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7 1617 WESTCLIFF, LLC

8 UNITED STATES BANKRUPTCY COURT

9 CENTRAL DISTRICT OF CALIFORNIA – SANTA ANA DIVISION

10 In re
11 1617 WESTCLIFF, LLC, a Delaware limited
liability company,
12 Debtor.

Case No. 8:12-bk-19326-MW

Chapter 11

DEBTOR'S PROPOSED DISCLOSURE
STATEMENT DESCRIBING
MODIFIED FIRST AMENDED
CHAPTER 11 PLAN OF
REORGANIZATION; AND
DECLARATION OF GARY RETTIG IN
SUPPORT

16 Disclosure Statement Hearing

17 Date: ~~July 24~~ November 20,
2013

18 Time: 2:00 p.m.

19 Ctrm: 6C
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1 P. Final Decree5341

2 DECLARATION OF GARY RETTIG1

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1 TO THE HONORABLE MARK S. WALLACE, UNITED STATES BANKRUPTCY COURT
2 JUDGE, THE OFFICE OF THE UNITED STATES TRUSTEE, AND ALL INTERESTED
3 PARTIES:

4 1617 WESTCLIFF, LLC, the debtor and debtor-in-possession (“Debtor”) in this
5 Chapter 11 bankruptcy proceeding, case no. 8:12-bk-19326-MW (the “Bankruptcy”), submits this
6 Disclosure Statement (“Disclosure Statement”) Describing Modified First Amended Chapter 11 Plan
7 of Reorganization (“Plan”).

8 **THIS DOCUMENT IS THE DISCLOSURE STATEMENT FOR THE PLAN,**
9 **NOT THE PLAN ITSELF.**

10 The Plan proposed by Debtor is a liquidating and reorganizing plan. In other words,
11 Debtor seeks to accomplish payment of creditors in full under the Plan by reorganizing Debtor’s
12 personal assets and liabilities through the sale of Debtor’s real property asset. The effective date of
13 the proposed Plan is fifteen (15) days after an order confirming the Plan (“Confirmation Order”) becomes final and not subject to appeal (the “Effective Date”). The Confirmation Order will
14 become final and not subject to appeal on the 15th day after entry, if an appeal is not filed in that
15 time. Thus, the Effective Date is the 30th day after entry of the Confirmation Order.

17 Debtor filed its First Amended Plan on July 1, 2013. The Plan proposed two possible
18 means of paying creditors: to sell Debtor’s real property asset before confirmation, enabling Debtor
19 to pay creditors in full from sales proceeds upon or before the Effective Date, thus curing all defaults
20 upon confirmation and allowing for elimination of default interest on a secured claim; or to sell the
21 property post-confirmation, enabling Debtor to pay creditors in full but not effecting cure at
22 confirmation, thus not allowing Debtor to eliminate default interest. Debtor was able to sell the real
23 property asset prior to confirmation of the Plan for an amount sufficient to pay all creditors in full;
24 the Court therefore ordered Debtor to modify its Plan so that creditors would understand clearly
25 what Debtor had done and would do through the First Amended Plan.

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A. Purpose of This Document

This Disclosure Statement summarizes what is in the Plan, and relates certain information relating to the Plan and the process the Court follows in determining whether or not to confirm the Plan.

READ THIS DISCLOSURE STATEMENT CAREFULLY. IT ADDRESSES:

- (1) **THE HISTORY OF DEBTOR, ASSETS OF THE ESTATE, AND SIGNIFICANT EVENTS DURING THE BANKRUPTCY;**
- (2) **THE TREATMENT OF YOUR CLAIM (i.e., what your claim will receive if the Plan is confirmed), ~~AND HOW THIS TREATMENT COMPARES TO WHAT YOUR CLAIM WOULD RECEIVE IN LIQUIDATION;~~**
- (3) **WHO CAN VOTE OR OBJECT;**
- (4) **WHAT THINGS THE COURT WILL LOOK AT TO DECIDE WHETHER OR NOT TO CONFIRM THE PLAN;**
- (5) **WHETHER THE PLAN IS FEASIBLE; and**
- (6) **THE EFFECT OF CONFIRMATION OF THE PLAN.**

This Disclosure Statement cannot tell you everything about your rights. You should consider consulting your own attorney to obtain more specific advice on how the Plan will affect you and what is the best course of action for you.

Be sure to read the Plan as well as this Disclosure Statement. If there are any inconsistencies between the Plan and this Disclosure Statement, the Plan provisions will govern.

B. Deadlines for Voting and Objecting; Date of Plan Confirmation Hearing

THE COURT HAS NOT YET CONFIRMED THE PLAN DESCRIBED IN THIS DISCLOSURE STATEMENT. IN OTHER WORDS, THE TERMS OF THE PLAN ARE NOT YET BINDING ON ANYONE. HOWEVER, IF THE COURT LATER CONFIRMS THE PLAN, THEN THE PLAN WILL BE BINDING ON DEBTOR AND ON ALL CREDITORS AND INTEREST HOLDERS IN THIS CASE.

