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10 Attorney for Debtors

11 **IN THE UNITED STATES BANKRUPTCY COURT**

12 **FOR THE DISTRICT OF ARIZONA**

13 **In re:**

14 **DUAN COPELAND and LILY E.**  
15 **COPELAND,**

16 **Debtors.**

17 **Chapter 11 Proceeding**

18 **No. 2:14-bk-10119-MCW**

19 **AMENDED DISCLOSURE STATEMENT**

20 Continued Hearing on Disclosure  
21 Statement: November 1, 2016 at 2:00  
22 p.m.

23 Deadline for Objection to Disclosure  
24 Statement is: October 25, 2016

25 THE DEBTORS PROVIDE THIS DISCLOSURE STATEMENT TO THEIR  
26 CREDITORS AND OTHER INTERESTED PARTIES. THE PURPOSE OF THIS  
27 AMENDED DISCLOSURE STATEMENT IS TO GIVE INFORMATION WHICH THE  
28 DEBTORS BELIEVE TO BE MATERIAL, IMPORTANT AND ADEQUATE FOR  
MAKING AN INFORMED DECISION IN VOTING ON THE REORGANIZATION PLAN  
PROPOSED BY THE DEBTORS AND ON FILE WITH THIS COURT. A CLASS OF  
CREDITORS WILL BE DEEMED TO ACCEPT THE PLAN, IF AT LEAST TWO-

1 THIRDS IN AMOUNT AND MORE THAN ONE-HALF IN NUMBER OF THE ALLOWED  
2 CLAIMS AMONG THAT CLASS OF CREDITORS THAT VOTE, VOTE FAVORABLY.

3 IF, HOWEVER, THE REQUISITE ACCEPTANCES ARE NOT OBTAINED, THE  
4 COURT MAY NEVERTHELESS CONFIRM THE PLAN OF REORGANIZATION IF THE  
5 COURT FINDS THAT SUCH PLAN OF REORGANIZATION ACCORDS FAIR AND  
6 EQUITABLE TREATMENT TO THE CLASS REJECTING IT. IF SUCH REQUISITE  
7 ACCEPTANCES ARE NOT OBTAINED, THE DEBTORS WILL URGE THE COURT  
8 TO NEVERTHELESS CONFIRM THE PLAN OF REORGANIZATION.

9 NO REPRESENTATIONS CONCERNING THE DEBTORS ARE AUTHORIZED  
10 BY THE DEBTORS OTHER THAN AS SET FORTH IN THIS STATEMENT. ANY  
11 REPRESENTATION OR INDUCEMENT MADE TO SECURE ACCEPTANCES WHICH  
12 IS OTHER THAN AS CONTAINED IN THIS STATEMENT SHOULD NOT BE RELIED  
13 UPON IN ARRIVING AT A DECISION, AND SUCH REPRESENTATIONS AND  
14 INDUCEMENTS SHOULD BE REPORTED TO COUNSEL FOR THE DEBTORS,  
15 WHO, IN TURN, SHALL DELIVER SUCH INFORMATION TO THE BANKRUPTCY  
16 COURT FOR SUCH ACTION AS MAY BE DEEMED APPROPRIATE.

17 PLEASE BE AWARE THAT THE UNITED STATES BANKRUPTCY COURT  
18 HAS NOT APPROVED OR VERIFIED THE ACCURACY OF THE STATEMENTS SET  
19 FORTH IN THIS AMENDED DISCLOSURE STATEMENT.

20 I. History of Debtors.

21 Debtor, DUAN COPELAND is fifty-four (54) years of age, while Debtor LILY  
22 COPELAND, his spouse, is forty-two (42) years of age. Debtor, DUAN COPELAND

1 works full time for Urgent Care Extra as a Medical Doctor and Debtor, LILY COPELAND  
2 is unemployed.

3 II. Bankruptcy History.

4 Debtors filed their Petition for Relief under Chapter 7 on June 30, 2014.  
5 Diane Mann was appointed the interim Chapter 7 Trustee. The First Meeting of  
6 Creditors was held on August 4, 2014. Trial Counsel for the U.S. Trustee took Debtors'  
7 Examination pursuant to Rule 2004 on October 24, 2014.

8 The Chapter 7 Trustee filed several Objections to the Debtors' claim of  
9 Exemptions and Amended Exemptions.

10 The Chapter 7 Trustee filed a Complaint to Deny the Copeland's  
11 discharge under 11 U.S.C. §727 on January 16, 2015.

12 United States Trustee filed a Complaint to Deny the Copeland's discharge  
13 under 11 U.S.C. §727 January 16, 2015.

14 The Debtors, the Chapter 7 Trustee and the United States Trustee  
15 stipulated to convert this Petition to Chapter 11. The Court granted that Motion on  
16 September 18, 2015.

