contingent liabilities (including Disputed Claims). The Effective Date Escrow Agent shall use its continuing best efforts to dispose of the Effective Date Escrow Property, make timely Distributions, and shall not unduly prolong the duration of the Effective Date Escrow.

#### ***8.9.3 Amendment of Debtors' Articles of Organization and Bylaws***

NBA's Board of Trustees may amend the Articles of Organization and Bylaws, within the strictures of the Articles of Organization and Bylaws, to allow NBA to implement the Plan.

#### ***8.9.4 Execution of Documents and Company Action.***

The Debtors shall deliver all documents and perform all actions reasonably contemplated with respect to implementation and consummation of the Plan.

#### ***8.9.5 Surrender of Instruments.***

Except as otherwise provided in the Plan, each Claimholder holding a certificate or instrument evidencing a Claim against the Debtors or the property subject to the Escrow Agreement, except any holder of a Fixed Rate Bond or a Variable Rate Bond, and whose Claims are treated under the Plan shall surrender the certificate(s) or instrument(s) to the Effective Date Escrow Agent on or before the Closing Date as a prerequisite to receiving any Distribution under the Plan, unless the non-availability of such certificate(s) or instrument(s) is established to the satisfaction of the Effective Date Escrow Agent.

### **8.10 Termination of the Committees.**

The Creditors Committee will be dissolved one day after the date that the Effective Date Escrow Agent disburses the Unsecured Effective Date Payments (other than amounts held in the Disputed Claims Reserve) to the Master Trustee, the holders of the Funded Debt Claims and to the disbursing agent for the Trade Debt Claims. If not previously dissolved, the Residents Committee will be dissolved upon the Effective Date.

### **8.11 Bankruptcy Code Section 1145 Determination.**

Confirmation of the Plan shall constitute a determination, in accordance with Bankruptcy Code section 1145, that (except with respect to an entity that is an underwriter as defined in Bankruptcy

Code section 1145(b)) section 5 of the Securities Act of 1933 and any state or local law requiring registration for offer or sale of a security or registration or licensing of an issuer of, underwriter of, broker or dealer in, a security do not apply to the offer or sale under the Plan of the Property in exchange for Claims against Debtors. Notwithstanding, if the Effective Date Escrow Agent determines that registration and reporting under the Securities Exchange Act of 1934 is required, the Effective Date Escrow Agent will take steps to comply with those requirements.

#### **8.12 Injunction Against Changing Tax Treatment of the Debtors.**

The Debtors, Reorganized Debtors and any of their officers and trustees, are enjoined from changing the Debtors' status or tax treatment under the check-the-box regulations or otherwise for federal income tax purposes in any manner that would adversely affect Distributions to Claimholders or would otherwise not be in the best interests of the Claimholders.

#### **8.13 Board of Trustees.**

The Board of Trustees of the Reorganized Debtors will be comprised of trustees who were not members of NBA's Board of Trustees on the Commencement Date, who have significant experience relating to the business of the NBA. On or before February 10, 2005, the Debtors shall file with the Bankruptcy Court and serve a schedule, which the Missouri Attorney General's office has reviewed, which identifies by name each individual who will serve on the Board of Trustees as of the Effective Date.

#### **8.14 Appointment of Chief Financial Officer.**

Gary Zimmerman will be named as the chief financial officer of the Reorganized Debtors.

#### **8.15 Post-Effective Date Cash and Investment Accounts.**

All Cash and Investment Accounts of the Debtors, net of the Effective Date Payments, shall be revested in the Reorganized Debtors and all restrictions and other donor intentions associated with such Cash and Investment Accounts shall be honored by the Reorganized Debtors.

### **ARTICLE 9. Effect of Confirmation**

#### **9.1 Revesting of Property.**

On the Effective Date, except as otherwise expressly provided in the Plan, title to all Property shall vest in the Reorganized Debtors, and all Property shall be free and clear of all Liens of any kind, other than as expressly provided in the Plan and subject to the Debtors' obligation to transfer and convey all Property constituting property subject to the Escrow Agreement to the Effective Date Escrow on behalf of the Beneficiaries in accordance with Article 6 of the Plan.