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5 1. Time and Place of the Confirmation Hearing

6 The hearing where the Court will determine whether or not to confirm the Plan
7 will take place on [] in Courtroom ~~6C5D~~, United States Bankruptcy Court for
8 the Central District of California, 411 W. 4th Street, Santa Ana, California, 92701.

9 2. ~~Deadline for No~~ Voting for or against the Plan

10 ~~If you are entitled to vote, it is in your best interest to timely vote on the enclosed~~
11 ~~ballot and return the ballot in the enclosed envelope to:~~

12 ~~D. Edward Hays, Esq.~~
13 ~~Sarah C. Boone, Esq.~~
14 ~~Marshack Hays LLP~~
15 ~~870 Roosevelt Avenue~~
16 ~~Irvine, California 92620~~

15 ~~Your ballot must be received by [] or it will not be counted.~~

16 ++

17 ~~++~~Creditor claims are not impaired under the Plan pursuant to 11 U.S.C. §1124.
18 Therefore all creditors are conclusively presumed to have accepted the Plan, and solicitation of
19 acceptances (i.e. votes in favor of the Plan) is not required.

20 3. Deadline for Objecting to the Confirmation of the Plan

21 Objections to the confirmation of the Plan must be filed with the Court and served
22 by mail not later than [] upon:

23 SARAH C. BOONE
24 MARSHACK HAYS LLP
25 870 Roosevelt Avenue
26 Irvine, California 92620 ~~Debtor's counsel identified on the first page~~
27 ~~of this Disclosure Statement.~~

26 4. Identity of Person to Contact for More Information Regarding the Plan

27 Any interested party desiring further information about the Plan should contact:
28

~~Debtor's counsel identified on the first page of this Disclosure Statement.~~

SARAH C. BOONE, #268813
sboone@marshackhays.com
MARSHACK HAYS LLP
870 Roosevelt Avenue
Irvine, California 92620
Telephone: 949-333-7777

C. Disclaimer

The financial data relied upon in formulating the Plan ~~are~~is based on Debtor's books and records, including those in the possession of the Receiver, and the ~~general unsecured~~ claims filed with the Bankruptcy Court. The information contained in this Disclosure Statement is provided by Debtor. Debtor represents that everything stated in the Disclosure Statement is true to Debtor's best knowledge. The Court has not yet determined whether or not the Plan is confirmable and *makes no recommendation as to whether you should ~~support or oppose the~~* Plan.

~~///~~

I. INTRODUCTION

On August 2, 2012 (the "Petition Date"), Debtor filed a voluntary petition for relief under Chapter 11 of Title 11 of the United States Code. Debtor is a debtor-in-possession pursuant to 11 U.S.C §§1107 and 1108.

Debtor is a ~~Delaware~~California limited liability company ~~and which owned~~ commercial real property commonly known as 1617 Westcliff Drive, Newport Beach CA 92660 (the "Property").- ~~The Property is a single building office complex totaling 31,364 sq. ft. of rentable space on 1.56 acres (67,954 sq. ft.) of real property located in Newport Beach, California. The Property is also known as the Westcliff Office Plaza.~~ Debtor's general partner is Rettig Portfolio, Inc., a Delaware corporation. Dr. Gary Rettig is the president and sole shareholder of Rettig Portfolio, Inc.

Prior to the issues which led to Debtor's Bankruptcy, the Property was managed by Gary Rettig, D.C., and his wife, Shawn Rettig. Dr. and Mrs. Rettig owned and managed the Property successfully for approximately 16 years, including leasing, rent collection, evictions,

1 building and grounds maintenance, and payment of general operating expenses for the Property,
2 with the assistance of an on-site individual property manager. During this period, the total
3 management fees for the Property were approximately \$3,000 a month. Debtor was able to stay
4 current on all financial obligations with respect to the Property.

5 Wells Fargo Bank, N.A., as Trustee for the Registered Holders of Credit Suisse
6 First Boston Mortgage Securities Corp., Commercial Mortgage Pass-Through Certificates,
7 Series 2004-C3 (the "Bank") holds a first-in-priority deed of trust secured against the Property.
8 Prior to the Petition Date, Bank initiated litigation against Debtor in the Superior Court of the
9 State of California, County of Orange, in Case No. 30-2011-00520252-CU-OR-CJC (the "Pre-
10 Petition Litigation"). In the Pre-Petition Litigation, the Bank sought, and was granted, the
11 appointment of a receiver, Bellann Raile of Cordes & Co. (the "Receiver"), pursuant to the
12 Order Appointing Receiver and Granting Preliminary Injunction entered on January 5, 2012, in
13 the Pre-Petition Litigation. ~~Prior to the appointment of the Receiver, Debtor was current on all~~
14 ~~mortgage payments to the Bank, and had never been in arrears on its obligations. The Receiver~~
15 ~~was appointed for reasons unrelated to Debtor's ability to meet its financial obligations to the~~
16 ~~Bank.~~ The Receiver retained P.M. Realty Group (the "Property Manager") to manage the
17 Property.