17 The U.S. Trustee determined not to appoint an Unsecured Secured  
18 Creditors Committee on November 20, 2015.

19 The Court approved fees to the Chapter 7 Trustee and their Attorney in  
20 the amounts of \$12,800 and \$1,749 respectively.

21 Interim Monthly Financial Reports for the Debtors have been filed on a  
22 current basis. Copies of Monthly Financial Reports can be obtained upon request from  
23 Gary R. Stickell, Attorney At Law, P.C. 301 E. Bethany Home Road, Suite B100,  
24 Phoenix, AZ 85012, telephone number 602-266-2622, email address  
25 gstickell@garystickell.net.

1 III. Events Precipitating the Bankruptcy Filing.

2 Debtors, Duan and Lily Copeland, are husband and wife. Dr. Duan Copeland  
3 was employed by Mobil Doctor through July 2013. Dr. Copeland provided home visits  
4 through his employer. His employer, Mobil Doctor, abruptly closed in August 2013. Dr.  
5 Copeland was left with a case load of patients with no entity through which to serve  
6 those patients.

7 Dr. Copeland continued to serve those patients while looking to create the  
8 means for billing and staffing the treatment of those patients. Copeland Care was  
9 registered as a trade name with the Secretary of State on October 11, 2013. Copeland  
10 Care was issued its own Tax Identification Number. A bank account was opened for  
11 Copeland Care.

12 Dr. Copeland determined after October 2013 to create a corporation for his  
13 practice. For a variety of reasons, the incorporation documents were not filed with the  
14 Arizona Corporation Commission until January 2014. Copeland Care, Inc. was also  
15 issued a separate Tax Identification Number. A bank account was opened for  
16 Copeland Care, Inc.

17 Dr. Copeland qualified for payments through Medicare through his own social  
18 security number. These were paid through a personal bank account with Navy Federal  
19 Credit Union.

20 The ultimate intention of these activities was to create a medical business  
21 vehicle. There was no ulterior purpose. The Debtors acknowledge that they are not  
22 sophisticated in the operation of a business and that their business affairs were a  
23 confusing mess. For easy reference, Dr. Copeland's medical practice will be hereafter  
24 referred to as the "Copeland Medical Practice."

25 The Copelands were delinquent in paying their Federal Income Tax obligations  
26 for 2010, 2011 and 2012. Facing involuntary collection activities, the Copeland filed a  
27 Chapter 7 Bankruptcy petition on 6/30/2014.

1 IV. Assets and Liquidation Analysis.

2 A. Personal Property

3 1. Cash

4 The Debtors held approximately \$0 cash on hand at the time of  
5 filing of the petition for relief herein.

6 2. Bank Accounts

7 The Debtors held approximately \$7,754.53 in bank accounts at the  
8 time of the filing of the petition for relief herein. The Debtors claim \$600.00 exemption in  
9 personal bank accounts.

10 3. Miscellaneous Household Goods and Furnishings

11 The Debtors listed approximately \$7,075.00 in miscellaneous  
12 household goods and furnishings in their Schedule B. All of these assets are exempt.

13 4. Books and Pictures

14 The Debtors listed approximately \$280 in miscellaneous books and  
15 dvds. These assets are not exempt.

16 5. Miscellaneous Wearing Apparel

17 The Debtors listed approximately \$800.00 in miscellaneous  
18 wearing apparel in their Schedule B. These assets are exempt.

19 6. Watch and Wedding Ring

20 The Debtors listed approximately \$3,700.00 for their wedding  
21 jewelry and \$50 for a watch in their Schedule B. These assets are exempt.

22 The Debtors listed approximately \$50 in miscellaneous jewelry.  
23 These assets are not exempt.

24 7. Interest in Life Insurance Policy

25 The Debtors listed a Met Life Term Life Insurance Policy valued at  
26 \$0. This asset has no value except upon the death of the Debtors. This asset is  
27 exempt.





1 believe that the correct amount of ADOR's priority tax debt is \$14,983.99.

2 E. Secured Claims

3 Motor Vehicles. The Debtors purchased after filing their Chapter 7  
4 Bankruptcy but before converting to Chapter 11, the following vehicles:

5 (1) A 2007 Porsche Caymans on which Consumer Portfolio Services  
6 holds a lien on the Porsche in the amount of \$19,883.00. The monthly payment on the  
7 Porsche is \$790.44.

8 (2) A 2006 Lexus GX470 on which Westlake Financial Services holds a  
9 lien in the amount of \$16,735.90. The monthly payment on the Lexus is \$575.47.