#### **9.2 Exculpation of Committee Professionals, Committee Members, and Officers and Managers.**

None of the Creditors Committee, the Residents Committee or any of their respective members, officers, directors, employees, advisors, professionals or agents shall have or incur any liability to any holder of a claim for any act or omission in connection with, related to or arising out of, the Debtors' chapter 11 cases, the pursuit of confirmation of the Plan, the consummation of the Plan or the administration of the Plan or the property to be distributed under the Plan, except for the willful misconduct or gross negligence that causes damages and, in all respects, the Creditors Committee and the Residents Committee shall be entitled to rely upon the advice of counsel with respect to their duties and

responsibilities under the Plan. Section 1125(e) of the Bankruptcy Code shall be enforced to the fullest extent possible.

### **9.3 Board of Trustees and Officers.**

No releases of potential claims and causes of action against the Debtors' officers, directors or trustees are being requested from the Debtors. The Debtors believe that no such releases are necessary.

### **9.4 Mutual Release and Injunction.**

The Plan provides for officers and trustees (directors) of the Debtors to mutually release all claims and causes of action they may have against (or may be had against them by) creditors. If you do not want to be released by the Debtors' officers and trustees (directors) and do not want to release any of your claims against the officers and trustees (directors), please check the appropriate box on the Ballot.

The Debtors, on the one hand, and all Creditors (and their affiliates), including without limitation all current and former indenture trustees for any such Creditors on the other hand (the "Release Parties"), shall release, and be permanently enjoined from any prosecution or attempted prosecution of, each other and all of their respective members, officers, directors, employees, advisors, professionals, except that any Professional required to seek and obtain approval for payment of a Professional Fee Claim is excluded from the provisions of Paragraph 9.4, not released; and such claim, if any, reserved under Paragraph 9.5 below, or agents on account of any and all claims or liabilities arising prior or subsequent to the Commencement Date through and including the Effective Date, including, without limitation, (a) any claims or liabilities related to or arising from the Fixed Rate Bonds, Variable Rate Bonds, Reimbursement Agreements, First Bank Credit Agreement or other Funded Debt Agreement; (b) all avoidance actions assertable pursuant to Chapter 5 of the Bankruptcy Code; and (c) any right, claim, demand or cause of action, at law or in equity, or any remedy therefor, of any of the Debtors, the Affiliated Entities, the Release Parties, any person or entity claiming by, through or on behalf of any Debtor, Affiliated Entity, or Release Party, any lender, creditor, issuer of any letter of credit, participating bank in any letter of credit, secured party under any security agreement or similar agreement, bondholder, trustee under any indenture relating to any bond, or against any affiliate or any officer, director, employee, agent, representative or advisor of any of the foregoing, and against any other person who acted or acts in concert with any of them, in respect of any act or omission in relation to any of the Debtors, the Affiliated Entities, or the Release Parties, whether or not any of the foregoing persons or entities held such status before, during or after the time of any act or omission in relation to any of the Debtors, the Affiliated Entities or the Release Parties, or whether or not such right, claim, demand, or cause of action arose before or after the Commencement Date through and including the Effective Date, or was or is asserted before or after the Effective Date, including any right, claim, demand or cause of action with respect to a continuation of such activity after either of the Commencement Date or the Effective Date and any damages sustained therefrom before or after the Commencement Date or the Effective Date. The foregoing release shall encompass, without limitation, any and all alleged liability and causes of action that have been, or could have been asserted based upon or related to the subject matter of the investigation performed by the Dow, Lohnes law firm pursuant to its role as special counsel to the Debtors in these bankruptcy cases or the conclusions reached by Dow Lohnes. Notwithstanding the foregoing, the Debtors shall remain responsible for taking all actions required to preserve the tax-exemption of interest on the Fixed Rate Bonds and Variable Rate Bonds issued as tax-exempt bonds, including without limitation (i) the timely preparation and filing of rebate calculations under Section 148 of the Internal Revenue Code of 1986, as amended and the payment of any rebate payments required in connection therewith and (ii) all actions and payments required by the Internal Revenue Service as a condition to the execution and delivery by the Internal Revenue Service of a closing agreement, if a closing agreement is required to preserve the tax-exempt status of such bonds. Notwithstanding any