18 After her appointment and p Prior to Debtor's bankruptcy, ~~Property Manager and~~
19 the Receiver and her Property Manager together provided complete management services for
20 the Property, including leasing, rent collection, evictions, building and grounds maintenance,
21 and payment of general operating expenses for the Property. Their joint fees regularly exceed
22 \$9,000 a month, not including the fees and costs of vendors they retained to maintain the
23 property. In addition, the order appointing the Receiver did not require her to pay the mortgage
24 on the Property from the rental income, and the operating expenses during the receivership,
25 including the fees of the vendors, the Receiver and the Property Manager, were significantly
26 higher than pre-receivership operating expenses. The Receiver did not pay the mortgage during
27 the receivership and the Property went significantly into arrears as a result.

28 ///

1 This Bankruptcy was filed to give Debtor an opportunity to restructure its debts,
2 potentially through liquidation of the Property, prior to any foreclosure on the Property by the
3 Bank, which foreclosure would have resulted in a substantially lower sale price than Debtor
4 could secure, and may not have produced sufficient net proceeds, after satisfaction of the
5 Bank's claim, to pay all of Debtor's other creditors in full. To avoid a protracted and possibly
6 expensive litigation at the outset of this Bankruptcy regarding whether the Receiver should be
7 excused from her duty to turn over control of the Property to the Debtor, the parties reached
8 agreement that the Receiver was excused from turnover. She and the Property Manager
9 continued to operate the Property and to have custodianship over its income and financial
10 accounts. The Parties also reached agreement that Debtor, through a qualified professional
11 leasing agent, should have substantial control over leasing and tenant issues with respect to the
12 Property, as well as sole authority to market and sell the Property.

13 Debtor filed its First Amended Plan on July 1, 2013. The Plan proposed two
14 possible means of paying creditors: to sell Debtor's real property asset before confirmation,
15 enabling Debtor to pay creditors in full from sales proceeds upon or before the Effective Date,
16 thus curing all defaults upon confirmation and allowing for elimination of default interest; or to
17 sell the property post-confirmation, enabling Debtor to pay creditors in full but not effecting
18 cure at confirmation, thus not allowing Debtor to eliminate default interest.

19 After protracted negotiations, on July 20, 2013, Debtor entered into an agreement
20 with Burnham-Ward Properties LLC for sale of the Property on a cash basis, with no
21 contingencies to closing, pursuant to the Plan.

22 On July 22, 2013, Debtor filed a Motion for Order: (1) Approving the
23 Reinstatement of and Second Amendment to Standard Offer Authorizing the Sale of Real
24 Property Located at 1617 Westcliff Drive, Newport Beach, California 92660, Outside the
25 Ordinary Course of Business, Free and Clear of All Liens, Claims, and Interests, and Subject to
26 Overbid; (2) Determining Good Faith of Purchaser under § 363(m); (3) Approval of Proposed
27 Treatment of Sales Proceeds; and (4) for Assumption and Assignment or Rejection of leases
28 (the "Sale Motion"). The Sale Motion referenced the Plan and stated that the sale was pursuant

1 to the Plan. On August 20, 2013, the Court entered as Dk. No. 188 an Order granting the Sale
2 Motion (the "Sale Order").

3 Debtor was able to sell the Property prior to confirmation of the Plan for an
4 amount sufficient to pay all creditors in full: the Court therefore ordered Debtor to modify its
5 Plan so that creditors would understand clearly what Debtor had done and would do through the
6 First Amended Plan. The modified First Amended Plan has been filed to clarify Debtor's Plan
7 and omit any reference to the now-unnecessary alternative of post-confirmation sale of the
8 Property.

9 II. BACKGROUND

10 A. Debtor's Business

11 Debtor owned ~~eds~~ and formerly operated the Property, which provided Debtor with
12 substantial rental income. The rental income from the Property, of approximately \$75,000 a
13 month, was sufficient to maintain all financial obligations to the Bank.

14 B. Principals/Affiliates of Debtor's Business

15 Debtor's general partner is Rettig Portfolio, Inc., a Delaware corporation. Dr.
16 Gary Rettig is the president and sole shareholder of Rettig Portfolio, Inc.

17 C. Management of Debtor before and after the Bankruptcy

18 Prior to the institution of the receivership, Debtor managed its own affairs. ~~Since~~
19 ~~After~~ the institution of the receivership, the Receiver and her Property Manager ~~have~~
20 and managed the Property and Debtor has managed its other affairs. Upon sale of the Property,
21 the Receiver and her Property Manager's services with respect to the Property came to an end.

22
23 D. Events Leading to Bankruptcy

24 Debtor contends that non-monetary defaults, specifically relating to lockbox
25 violations, resulted in the appointment of the Receiver pre-Petition. Debtor was also attempting
26 to negotiate with the Bank regarding modification of the impounds on the Property, and Debtor's
27 withholding of certain impounds payments resulted in a monetary default. As the Receiver was
28 not required to make monthly payments to the Bank from Property income, the Loan went into

1 arrears and the Bank commenced foreclosure proceedings. The Bankruptcy was filed to allow
2 Debtor time to re-organize its affairs and sell the Property, generating sufficient net proceeds
3 after satisfaction of the Bank's claim to pay all of Debtor's other creditors in full.