10 Tax Liens.

11 Internal Revenue Service. The Internal Revenue Service filed a tax lien  
12 for income taxes due for 2006 on February 2, 2010. According to its Proof of Claim  
13 (Number #1-3) the amount of the tax debt for 2006 is \$49,657.12. However, Debtors  
14 own unsecured property in the amount of \$43,700.63. Debtors acknowledge a  
15 secured debt owed to the I.R.S. in that sum. The remaining amount of \$5,956.49  
16 should be treated as unsecured non-priority debt.

17 Arizona Department of Revenue. The Arizona Department of Revenue  
18 Service filed a tax lien for income taxes due for 2008, 2011 and 2012 on February 28,  
19 2014. As described above, the IRS filed a tax lien on February 2, 2010. That tax lien is  
20 partially unsecured. Therefore, the later filed ADOR tax lien is totally unsecured. The  
21 tax obligation for 2008 should be treated as unsecured non-priority debt. The  
22 remaining years, 2011 and 2013 should be treated as priority tax debt.

23 F. Domestic Support Obligations

24 The Debtors are not required by a judicial or administrative order, or by  
25 statute, to pay any domestic support obligation.



1 G. Unsecured Claims

2 The Debtors anticipate the total amount of Allowed Unsecured Claims in  
3 this Class will be approximately \$985,715.93. These claims will be paid a pro-rata  
4 distribution of the Debtors' Excess Cash Flow up to the value of the Debtors' Liquidation  
5 Equity after all senior Allowed Claims have been paid.

6 H. Claims Register

7 Attached hereto as Exhibit "A" is a chart reflecting the status of claims as  
8 the Debtors are presently aware.

9 V. CLASSIFICATION.

10 THE FOLLOWING STATEMENTS CONCERNING THE PLAN ARE  
11 MERELY A SUMMARY OF THE PLAN AND ARE NOT COMPLETE. THE  
12 STATEMENTS ARE QUALIFIED ENTIRELY BY EXPRESS REFERENCE TO THE  
13 PLAN. CREDITORS ARE URGED TO CONSULT WITH COUNSEL OR EACH OTHER  
14 IN ORDER TO UNDERSTAND THE PLAN FULLY. THE PLAN IS COMPLETE,  
15 INASMUCH AS IT PROPOSES A LEGALLY BINDING AGREEMENT BY THE  
16 DEBTORS. AN INTELLIGENT JUDGMENT CANNOT BE MADE WITHOUT READING  
17 IT IN FULL.

18 A. Priority Claims: Class 1

19 Class 1-A consists of Allowed Priority Claims under 11 U.S.C. §507(a)(2)  
20 (Administrative Claims)

21 Class 1-B consists of Allowed Priority Claims under 11 U.S.C. §507(a)(8)  
22 (Tax Claims)

23 B. Secured Claims: Class 2

24 Class 2-A consists of Allowed Secured Claims of the Internal Revenue  
25 Service.

26 Class 2-B consists of the Allowed Secured Claim of Westlake Financial  
27 Services related to its lien on the Debtors' 2006 Lexus GX470 and the Allowed Secured

1 Claim of Consumer Portfolio Services related to its lien on Debtors' 2007 Porsche  
2 Caymens.

3 C. General Unsecured Claims: Class

4 Class 3-A consists of the Allowed Unsecured Claims of Creditors of the  
5 Debtors.

6 VI. IMPAIRMENT OF CLASS.

7 Classes 1-A, and 1-B are unimpaired under the Plan. All other classes are  
8 impaired, as that term is defined in 11 U.S.C. §1124.

9 VII. TREATMENT OF CLASSES

10 A. Priority Claims: Class 1

11 1. Administrative Claims: 1-A

12 Class 1-A consists of Allowed Priority Claims under 11 U.S.C.  
13 §507(a)(2) (Administrative Claims) related to the Debtor. Unless they agree to an  
14 alternative form of treatment, the Allowed Claims of Class 1-A shall be paid in full, in  
15 cash, by the earlier of the Effective Date or the date that such are allowed and ordered  
16 paid by the Court. Any Class 1-A Claim not allowed as of the Effective Date shall be  
17 paid as soon thereafter as they are allowed by the Court according to the terms of this  
18 Class. The Allowed Administrative Claim of counsel for the Debtors that has not been  
19 paid as of the Effective Date, shall be paid in monthly payments of principal and  
20 interest, with interest at 8%, until pain in full.