provision in the Disclosure Statement or Plan to the contrary, nothing in the Plan or Confirmation Order shall be deemed to release or indemnify any of the Debtors' current or former employee, officer, director, trustee, member of the board of trustees, Professional or firm for which the Debtors filed an application to employ as a Professional, from any liability for any claims or causes of action which may be asserted by any of the Attorneys General of any state or by the Reorganized Debtors. However, the organizational documents of the NBA, including the By-Laws, contain indemnification provisions that may remain effective under state law.

### **9.5 Reserved Claims.**

Notwithstanding the foregoing, the following claims shall be expressly reserved and not released: (a) obligations under the Plan (including the obligations of the Debtors and Reorganized Debtors to pay all Allowed Administrative Claims); (b) claims based on implied and express warranties (including construction and similar types of contracts); (c) obligations under the Asset Purchase Agreement (provided that any reservations in the Asset Purchase Agreement of the Debtors' rights regarding any claims or liabilities not relating to the performance of Fortress and Fortress Investment Fund II LLC pursuant to the Asset Purchase Agreement, including without limitation those contained in section 5.14 thereof, shall be superseded by the Plan and any such claims shall be released); (d) objections to professional compensation applications as well as any other claims, if any, by Debtors against their professionals, notwithstanding the release of Avoidance Actions; (e) obligations under any agreement reached among NBA, the Affiliated Entities and HUD and approved by the Bankruptcy Court; (f) claims by the Reorganized Debtors or any of the Attorneys General of any state against the current or former officers, members of the Board of Trustees or Directors of the Debtors; and (g) claims, if any, regarding any Professional or relating to or arising from any Professional Fee Claim. Any Professional may seek a determination from the Bankruptcy Court regarding the effect of the entry of a final order on their final fee application.

### **9.6 Discharge.**

Except as otherwise provided in the Plan, the Confirmation Order, the rights granted in the Plan, the making of distributions and Distributions pursuant to the Plan and the treatment of all Claims shall be in exchange for and in complete satisfaction of, and shall discharge, and release, all Claims of any nature whatsoever against the Debtors, the Reorganized Debtors and their Estates arising prior to the Effective Date, including demands and liabilities that arose before the Effective Date, and all debts of the kind specified in Bankruptcy Code sections 502(g), 502(h), or 502(i), regardless of whether or not (i) a proof of claim evidencing such debt was filed or deemed filed under Bankruptcy Code section 501; (ii) a Claim based on such debt is allowed under Bankruptcy Code section 502; or (iii) the holder of a Claim based on such debt has accepted the Plan. Except as otherwise provided in the Plan, the Confirmation Order shall be a judicial determination of discharge of all Claims against the Debtors. Pursuant to Bankruptcy Code section 524, entry of the Confirmation Order and the discharge granted under this Section 11.1 shall void any judgment against any of the Debtors at any time obtained (to the extent it relates to a discharged Claim), and operates as an injunction against the prosecution of any action against any of the Debtors or their property (to the extent it relates to a discharged Claim).

### **9.7 Injunction Enjoining Claimholders Against Debtors.**

Except as otherwise expressly provided in the Plan, after the Effective Date, all Persons who have been, are, or may be holders of Claims against, or Equity Interests in, the Debtors arising before the Effective Date shall be enjoined from taking any of the following actions against or affecting the Debtors, Reorganized Debtors, their Bankruptcy Estates, or the Property or property subject to the Escrow Agreement, regarding such Claims or Equity Interests (other than actions brought to enforce any rights or obligations under the Plan):

(i) commencing, conducting, or continuing in any manner, directly or indirectly, any suit, action, or other proceeding of any kind against the Debtors, the Reorganized Debtors, their Bankruptcy Estates, or Property or property subject to the Escrow Agreement (including, all suits, actions, and proceedings that are pending as of the Effective Date, which shall be deemed to be withdrawn or dismissed with prejudice) regarding any Claim, debt, liability, or other cause of action;