4 III. BANKRUPTCY

5 A. Significant Events During Bankruptcy

6 On August 2, 2012, Debtor filed a voluntary petition under Chapter 11 of Title 11
7 of the United States Code, commencing this bankruptcy proceeding.

8 On August 16, 2012, Debtor filed as Dk. No. 11 its Schedules of Assets and
9 Liabilities and Statement of Financial Affairs.

10 On August 31, 2012, Debtor, the Bank, and the Receiver entered into a filed as
11 Dk. No. 14 a Stipulation Regarding Use of Cash Collateral, to Provide Adequate Protection, and
12 to Permit Receiver to Continue in Possession and Excuse Compliance with 11 U.S.C. §543 (the
13 "Receivership Stipulation").

14 On September 6, 2012, the Court entered as Dk. No. 15 an order approving the
15 Receivership Stipulation.

16 On September 17, 2012, Debtor filed as Dk. No. 19 an application to approve its
17 employment of Marshack Hays LLP as its general insolvency counsel.

18 On September 20, 2012, Debtor, the Bank, and the Receiver entered into a filed as
19 Dk. No. 22 a Stipulation Regarding Leasing Authority.

20 On October 12, 2012, Debtor filed as Dk. No. 28 an application to approve its
21 employment of James White, CPA, as its accountant.

22 ///

23 On October 12, 2012, the Court entered as Dk. No. 30 an order approving the
24 employment of Marshack Hays LLP.

25 On October 12, 2012, Debtor filed as Dk. No. 31 a Notice of Claims Bar Date,
26 informing all creditors that the deadline for filing claims was November 30, 2012.

27 On October 15, 2012, Debtor filed as Dk. No. 33 its Plan of Reorganization.

28 On October 15, 2012, Debtor filed as Dk. No. 34 a motion for approval of sale of

1 the Property for \$9.8 million.

2 On October 15, 2012, Debtor filed as Dk. No. 35 an application to approve its
3 employment of Lee & Associates as its real estate broker and leasing agent.

4 On November 1, 2012, the Court entered as Dk. No. 49 an order approving the
5 employment of James White, CPA.

6 On November 5, 2012, the Court entered as Dk. No. 51 an order approving the
7 employment of Lee & Associates.

8 On November 13, 2012, Debtor filed as Dk. No. 53 a voluntary withdrawal of the
9 first sale motion due to the buyer's withdrawal of its offer.

10 On November 30, 2012, Debtor filed as Dk. No. 57 a voluntary withdrawal of its
11 first plan of reorganization as a result of negotiations and discussions with the Bank.

12 On November 30, 2012, Debtor filed as Dk. No. 58 a motion to sell the Property
13 to Burnham-Ward Properties, LLC ("Burnham Ward"), for \$9.9 million.

14 On November 30, 2012, Debtor filed as Dk. No. 60 a motion for extension of
15 exclusivity periods for filing a Plan and Disclosure Statement.

16 On December 18, 2012, Debtor filed as Dk. No. 69 a Notice of Amendment to the
17 sale motion, reducing the purchase price to \$9.4 million.

18 On January 11, 2013, the Court entered as Dk. No. 74 an order granting the
19 motion to extend the exclusivity periods for filing a Plan and Disclosure Statement.

20 On January 18, 2013, the Court entered as Dk. No. 77 an order authorizing the
21 sale of the Property.

22 ///

23 Burnham Ward, Debtor, and the Bank stipulated multiple times to the continuance
24 of the deadline to close the sale of the Property.

25 On March 18, 2013, Marshack Hays LLP filed as Dk. No. 97 its first interim
26 application for fees and costs.

27 On March 18, 2013, James White filed as Dk. No. 98 his first interim application
28 for fees and costs.

1 On April 23, 2013, the Court entered as Dk. No. 111 an order granting Marshack
2 Hays LLP's first interim application for fees and costs.

3 On April 23, 2013, the Court entered as Dk. No. 112 an order granting James
4 White's first interim application for fees and costs.

5 ~~Prior to the final~~On May ~~610~~, 2013, ~~prior to the~~ deadline to close the sale of the
6 Property, Burnham Ward breached the contract for purchase. Extensive negotiations and
7 briefing between Debtor and Burnham Ward followed regarding that breach and Debtor's claim
8 for damages.

9 On June 11, 2013, the Bank filed as Dk. No. 146 a Motion for Relief from the
10 Automatic Stay.

11 On June 17, 2013, the Court held a hearing on the several motions related to
12 Burnham Ward's alleged breach of the contract for purchase of the Property and Debtor's
13 alleged damages. The Court found that Burnham Ward had breached the contract and that
14 Debtor was entitled to retain the \$200,000 deposit as liquidated damages for the breach.

15 On June 28, 2013, the Court entered as Dk. No. 159 its Memorandum Decision
16 and Order setting forth its findings of fact and conclusions of law with respect to Burnham
17 Ward's and Debtor's contract and damages dispute.'