21 2. Tax Claims: 1-B

22 Class 1-B consists of Allowed Priority Claims under 11 U.S.C.  
23 §507(a)(8) (Tax Claims).

24 a. ARIZONA DEPARTMENT OF REVENUE (ADOR)  
25 possesses a prepetition claim for unpaid income taxes for the years 2011, 2012, 2013  
26 and 2014 in the approximate sum of \$14,983.99. The pre-petition priority claim will be  
27 paid in monthly installments beginning thirty (30) days after the date of confirmation,

1 and continuing on the same day of each month thereafter, with payment in full 5 years  
2 from the Petition date. Payments shall be sent to Office of the Arizona Attorney  
3 General Tax, Bankruptcy and Collection, 1275 West Washington, Phoenix, Arizona  
4 85007, with the interest rate applicable to ADOR the rate required by law. The failure of  
5 Debtors to comply with the provisions of the Plan concerning the liability owed to  
6 ADOR, which includes but is not limited to, the failure to make full and timely payments,  
7 shall constitute a default of the Plan. If Debtors fail to cure such default within ten (10)  
8 days after written notice of the default from ADOR or its agents, the entire balance due  
9 ADOR shall be immediately due and owing. In the event of default, ADOR may enforce  
10 the entire amount of its claim, exercise any and all rights and remedies under  
11 applicable nonbankruptcy law which include, but are not limited to, state tax collection  
12 procedures and any other such relief as may be deemed appropriate by the Bankruptcy  
13 Court. Class 3 is impaired by the Plan.

14                   b. INTERNAL REVENUE SERVICE (IRS) possesses a  
15 claim for prepetition income taxes for 2009, 2010, 2011, 2012, 2013 and 2014 in the  
16 approximate sum of \$95,490.58. The pre-petition priority claim will be paid in monthly  
17 installments beginning thirty (30) days after the date of confirmation, and continuing on  
18 the same day of each month thereafter, with payment in full 5 years from the Petition  
19 date. The Debtors shall pay interest to the IRS on its prepetition priority claim at the  
20 statutory rate calculated pursuant to 26 U.S.C. § 6621 and 6622 and pursuant to 11  
21 U.S.C. § 51. In the event of default under the Plan, the IRS shall neither be required to  
22 lift the automatic stay nor seek dismissal or conversion of the case in order to collect  
23 any outstanding tax liabilities that were not discharged by the confirmation of the Plan  
24 and from property that has reverted with the Debtors. In the event the Debtors default  
25 on any payment due the IRS as required under the confirmed plan, and in the event the  
26 debtor fails to cure said default within thirty days after written notice of the default is  
27 mailed to the Debtors and the Debtors' attorney, the entire imposed liability, together

1 with any unpaid current liabilities, shall become due and payable immediately. The IRS  
2 may collect unpaid liabilities that become due as a result of the default through the  
3 administrative collection provisions or the judicial remedies as set forth in the Internal  
4 Revenue Code. The discharge of the Debtors is pursuant to 11 U.S.C. § 1141(d). The  
5 general unsecured claim of the IRS shall be treated pursuant to the terms of Class 3.  
6 Class 3 is impaired by the Plan.

7                   As provided in 11 U.S.C. §1129(a)(9)( C), unless they agree to an  
8 alternative form of treatment, the Allowed Claims of Class 1-A shall be paid in full, in  
9 cash, in regular installment payments of a total value, as of the Effective Date of the  
10 Plan, equal to the Allowed Priority Claim, over a period ending five (5) years after the  
11 Petition Date, and in a manner that is not less favorable than the most favored non-  
12 priority unsecured claim provided for by the Plan (other than cash payments made to a  
13 class of creditors under §1122(b)). Any Allowed Priority Claims will receive interest at  
14 the Tax Claim Rate. Any Class 1-B Claim not allowed as of the Effective Date shall be  
15 paid as soon thereafter as they are allowed by the Court according to the terms of this  
16 Class.

17                   B. Secured Claims: Class 2

18                   The Debtors listed a 2008 Nissan Rogue valued at \$11,021.00. This  
19 asset was returned to the creditor after the filing of the Chapter 7 Bankruptcy.

20                   After filing their Chapter 7 Bankruptcy, but before converting to Chapter  
21 11, the Debtors purchased the following:

22                   1. Westlake Financial Services: Class 2-B

23                   The Class consists of Allowed Secured Claim held by Westlake  
24 Financial Services, as to its lien on Debtors' 2006 Lexus GX470. The Debtors believe  
25 the current value of the 2006 Lexus GX470 is \$18,816.00. Westlake Financial Services  
26 will retain it's lien on the 2006 Lexus GX470 and will be paid as follows: The Debtors  
27 will pay Westlake Financial such amount of Sixteen Thousand Seven Hundred Thirty-

1 Five dollars and ninety cents (\$16,735.90), plus interest at Five Percent (5%) per  
2 annum. Debtors will continue to pay the regular monthly payment of \$575.47 until  
3 Westlake Financial is paid in full. The lien of Westlake Financial will be retained until  
4 the Debtors have satisfied the terms of this Class. Any amount due Westlake Financial  
5 not paid in this Class will be treated pursuant to Class 3. Class 3 is impaired by the  
6 Plan.