(ii) enforcing, levying, attaching, collecting, or otherwise recovering by any manner or means, directly or indirectly, any judgment, award, decree, or order against the Debtors, the Reorganized Debtors, their Bankruptcy Estates, or Property or property subject to the Escrow Agreement;

(iii) creating, perfecting, or otherwise enforcing in any manner, directly or indirectly, any Lien against the Debtors, the Reorganized Debtors, their Bankruptcy Estates, or Property or property subject to the Escrow Agreement;

(iv) asserting any right of subrogation or recoupment of any kind, directly or indirectly, against any obligation due the Debtors, the Reorganized Debtors, their Bankruptcy Estates, or Property or property subject to the Escrow Agreement; and

(v) proceeding in any manner and in any place whatsoever that does not conform to or comply with the provisions of the Plan.

This injunction does not affect (1) the police and regulatory powers of any governmental entity and (2) rights of recoupment and offset of any governmental entity.

#### **ARTICLE 10. Certain Factors to Be Considered**

Risk factors associated with the Plan are limited. The Plan is largely premised upon the successful closing of the sale of the Senior Living Centers to Fortress or its assignee. That sale, together with funds from the Cash and Investment Accounts will pay all creditors in full, including interest, at the Postpetition Interest Payment Rate, from the date of the Petition. The timing of the closing of the sale of the Senior Living Facilities is an important risk factor. Fortress and the Debtors are working to close before February 28, 2005. Because certain regulatory approvals are required before such a sale can occur, it is possible that the closing will occur AFTER February 28, 2005. If the closing occurs on or after March 1, 2005, for reasons that are solely attributable to either (i) Fortress or (ii) obtaining regulatory approval to sell a Senior Living Facility that is caused by a party other than the Debtors and creditors entitled to postpetition interest WILL NOT RECEIVE the increase in the Postpetition Interest Rate that is described in 6.5 of the Plan.

Holders of Funded Debt Claims and Trade Debt Claims should not assume that they will receive the increased Postpetition Interest Rate merely because either (x) the sale of the Senior Living Facilities occurs on or after March 1, 2005, or (y) they receive their distribution after February 28, 2005. The mere fact that either of these situations might transpire does not assure that the increased Postpetition Interest Rate described in Section 6.5 of the Plan will become payable.

Should the sale not close or should the market for the Debtors' Cash and Investment Accounts deteriorate dramatically, then the Plan may not be consummated. Such events, however, in the opinion of the Debtors, are not likely.

The Debtors perceive a more significant risk. If the Debtors cannot exit from bankruptcy by the end of February, their operating cash reserves will be severely depleted. On a related note, the Plan contemplates the liquidation of assets other than the Senior Living Centers and investment securities in order to fund operations of the Reorganized Debtor. The Debtors cannot be certain that liquidation will proceed as anticipated – that buyers can be found and closing will occur as rapidly as is necessary.

The Debtors believe that, as indicated by the recent actions of the Missouri Attorney General in filing the “Notice of Intent to Sue,” there is also the risk that the State of Missouri (or some other State, including the State of Texas) may take action under the police and regulatory powers to either replace the Board (and then management) or to dissolve one or more of the Debtors. The Debtors do not believe that such actions would be in the best interests of the estates, creditors, and Debtors. The Debtors believe that such actions would result in further delay in distributions. However, the States of Texas and Missouri have been very vocal in their criticisms of the Debtors and their management.

Should one or more of the States act, the Debtors hope to continue with this Plan and this process, but if the States do act, the Debtor anticipates significant delays which may result in an inability to consummate this Plan. The Debtors do not anticipate that any act of the States would affect the anticipated sale of the Senior Living Facilities.