18 On July 1, 2013, Debtor filed its First Amended Plan of Reorganization, ~~theis~~
19 Disclosure Statement describing ~~the~~ First Amended Plan of Reorganization, and its opposition to
20 the Bank's Motion for Relief from Stay, as well as accompanying pleadings and exhibits.

21 On July 8, 2013, the Bank filed its Reply in support of its Motion for Relief from
22 Stay.

23 On July 15, 2013, the Court held a hearing on the Motion for Relief from Stay.

24 The hearing on the Motion for Relief from Stay was continued.

25 On July 22, 2013, Debtor filed the Sale Motion pursuant to the Plan.

26 The Bank did not oppose the Sale Motion.

27 On August 20, 2013, the Court entered the Sale Order.

28 On September 10, 2013, the sale of the Property closed pursuant to the Plan.

1 On September 19, 2013, the Court held a Chapter 11 status conference at which
2 the Court ordered Debtor to file the modified First Amended Chapter 11 Plan of Reorganization
3 to clarify the Plan on or before October 18, 2013.

4 On September 23, 2013, the Bank and Debtor filed a stipulation to voluntarily
5 dismiss the Motion for Relief from Stay in light of the sale of the Property. On September 24,
6 2013, the Court entered an order approving the stipulation.

7 On October 18, 2013, Debtor filed its modified First Amended Chapter 11 Plan of
8 Reorganization and Disclosure Statement.

9 B. Other Legal Proceedings

10 After the sale of the Property Debtor, the Bank, and the Receiver stipulated to
11 dismissal of the Pre-Petition Litigation. ~~2's foreclosure proceeding is stayed by this Bankruptcy.~~
12 Debtor is involved in no other legal proceedings at this time.

13 C. Actual and Projected Recovery of Preferential or Fraudulent Transfers

14 There are no preference or fraudulent conveyance actions pending at this time,
15 and none are expected to be filed. Debtor is in negotiations with a creditor to resolve a potential
16 preferential transfer claim. All avoidance actions under Chapter 5 of Title 11 of the United
17 States Code shall survive confirmation.

18 D. Procedures Implemented to Resolve Financial Problems

19 To attempt to fix the problems that led to the bankruptcy filing, Debtor's Plan
20 proposes that ~~the~~ Property ~~assets of the Bankruptcy Estate~~ shall be sold to realize liquid assets
21 sufficient to pay all creditors in full. That sale has now closed, and Debtor is able to pay all
22 creditors in full. The Bank's Loan will be deemed cured upon confirmation, eliminating default
23 interest on the Bank's claim. When all allowed creditor claimss have been paid in full, ~~Debtor~~
24 ~~has received its discharge,~~ and distributions of net sales proceeds have been made to equity, this
25 case can be closed. ~~Debtor has retained J. Mark Larson of Lee & Associates (the "Agent") to act~~
26 ~~as real estate broker for the Estate, and Mr. Larson's employment has been approved by order of~~
27 ~~the Bankruptcy Court. Mr. Larson is actively marketing the Property for sale, and has been~~
28 ~~contacted by several potential buyers.~~

1 E. Current and Historical Financial Conditions

2 ~~As set forth in the Monthly Operating Reports filed in Debtor's Bankruptcy case,~~
3 ~~the Property generates on average \$71,750 of rental income each month. The Receiver's~~
4 ~~monthly fees during the Bankruptcy have averaged \$6,502. The property manager's monthly~~
5 ~~fees during the Bankruptcy have averaged \$2,597. The total operating expenses of the Property~~
6 ~~are \$36,500 a month, including an average of \$9,099 each month for the Receiver and property~~
7 ~~manager.~~

8 Prior to the Bankruptcy, Debtor's monthly fees for operation and management of
9 the Property averaged \$3,000 a month, and total operational fees and costs were approximately
10 \$25,000 a month. Absent the Receiver's and property manager's fees, the Property generated
11 more than sufficient income to pay principal, interest, and impounds on the Bank's loan before
12 imposition of default interest.

13 ~~As set forth in the Monthly Operating Reports filed in Debtor's Bankruptcy case,~~
14 ~~the Property generated on average \$71,750 of rental income each month during the Bankruptcy.~~
15 ~~The Receiver's monthly fees during the Bankruptcy averaged \$6,502. The Property Manager's~~
16 ~~monthly fees during the Bankruptcy averaged \$2,597. The total operating expenses of the~~
17 ~~Property were \$36,500 a month, including an average of \$9,099 each month for the Receiver and~~
18 ~~Property Manager.~~

19 ~~Now that the Property has sold in connection with Debtor's efforts to implement~~
20 ~~its Plan, there are no further operating costs associated with the Property.~~

21 ~~Debtor retained the Deposit Funds. Debtor received the Deposit Funds from escrow~~
22 ~~on July 23, 2013. The Deposit Funds have contributed to the payment of Debtor's substantial~~
23 ~~operating and administrative expenses, and are unlikely to become available for distribution to~~
24 ~~creditors. Debtor has negotiated a settlement agreement with a former tenant, which if approved will~~
25 ~~result in payments to the Estate on account of past-due rent, which funds will also be available for~~
26 ~~distribution to creditors.~~

27 ~~Debtor therefore has cash-on-hand in the amount of _____, comprising: the~~
28 ~~Deposit Funds; net sales proceeds from sale of the Property; and _____ [insert settlement funds if~~

1 received prior to service of Plan on creditors].