7                                   2. Consumer Portfolio Services: Class 2-B

8                                   The Class consists of Allowed Secured Claim held by Consumer  
9 Portfolio Services, as to it lien on Debtors' 2007 Porsche Caymens. The Debtors  
10 believe the current value of the 2007 Porsche Caymens is \$25,519.00. Consumer  
11 Portfolio Services will retain its lien on the 2007 Porsche Caymens and will be paid as  
12 follows: The Debtors will pay Consumer Portfolio Services such amount of Nineteen  
13 Thousand Eight Hundred Eighty-Three Dollars (\$19,883.00), plus interest at Five  
14 Percent (5%) per annum. Debtors will continue to pay the regular monthly payment of  
15 \$790.44 until Consumer Portfolio Services is paid in full. The lien of Consumer Portfolio  
16 Services will be retained until the Debtors have satisfied the terms of this Class. Any  
17 amount due Consumer Portfolio Services not paid in this Class will be treated pursuant  
18 to Class 3. Class 3 is impaired by the Plan.

19                                   C. Unsecured Claims: Class 3

20                                   1. General Unsecured Claims: Class 3-A

21                                   Class 3-A consists of Allowed Unsecured Claims of Creditors.  
22 Class 3-A Creditors shall be paid a pro-rata share from Debtors' Excess Cash Flow, on  
23 a quarterly basis, in an amount sufficient to fund the value of the Debtors' Liquidation  
24 Equity (as calculated in the Debtors' Disclosure Statement). The Debtors' Disclosure  
25 Statement identifies that the Debtors' Disposable Income is \$2,900.00 on a monthly  
26 basis. Once Debtors' attorneys fees, priority debts and secured debts are paid in full,  
27 the balance of the Debtors' Disposable Income (over 5 years) will then be used to pay

1 Allowed Unsecured Claims. Any Allowed Unsecured Claims that are determined to be  
 2 non-dischargeable will continue to receive a pro-rata distribution of the Excess Cash  
 3 Flow (which is defined as Debtors' Disposable Income) after all Allowed Claims  
 4 provided for under the Plan have been paid, until satisfied in full.

5 D. Debtors' Interest: Class 4

6 1. Debtors' Interest: Class 4-A

7 Pursuant to §1129(a)(15) and (b)(2)(B)(ii) of the Bankruptcy Code,  
 8 the Debtors shall retain their interest in all estate property in consideration of their  
 9 funding of Allowed Claims and shall receive all exempt and non-exempt property.

10 VIII. Liquidation Analysis: What Creditors Would Receive If the Case

11 Were Converted to a Chapter 7

12 Value of Non-exempt property	\$16,565.43
13 Chapter 7 Trustee Fees	\$ 1,749*
14 Chapter 7 Trustee's Professionals	\$12,800*
15 Priority Claims	\$ 110,474.57
16 NET FUNDS AVAILABLE FOR DISTRIBUTION TO UNSECURED CREDITORS	\$ 00.00

18 Estimated Amount of Unsecured Claims	\$ 985,715.93
19 Percent Distribution to Unsecured Creditors Under Proposed Plan	2.5%
20 Percent Distribution to Unsecured Creditors Under Liquidation Analysis	00%

21 \* Chapter 7 Trustee and Chapter 7 Trustee's Attorney actually received these  
 22 amounts under the Court's Order of November 2, 2015 (Doc. # 97). These amounts  
 23 are not deducted from the non-exempt property amount.

1 IX. Effect on Plan of the Absolute Priority Rule.

2 The law in this District is that the Absolute Priority Rule does apply to individual  
3 debtors in Chapter 11. *In re Zachay*, 811 F.3d 1191 (9th Cir. 2016). Under the Absolute  
4 Priority Rule, Debtors must provide “new value” if they are to retain non-exempt  
5 property and pay less than 100% of claims.

6 In the present case, the Debtors do propose to retain non-exempt property and  
7 propose to pay less than 100% of claims. However, Debtors do not need to provide  
8 new value to retain their non-exempt property as any non-exempt property is secured  
9 by liens held by the Internal Revenue Service and the Arizona Department of Revenue.  
10 These liens are properly perfected and exceed the value of Debtors’ non-exempt  
11 property. Debtors’ non-exempt property is fully secured.

12 \_\_\_\_\_ In the alternative, the Debtors do not anticipate any creditor objections.