## **ARTICLE 11. Alternatives to the Plan**

### **11.1 General**

The Proponents believe that the Plan affords the holders of Claims the potential for the greatest realization on the Debtors’ assets and, therefore, is in the best interests of such holders. If the Plan is not confirmed, however, the theoretical alternatives include: (a) dismissal of the chapter 11 cases; (b) an alternative plan of reorganization; or (c) liquidation of the Debtors under Chapter 7 of the Bankruptcy Code. **THE PROPONENTS BELIEVE THAT THE CREDITORS’ CHOICE IS CLEAR. BASED UPON DEBTORS’ ASSESSMENT, CREDITORS WOULD RECEIVE SMALLER DISTRIBUTIONS IN A CHAPTER 7 CASE OR IN THE EVENT OF DISMISSAL OF THE CASES, AND THE DISTRIBUTIONS WOULD OCCUR MUCH LATER THAN IS PROPOSED UNDER THE PLAN.**

### **11.2 Alternative Plans of Reorganization**

If the Plan is not confirmed, the Debtors or any other party in interest in the case could attempt to formulate and propose a different plan. Alternative plans might provide for the liquidation of the Debtors’ assets but it is highly unlikely that any alternate plan could produce a result superior to the result proposed in this Plan. The Debtors further believe that the Plan, as described herein, enables Creditors to realize the greatest possible recovery on their Claims.

### **11.3 Liquidation Under Chapter 7**

If no Plan can be confirmed, these chapter 11 cases may be converted to cases under Chapter 7 of the Bankruptcy Code. In a Chapter 7 case, a trustee would be elected or appointed to liquidate the assets of the Debtors. The proceeds of the liquidation would be distributed to the respective holders of Claims against the Debtors in accordance with the priorities established by the Bankruptcy Code.

Conversion would likely result in a diminution of the value available to pay creditors in a Chapter 11 case. The conversion of the case and the appointment of a trustee would preclude the

realization of the going concern value of the Estates. Upon conversion, the Debtors would cease operations, lose valuable contracts and employees, thereby eliminating any good will value or enterprise value which might have been attainable under a Chapter 11 case. Since continued operations are not contemplated in Chapter 7, the ability to repay creditors from operating income (pending the Effective Date) would be eliminated. Also, the imposition of a Chapter 7 trustee would delay all disbursements very significantly, for the Chapter 7 trustee would take charge, investigate, etc., before doing anything. The value of the Debtors would likely be limited to the liquidation value of their tangible assets. Finally, a Chapter 7 trustee and his or her professionals would add additional administrative priority costs and expenses, to be paid before general creditors.

#### **11.4 Liquidation Analysis**

The Debtors have performed a liquidation analysis of the assets of the Debtors. The results of the analysis are attached to this Disclosure Statement. In summary, the liquidation analysis indicates that the proceeds of a liquidation would be lower than the Plan provides.

Although the liquidation analysis was performed in connection with the preparation of this Disclosure Statement, the Debtors have no reason to believe that the results of such analysis would be materially different if the hypothetical liquidation were to occur on the Confirmation Date.

#### **11.5 Dismissal of the Case**

If no Plan of Reorganization can be confirmed in these Chapter 11 cases, one alternative would be dismissal of the Debtors' cases. Dismissal would result in a rush to litigation by the various Creditors. Under this scenario, the Unsecured Creditors would receive less than this Plan provides on account of their Claims.

### **ARTICLE 12. Confirmation of the Plan**

#### **12.1 Feasibility**

As a condition to confirmation of a plan, Section 1129 of the Bankruptcy Code requires, among other things, that the Bankruptcy Court determine that confirmation is not likely to be followed by the liquidation or the need for further financial reorganization of the debtor. In an effort to determine the feasibility of the Plan, the Debtors have provided Projections above. Based upon the Projections, the Debtors believe that the Reorganized Debtors will be able to make all payments required under the Plan and, therefore, that confirmation of the Plan is not likely to be followed by liquidation or the need for further reorganization.

#### **12.2 Best Interests Test**

In order to confirm the Plan, the Court must find that each holder of an impaired Claim or Equity Interest either (i) accepted the Plan or (ii) received or retained under the plan property of a value, as of the Effective Date, that is not less than the value such holder would receive if the debtor was liquidated under Chapter 7 of the Bankruptcy Code. In a typical Chapter 7 case the debtor ceases operations and a trustee is appointed to conduct an orderly liquidation of the Debtors' assets. The proceeds, net of trustee's fees and other costs and expenses incurred in conducting the liquidation, are distributed to creditors in accordance with their Lien rights and statutorily prescribed priorities of payment.