3 IV. ASSETS OF THE ESTATE

4 The Property wais the only significant asset of Debtor's Bankruptcy estate (the
5 "Estate"). The Estate now primarily comprises cash which is the net sales proceeds from sale of
6 the Property, in the approximate amount of \$1,427,519.60, assuming Debtor is able to eliminate
7 the Bank's default interest through Plan confirmation. If Debtor is unable to eliminate the
8 Bank's default interest through Plan confirmation, the Estate will have approximately
9 \$894,659.30 of cash. Other assets of the Estate, of relatively insignificant value, include fixtures
10 and furnishings located at the Property, accounts receivable for rents flowing from the Property,
11 and potential legal claims the Estate holds against various persons and entities. The Property
12 comprises approximately 20 commercial and medical services rental spaces, and is valued at
13 between \$9.25 million and \$10 million.

14 Debtor has retained a commercial real estate broker and leasing agent, Lee &
15 Associated Investor Services Group. The Agent has been marketing the Property for sale, and has
16 located several potential buyers for the Property.

17 V. SUMMARY OF PLAN

18 The only substantial asset of Debtor's bankruptcy Estate is the commercial real
19 property commonly known as 1617 Westcliff Drive, Newport Beach, CA 92660 (the "Property").
20 The Property is a mixed use, Class B building mostly occupied by medical office space. It
21 comprises approximately 32,000 square feet of rentable space in a single two-story building situated on
22 approximately 1.56 acres of land in an up-scale commercial district of Newport Beach, California. Debtor
23 intends to sell the Property and use the net sales proceeds to fund payments to creditors under this
24 Plan.

25 Debtor is negotiating a settlement agreement with a former tenant, which may result
26 in payments to the Estate on account of past due rent; however, as long as Debtor owns the Property,
27
28

~~those payments will be the cash collateral of the Bank¹ and are unlikely to become available for distribution to creditors. Debtor also has cash on hand in the amount of ____.² On November 28, 2012, after the Petition Date but prior to the filing of this Plan, Debtor and a proposed buyer of the Property entered into a Standard Offer, Agreement and Escrow Instructions for Purchase of Real Estate. That purchase was approved by the Bankruptcy Court, and Debtor spent more than six months attempting to close the sale. The proposed buyer breached the purchase agreement and, pursuant to order of the Bankruptcy Court entered on ____, Debtor was entitled to retain the \$200,000 deposit the buyer made in connection with the failed transaction (the "Deposit Funds"). Debtor received the Deposit Funds from escrow on _____. The Deposit Funds have contributed to the payment of Debtor's substantial operating and administrative expenses, and are unlikely to become available for distribution to creditors.~~

~~Debtor's Plan for reorganization is to effect one of two means of paying all creditors in full:~~

- ~~i. _____ Debtor will sell the Property, and the sale will close on or before the Effective Date, allowing Debtor to pay all allowed claims in full on the Effective Date. If able to close the sale on or before the Effective Date, Debtor intends to cure on the Effective Date all defaults with respect to the Bank's note, thereby eliminating default interest on that claim. *Great W. Bank & Trust v. Entz-White Lumber and Supply, Inc. (In re Entz-White Lumber and Supply, Inc.)*, 850 F.2d 1338 (9th Cir.1988); *In re Sylmar Plaza, L.P.*, 314 F.3d 1070 (9th Cir. 2002). Debtor will pay any pre-payment fee on the Bank's claim which is triggered by this sale. Under this Plan scenario, no claims will be impaired.~~

¹ ~~Wells Fargo Bank, N.A. (the "Bank"), as Trustee for the Registered Holders of Credit Suisse First Boston Mortgage Securities Corp., Commercial Mortgage Pass-Through Certificates, Series 2004-C3, acting by and through its special servicer, holds a first in priority deed of trust secured by the Property.~~

² ~~Blanks in this section will be filled in prior to service of the Disclosure Statement and Plan to creditors.~~

Debtor will sell the Property, and the sale will close after, but within 18 months of, the Effective Date, allowing Debtor to pay all allowed claims in full within 18 months of the Effective Date. If Debtor is unable to close the sale on or before the Effective Date, then on the Effective Date the Receiver shall remain in possession of the Property; however, the Receiver shall be required to replace the current Property Manager with a new professional property management entity. As Debtor will be unable to pay all allowed claims on the Effective Date in this case, all claims will technically be impaired pursuant to the provisions of 11 U.S.C. §1124. However, all claims will still receive payment in full, including interest. Furthermore, because Debtor will be unable to cure on the Effective Date all defaults with respect to the Bank's note, the Bank will be entitled to interest at the default rate on that claim. The Bank will only be entitled to any pre-payment fee on the Bank's claim if the sale closes on or before September 1, 2014 (the maturity date of the loan). The only substantial asset of Debtor's bankruptcy Estate was the Property. Pursuant to Debtor's First Amended Plan, Debtor has sold the Property, and is able to use the net sales proceeds to fund payments to pay allowed creditor claims in full under this Plan.