13 \_\_\_\_\_ X. DISPOSABLE INCOME ANALYSIS

14 Pursuant to §1129(a)(15) of the Bankruptcy Code, the Court shall confirm  
15 the Plan only if: in a case in which the Debtor is an individual and in which the holder of  
16 an Allowed Unsecured Claim objects to the confirmation of the Plan, what the holder of  
17 such Allowed Unsecured Claim shall receive under the Plan is either (A) the value, as  
18 of the Effective Date of the Plan, of the property to be distributed under the Plan on  
19 account of such Allowed Unsecured Claim is not less than the amount of such Allowed  
20 Unsecured Claim, of (B) the value of the property to be distributed under the Plan is not  
21 less than the projected disposable income of the Debtor (as defined in section  
22 1325(b)(2)) to be received during the 5 year period beginning on the date that the first  
23 payment is due under the Plan, or during the period for which the Plan provides  
24 payments, whichever is longer.

25 Section 1325(b)(2) defines disposable income as current monthly income  
26 received by the Debtor (other than child support payments, foster care payments, or  
27 disability payments for a dependent child made in accordance with applicable non-

1 bankruptcy law to the extent reasonably necessary to be expended for such child) less  
 2 amounts reasonably necessary to be expended (A)(I) for the maintenance or support of  
 3 the debtor or a dependent of the debtor, or for a domestic support obligation, that first  
 4 becomes payable after the date the petition is filed; and for charitable contributions  
 5 (that meet the definition of "charitable contribution" under section 548(d)(3) to a  
 6 qualified religious or charitable entity or organization (as defined in section 548(d)(4) in  
 7 an amount not to exceed 15 percent of gross income of the debtor for the year in which  
 8 the contributions are made; and (B) if the debtor is engaged in business, for the  
 9 payment of expenditures necessary for the continuation, preservation and operation of  
 10 such business.

11 Amended Schedule I and J are the most recent income and expense schedules  
 12 for Debtors, attached and incorporated herein as Exhibit B. The Debtors reviewed  
 13 these schedules in preparation of the Amended Disclosure Statement and state that  
 14 they reflect their income and expenses.

15 More other, the Debtors Monthly Operating Statements reflect the proposed  
 16 \$2,900 to be paid under this Plan.

18 Month	MOR ECF#	Receipts	Distributions	Net
19 Sept 2015	109	\$20,446.18	\$17,062.33	\$3,371.55
20 Oct 2015				
22 Nov 2015	110	\$29,910.25	\$22,937.99	\$6,972.26
23 Dec 2015		\$20,536.18	\$32,447.94	(\$11,911.76)
24 Jan 2016	118	\$17,598.56	\$10,413.96	\$7,184.60
26 Feb 2016	119	\$17,212.67	\$13,756.02	\$3,456.65



1	Mar 2016	120	\$22,466.66	\$14,795.87	\$7,670.79
2					
3	Apr 2016	122	\$15,634.99	\$13,729.88	\$1,905.11
4	May 2016	123	\$9,822.71	\$14,790.18	(\$4,967.47)
5					
6	June 2016	134	\$13,895.45	\$13,476.58	\$418.87
7	July 2016	135	\$13,647.29	\$7,085.05	\$6,562.24
8					
9					
10	<b>Average</b>		<b>\$16,470.09</b>	<b>\$14,590.53</b>	<b>\$1,878.44</b>

11

12 Thus, the balance available for distribution to general unsecured claims is

13 estimated to be \$11,400. **Accordingly, creditors should note that the amount to be**

14 **disbursed to satisfy §1129(a)(15) of the Bankruptcy Code to general Unsecured**

15 **Claims is \$11,400. The Debtors' Plan provides that the Debtors will pay their**

16 **Administrative Claims and Priority Claims in full. As the Liquidation Analysis**

17 **shows there is no required distribution to the Debtors' general unsecured**

18 **creditors assuming the Debtors' Administrative and Priority Claims are not**

19 **greater than estimated. However, if these claims are greater than estimated, the**

20 **Debtor is nonetheless committed to fund the value of their Liquidation Equity and**

21 **will pay based upon their disposable income analysis over 5 years until all**

22 **Allowed Administrative Claims are paid in full and the balance of disposable**

23 **income will then be paid to any priority claims and then be paid to general**

24 **unsecured claims.**



1 creation of the necessary new liens to satisfy the terms of the Plan. If the Debtors  
2 deem advisable, they may obtain a further Order from the Court that may be recorded  
3 in order to implement the terms of the Plan.