Since the Debtors would no longer be operating, the ability of the trustee to derive any value for the benefit of creditors from the "going concern value" or "enterprise value" is non-existent. Nevertheless, the Debtors have analyzed the value of the Debtors employing both an enterprise value



approach as well as an orderly liquidation approach. The Debtors' valuation conclusions and the associated assumptions which are integral to the valuation conclusions are discussed above.

Based upon the forgoing valuation analysis, Creditors would receive less on account of their Claims in a Chapter 7 liquidation.

**ARTICLE 13.**  
**Certain Federal Income Tax Consequences of the**  
**Plan of Reorganization**

The following discussion summarizes certain U.S. federal income tax consequences of the implementation of the Plan to the Debtors and to holders of Funded Debt Claims and Trade Debt Claims, based on the Internal Revenue Code of 1986, as amended (the "Tax Code"), existing and proposed Treasury regulations promulgated thereunder (the "Treasury Regulations"), judicial decisions, and published administrative rules and pronouncements of the Internal Revenue Service ("IRS"), all as in effect on the date hereof. These rules are subject to change, possibly on a retroactive basis, and any such change could significantly affect the federal income tax consequences described below. The following summary does not address the federal income tax consequences to holders of Priority Non-Tax Claims, Annuity Claims or Disputed Claims.

The federal income tax consequences of the Plan are complex and are subject to significant uncertainties. The Debtors have not requested, and the holders of Funded Debt Claims and Trade Debt Claims will not be receiving, a ruling from the IRS or an opinion of bond counsel or other counsel with respect to any of the tax aspects of the Plan or the tax treatment of the distributions to creditors. Thus, no assurance can be given as to the interpretation that the IRS will adopt. In addition, this summary does not discuss all aspects of federal income taxation that may be relevant to a particular holder in light of its individual investment circumstances or to certain types of holders subject to special treatment under the federal income tax laws (such as foreign taxpayers, broker-dealers, banks, mutual funds, insurance companies, financial institutions, small business investment companies, regulated investment companies, tax-exempt organizations, persons holding a Funded Debt Claim or General Debt Claim as part of a hedging, integrated constructive sale or straddle, and investors in pass-through entities). There also may be state, local or foreign income or other tax considerations applicable to each holder.

*Accordingly, the following summary of certain federal income tax consequences is for informational purposes only and is not a substitute for careful tax planning and advice based upon the individual circumstances pertaining to a holder of a Claim. All holders of Claims are urged to consult their own tax advisors for the federal, state, local and other tax consequences applicable to them under the Plan.*

**13.1 Consequences to the Debtors**

The implementation of the Plan should not have any material tax consequences to the Debtors, based in part on the fact that the Debtors are not-for-profit corporations that are exempt from federal income taxation under section 501(c)(3) of the Tax Code.

**13.2 Consequences to Holders of Funded Debt Claims and General Debt Claims**

Pursuant to the Plan, holders of Allowed Funded Debt Claims and Allowed Trade Debt Claims will receive, in satisfaction of such Claims, cash in an amount equal to such Allowed Funded Debt Claims plus interest at the Postpetition Interest Payment Rate. The Postpetition Interest Payment Rate is 2.17% from February 16, 2004, through the Effective Date, but increases to 6.17% starting March 1, 2005

(or such date thereafter) if the Effective Date has not occurred as of February 28, 2005; provided that such increase shall not apply to the unpaid amount of any such claims that has not been paid on or before February 28, 2005, due to a delay that is solely attributable to (a) a buyer of the Senior Living Facilities or (b) obtaining any regulatory approval required to sell a Senior Living Facility that is caused by a party other than the Debtors, for such period of time that the delay in the Effective Date continues to be attributable solely to such reasons.