Debtor's Plan for reorganization is to pay all creditors in full from proceeds of sale of the Property. Debtor has sold the Property pursuant to the First Amended Plan, and the sale closed before the Effective Date. The net proceeds from sale of the Property were \$1,427,519.60 (assuming Debtor is able to eliminate the Bank's default interest through Plan confirmation). Unpaid creditor claims total approximately \$686,125. Debtor is therefore able to pay all allowed claims in full on the Effective Date. Debtor paid from escrow the full amount of the undisputed portion of the Bank's claim, comprising principal balance, prepayment premium, late charges, note rate interest, costs, and fees, in the total amount of \$7,667,145.09. A total of \$632,860.31 is being held by escrow (the "Disputed Funds"), comprising default interest and a \$100,000 hold-back demanded by the Bank. Net sales proceeds of \$794,659.30 have been deposited in the Debtor-in-Possession account.

Because Debtor was able to close the sale on or before the Effective Date, Debtor intends that all defaults with respect to the Bank's note will be deemed cured upon confirmation, thereby eliminating default interest on that claim. *Great W. Bank & Trust v. Entz-White Lumber and Supply, Inc. (In re Entz-White Lumber and Supply, Inc.)*, 850 F.2d 1338 (9th

Cir.1988); *In re Sylmar Plaza, L.P.*, 314 F.3d 1070 (9th Cir. 2002). No claims are impaired under Debtor's modified First Amended Plan.

ii.

VI. CLASSIFICATION AND TREATMENT OF CLAIMS AND INTERESTS

A. General Overview

As required by Title 11 of the United States Code, the Plan divides claims and interests into various classes according to their right to priority of payments as provided in Title 11 of the United States Code. The Plan states whether each class of claims or interests is impaired or unimpaired. The Plan provides the treatment each class will receive under the Plan. Unless otherwise specified, **Debtor retains the right to file objections to claims and to seek modification of creditor claims under applicable law, including through state court litigation.** The allowed amount of any claim shall be entitled to the treatment specified below.

The following is a designation of the classes of Claims and Interests under the Plan.

B. Unclassified Claims

Certain claims are not placed into voting Classes; instead they are "unclassified." They are not considered to be impaired, and they do not vote on the Plan because they are automatically entitled to specific treatment provided in Title 11 of the United States Code. As such, Debtor has not placed the following claims in a class. The treatment of these claims is provided below.

1. Administrative Expenses

Administrative expenses are claims for costs or expenses of administering Debtor's Chapter 11 case which are allowed under 11 U.S.C §507(a)(1)(C) and §507(a)(2). Title 11 of the United States Code requires that all administrative claims be paid on the Effective Date of the Plan, ***unless a particular claimant agrees to a different treatment.*** The following chart lists all of Debtor's administrative claims and their treatment under the Plan:

Name	Amount Owed	Treatment
Marshack Hays LLP	<u>Approximately \$200,000</u>	Marshack Hays LLP (the "Firm") is counsel for

	<u>in fees and \$10,000 for reimbursement of expenses. The Firm is holding in trust a post-petition retainer in the amount of \$178,386.11 pursuant to order of the Bankruptcy Court, which the Firm will only draw down on upon entry of an Order of the Court approving further interim fees and costs.</u> Approximately \$250,000 in fees and \$10,000 for reimbursement of expenses.	Debtor pursuant to the Court's October, 12, 2012 Order authorizing Debtor to employ the Firm as its general insolvency counsel. Subject to the November 30, 2012, bar date set by the Court, the Reorganized Debtor shall pay to each holder of an Allowed Administrative Claim, on account and in full satisfaction of the Allowed Administrative Claim, Cash equal to the amount of the Allowed Administrative Claim on the Effective Date, unless the holder agrees to other treatment of the Claim.
James White, CPA	Approximately \$10,000 <u>The Firm is holding in trust a post-petition retainer for Mr. White in the amount of \$6,112 pursuant to order of the Bankruptcy Court, which Mr. White will only draw down on upon entry of an Order of the Court approving further interim fees and costs.</u>	James White (Mr. White) is Debtor's accountant pursuant to this Court's November 1, 2012 Order authorizing Debtor to employ Mr. White as its accountant. Subject to the November 30, 2012, bar date set by the Court, the Reorganized Debtor shall pay to each holder of an Allowed Administrative Claim, on account and in full satisfaction of the Allowed Administrative Claim, Cash equal to the amount of the Allowed Administrative Claim on the Effective Date, unless the holder agrees to other treatment of the Claim.
Office of the U.S. Trustee Fees	\$0	Any fees owing to the Office of the U.S. Trustee shall be paid as due from property of the Estate.
	TOTAL \$270,000	

Requests for payment of Administrative Claims must be filed no later than thirty (30) days after the Effective Date. Holders of Administrative Claims (including without limitation any governmental units asserting claims for federal, state, or local taxes and excluding any professional fee claims, which are subject to the process set forth below) that are required to file a request for payment of such Claims and that do not file such requests by the applicable bar date shall be forever barred from asserting such claims against Debtor. All professionals or other entities requesting compensation or reimbursement of expenses under 11 U.S.C. §§327, 328,

330, 331, 503(b), and 1103 for services rendered before the Effective Date shall File and serve on Debtor an application for final allowance of compensation and reimbursement of expenses no later than sixty (60) days after the Effective Date

2. Priority Tax Claims

Priority tax claims are certain unsecured income, employment, and other taxes described by 11 U.S.C. §507(a)(8). Title 11 of the United States Code requires that each holder of such a §507(a)(8) priority tax claim receive the present value of such claim in deferred cash payments, over a period not exceeding five years from the date of the order for relief in a manner not less favorable than the most favored non-priority unsecured claim provided for by the Plan.