#### 4 XIII. TAX CONSEQUENCES

5 Pursuant to §1125(a)(1) of the Bankruptcy Code, the Debtors are to provide a  
6 discussion of the potential material federal tax consequences of the Plan to the  
7 Debtors, any successor to the Debtors, and a hypothetical investor typical of the  
8 holders of claims or interests in the case, that would enable such a hypothetical investor  
9 of the relevant class to make an informed judgment about the Plan, but adequate  
10 information need not include such information about any other possible or proposed  
11 plan and in determining whether the Disclosure Statement provides adequate  
12 information, the Court shall consider the complexity of the case, the benefit of additional  
13 information to creditors and other parties in interest, and the cost of providing additional  
14 information.

15 Neither the Debtors nor their lawyers can make any statements with regard to  
16 the tax consequences of the Plan on any of the creditors. Although they would note  
17 that to the extent the creditor is not paid in full their Allowed Claims, they should consult  
18 with their tax advisor concerning the possibility of writing off for tax purposes that  
19 portion of their Allowed Claim that is not paid. Each creditor in this case, when  
20 analyzing the Plan, should consult with its own professional advisors to determine  
21 whether or not acceptance of the Plan by the creditor will result in any adverse tax  
22 consequences to the creditor.

23 The Bankruptcy Tax Act generally provides that the Debtors do not have to  
24 recognize income from the discharge from indebtedness. The Plan contemplates  
25 significant discharge of indebtedness; however, because the Debtors are in bankruptcy,  
26 they will not have to recognize the discharge of indebtedness for tax purposes. The  
27 Debtors do not believe the Plan will cause any adverse tax consequences.



1 intended to assist Creditors in evaluating the Plan and in determining whether to accept  
2 the Plan. In determining acceptance of the Plan, votes of Creditors will only be counted  
3 if submitted by a Creditor whose claim is duly scheduled by the Debtors as undisputed,  
4 non-contingent and liquidated, or who has timely filed with the Court a proof of claim or  
5 proof of interest.

6 The Bankruptcy Court will schedule a hearing to determine whether the  
7 requirements for confirmation under the Bankruptcy Code have been met and whether  
8 the Plan has been accepted by each impaired Class and by the requisite number of  
9 Creditors in such Class. Under §1126 of the Bankruptcy Code, an impaired class is  
10 deemed to have accepted the Plan upon a favorable vote of at least two-thirds (2/3) in  
11 dollar amount and more than one-half (1/2) in number of the allowed Claims of Class  
12 members voting on the Plan. Further, unless there is unanimous acceptance of the  
13 Plan by an impaired class, the Court must also determine that Class members will  
14 receive at least as much as they would if the Debtor were liquidated under Chapter 7 of  
15 the Code.

16 Even if each Class of Creditors does not accept the Plan, the Plan can be  
17 confirmed under §1129(b) of the Code, so long as one impaired Class of Creditors  
18 accepts the Plan. The failure of each Class to accept the Plan could very well result in  
19 a conversion of this case to a Chapter 7 or dismissal of the Chapter 11, and the  
20 secured Creditors repossessing their collateral and disposing of it in a commercially  
21 reasonable matter with no obligation to unsecured Creditors.

## 22 XVI. MODIFICATION OF PLAN

23 In addition to its modification rights under §1127 of the Bankruptcy Code, the  
24 Debtor may amend or modify their Plan at any time prior to Confirmation without leave  
25 of the Court. The Debtors or the Reorganized Debtors may propose amendments  
26 and/or modifications of their Plan at any time subsequent to Confirmation with leave of  
27 the Court and upon notice to Creditors. After Confirmation of the Plan, the Debtors or

1 the Reorganized Debtors may, with approval of the Court, as long as it does not  
2 materially or adversely affect the interest of the Creditors, remedy any defect or  
3 omission or reconcile any inconsistencies of the Plan, or in the Confirmation Order, if  
4 any may be necessary to carry out the purposes and intent of their Plan.

5 XVII. CLOSING OF THE CASE

6 If the Court does not close this case on its own motion, the Reorganized Debtors  
7 will move the Court to close this case once the Plan is deemed substantially  
8 consummated. Until substantial consummation, the Reorganized Debtors will be  
9 responsible for filing pre- and post-confirmation reports required by the United States  
10 Trustee and paying the quarterly post-confirmation fees of the United States Trustee, in  
11 cash, pursuant to 28 U.S.C. §1930, as amended. Pursuant to 11 U.S.C. §1129(a)(12),  
12 all fees payable under section 1930 of title 28, as determined by the Court at the  
13 hearing on confirmation of the Plan, will be paid, in cash, on the Effective Date.