In general, a holder of an Allowed Funded Debt Claim or an Allowed General Debt Claim will recognize gain or loss in an amount equal to the difference between (i) the amount of cash received in respect of its Claim (other than any Claim for accrued but unpaid interest) and (ii) such holder's adjusted tax basis in such Claim (other than any Claim for accrued but unpaid interest). To the extent that an amount received by a holder of debt is received in satisfaction of accrued interest or original issue discount during its holding period, such amount generally will be taxable to the holder as interest income if not previously included in the holder's gross income, except if such interest and original issue discount were otherwise excludable from the holder's gross income. Conversely, a holder generally recognizes a deductible loss to the extent any accrued interest previously included in its gross income is not paid in full.

Where gain or loss is recognized by a holder, the character of such gain or loss as long-term or short-term capital gain or loss or as ordinary income or loss will be determined by a number of factors, including the tax status of the holder, whether the claim constitutes a capital asset in the hands of the holder and how long it has been held, whether the claim was acquired at a market discount, and whether and to what extent the holder previously had claimed a bad debt deduction. Such a holder of an Allowed Claim which purchased its claim from a prior holder at a market discount may be subject to the market discount rules of the Tax Code. Under those rules, assuming that the holder has made no election to amortize the market discount into income on a current basis with respect to any market discount instrument, any gain recognized by a holder in respect of its claim (subject to a de minimis rule) generally would be characterized as ordinary income to the extent of the accrued market discount on such claim.

### **13.3 Information Reporting and Withholding**

All distributions to holders of Allowed Claims under the Plan are subject to any applicable withholding (including employment tax withholding). Under federal income tax law, interest, dividends, and other reportable payments may, under certain circumstances, be subject to "backup withholding" at the then applicable rate (currently 28%). Backup withholding generally applies if the holder (i) fails to furnish its social security number or other taxpayer identification number ("TIN"), (ii) furnishes an incorrect TIN, (iii) fails properly to report interest or dividends, or (iv) under certain circumstances, fails to provide a certified statement, signed under penalty of perjury, that the TIN provided is its correct number and that it is a United States person that is not subject to backup withholding. Certain persons are exempt from backup withholding, including, in certain circumstances, corporations and financial institutions. Backup withholding is not an additional tax but merely an advance payment, which may be refunded to the extent it results in an overpayment of tax and the appropriate information is supplied to the IRS.

The Treasury Regulations generally require disclosure by a taxpayer on its federal income tax return of certain types of transactions in which the taxpayer participated after January 1, 2003, including, among other types of transactions, the following: (1) certain transactions that result in the taxpayer's claiming a loss in excess of specified thresholds; and (2) certain transactions in which the taxpayer's book-tax differences exceed a specified threshold in any tax year. These categories are very broad; however, there are numerous exceptions. Holders are urged to consult their tax advisors regarding

these regulations and whether the transactions contemplated by the Plan would be subject to these regulations and require disclosure on the holders' tax returns.

**THE FOREGOING SUMMARY OF CERTAIN U.S. FEDERAL INCOME TAX CONSEQUENCES IS FOR INFORMATIONAL PURPOSES ONLY AND IS NOT A SUBSTITUTE FOR CAREFUL TAX PLANNING AND ADVICE BASED UPON THE PARTICULAR CIRCUMSTANCES PERTAINING TO A HOLDER OF A CLAIM.**

**ARTICLE 14.  
Conclusion**

WHEREFORE, the Proponents submit this Disclosure Statement and the information contained therein, in good faith, in accordance with the provisions of Title 11, U.S.C. § 101 et. seq. for consideration by Creditors and other parties in interest, and as the sole source of information furnished by the Proponents, or to be furnished by the Proponents, in solicitation of acceptance of Proponents' Plan.

DATED: January 20, 2005

THE OFFICIAL COMMITTEE OF UNSECURED CREDITORS  
OF THE NATIONAL BENEVOLENT ASSOCIATION  
OF THE CHRISTIAN CHURCH (DISCIPLES OF CHRIST)

By: /s/ Franklin C. Bramwell

Name: Franklin C. Bramwell

Title: Committee Chair

THE DEBTORS

By: /s/ David S. Gragg

Name: David S. Gragg

Title: One of the Counsel for the Debtors