14 XVIII. RETENTION OF JURISDICTION

15 The Court will retain jurisdiction until the Plan has been fully consummated for,  
16 including but not limited to, the following purposes:

17 1. The classification of the Claims of any Creditors and the re-examination of  
18 any Claims which have been allowed for the purposes of voting, and for the  
19 determination of such objections as may be filed to the Creditors' Claims. The failure  
20 by the Debtors to object to or examine any Claim for the purpose of voting shall not be  
21 deemed to be a waiver of the Debtors' rights to object to or to re-examine the Claim in  
22 whole or in part.

23 2. To determine any Claims which are disputed by the Debtors, whether such  
24 objections are filed before or after Confirmation, to estimate any Unliquidated or  
25 Contingent Claims pursuant to 11 U.S.C. §502(c)(1) upon request of the Debtors or any  
26 holder of a Contingent or Unliquidated Claim, and to make determination on any  
27 objections to such Claim.

1 3. To determine all questions and disputes regarding title to the assets of the  
2 estate, and determination of all causes of action, controversies, disputes or conflicts,  
3 whether or not subject to action pending as of the date of Confirmation, between the  
4 Debtors and any other party, including but not limited to, any rights of the Debtors to  
5 recover assets pursuant to the provisions of the Bankruptcy Code.

6 4. The correction of any defect, the curing of any omission or any reconciliation  
7 of any inconsistencies in the Plan, or the Confirmation Order, as may be necessary to  
8 carry out the purposes and intent of the Plan.

9 5. The modification of the Plan after Confirmation, pursuant to the Bankruptcy  
10 Rules and the Bankruptcy Code.

11 6. To enforce and interpret the terms and conditions of the Plan.

12 7. The entry of an order, including injunctions, necessary to enforce the title,  
13 rights and powers of the Debtors, and to impose such limitations, restrictions, terms and  
14 conditions of such title, right and power that this Court may deem necessary.

15 8. The entry of an order concluding and terminating this case.

16 XIX. DISCLAIMER

17 Court approval of this Disclosure Statement and the accompanying Plan of  
18 Reorganization, including exhibits, is not a certification of the accuracy of the contents  
19 thereof. Furthermore, Court approval of these documents does not constitute the  
20 Court's opinion as to whether the Plan should be approved or disapproved.

21 XX. RISKS

22 The risk of the Plan lies essentially with the Debtors' ability to maintain their  
23 income to make Plan payments.

24 XXI. PROPONENTS RECOMMENDATION/ALTERNATIVES TO THE PLAN

25 The Debtors recommend that all creditors entitled to vote for the Plan do so.  
26 The alternatives to confirmation of the Plan would be either conversion of this case to a  
27 case under Chapter 7 of the Bankruptcy Code or its dismissal.

1 Conversion will result in the appointment of a Chapter 7 Trustee and, most likely,  
2 the hiring of an attorney by the trustee. Expenses incurred in administering the Chapter  
3 7 case will take priority in the right to payment over allowed, administrative expenses  
4 incurred in the Chapter 11 case. Both Chapter 7 and Chapter 11 administrative  
5 expenses take priority over the payment of unsecured claims without priority. In other  
6 words, conversion would likely decrease the net amount available to pay currently  
7 existing creditors. Further a Chapter 7 proceeding would not provide the Debtor with the  
8 means to pay their Priority Claims over time.

9 In addition, conversion could substantially delay any distribution to creditors  
10 beyond the time period for distribution defined in the Plan. A Chapter 7 trustee is not  
11 limited to specific deadlines for closing a case and distributing assets to creditors. It is  
12 not unusual for distributions in Chapter 7 cases to be delayed for years. Moreover, the  
13 return on the assets of the Estate a trustee is likely to obtain through a standard  
14 Chapter 7 liquidation could be less than the return the Plan will generate.

15 Dismissal of this case would leave all creditors holding unsecured claims in the  
16 position of having to institute legal proceedings to collect their debts. Moreover, outside  
17 the context of a bankruptcy case, the first creditor to collect may collect all non-exempt  
18 property, leaving nothing to be paid to remaining creditors. In addition, dismissal of this  
19 case would open the door for the Debtors to file a new bankruptcy case, which could  
20 further delay or reduce funds available to pay creditors.

21 For all these reasons, the Debtors urge you to vote to accept the Plan and to  
22 return your ballots in time to be counted.

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24 ///

25 ///



1 Dated: September 9, 2016

2 **GARY R. STICKELL,**  
3 **Attorney At Law, P.C.**

4 /s/G.R.S. #7512

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10 /s/Duan Copeland  
11 Duan Copeland

12 /s/Lily E. Copeland  
13 Lily E. Copeland

14 Electronically filed with the  
15 Clerk of the Bankruptcy Court  
16 September 9, 2016

17 By G.R.S. #7512