Debtor has non-priority tax claims which will be paid on the Effective Date with all other general unsecured claims. Debtor has no known priority tax claims.

///

C. Classified Claims and Interests

1. Classes 1-2: (Secured Creditor Claims)

Secured claims are claims secured by liens on property of the estate. Debtor has only two secured creditors:

a. Class 1: Wells Fargo, N.A.

~~Wells Fargo Bank, N.A. (the "Bank"), as Trustee for the Registered Holders of Credit Suisse First Boston Mortgage Securities Corp., Commercial Mortgage Pass-Through Certificates, Series 2004 C3, acting by and through its special servicer, holds a first in priority deed of trust secured by the Property (the "Loan"). The Bank shall be entitled to an allowed claim (the "Bank's Claim") pursuant to the pre-petition loan documents, except as modified herein.~~

~~The Bank filed a proof of claim for a total pre-petition claim amount of \$7,552,757.00, filed on September 7, 2012, as Claim 3. The Bank is not an insider of Debtor. The Bank will retain its lien until the Bank's Claim is paid in full, whereupon the Bank shall release its lien.~~

Unless and until there is a default with respect to the Plan, the Bank shall not be entitled to seek remedy against personal guarantors of the Loan for any alleged default, as such action would have a significant impact on Debtor's ability to reorganize. Debtor's reorganization efforts depend directly on its member's, and its member's shareholders' (collectively, the "Guarantors"), ability to supervise Debtor's operations and market and sell the Property. Furthermore, the Guarantors have extensive personal experience and familiarity with the Property, having operated and managed it for ten years prior to the appointment of the Receiver. If the personal guarantees are sought to be enforced against the Guarantors during the pendency of the Plan, Guarantors would not have the financial resources to continue to work on Plan consummation without compensation, nor, if engaged in guarantor liability litigation, would they have the significant time and energy required to maintain the Plan provisions. As such, it is critical to the success of Debtor's Plan, and fair and equitable, that the Bank be *temporarily* enjoined, and only during the pendency of the Plan, from holding the Guarantors liable for any alleged default pursuant to their personal guarantees. *See, e.g.* Hon. Dennis Montali, Cecily A. Dumas and Ron M. Oliner, *Recent Developments in Business Bankruptcy* 2009, 30 Cal. Bankr. J. 439 (2010), summarizing *In re Regatta Bay, LLC*, 406 B.R. 875 (Bankr. D. Ariz. 2009) rev'd 2009 WL 5730501 (D. Ariz. Oct. 30, 2009); *In re Spiers Graff Spiers*, 190 B.R. 1001 (Bankr. N.D. Ill. 1996); *In re United Model Distributors, Inc.*, 1992 WL 503595 at *6 (Bankr. N.D. Ill. 1992).

Debtor intends to implement one of two means to pay this claim:

Option	Claim Treatment
1	<p>Sale of Property on or Before the Effective Date</p> <p>Debtor will sell the Property on or before the Effective Date, allowing Debtor to pay the Bank's Claim in full on the Effective Date. The Receiver will remain in possession of the Property, and will be excused from turnover, until completion of the sale, whereupon she shall be relieved of her duties and her bond exonerated.</p> <p>If the sale is completed by means of new buyer financing, all defaults with respect to the Loan will be cured by payment in full on the Effective Date, thereby eliminating default interest on the Bank's Claim.</p> <p>If the sale is completed with an assumption or a defeasance by the buyer, default interest will <i>not</i> be eliminated.</p>

1		Debtor will pay any pre-payment fee on the Bank's claim which is triggered by this sale.
2		
3		Under this Plan scenario, the Bank's Claim is not impaired.
4		
5		Total amount of cash payments: Approximately \$7,156,334.00 (comprising loan payoff, past due principal and interest at contract rate through date of sale, and fees and costs)
6		
7		Interest rate: 6.43% (contract rate pursuant to the Loan documents)
8		Frequency of payments: Single payment on or before the Effective Date
9		
10		Lien Durability: Claimant to retain its lien until Claim is paid in full, whereupon Claimant shall release its lien.
11	2	Sale of Property After the Effective Date
12		Debtor will sell the Property after, but within 18 months of, the Effective Date, allowing Debtor to pay the Bank's Claim in full from escrow. The sale may be outright, or may be accompanied by an assumption or defeasance on the part of the buyer. The Receiver will remain in possession of the Property, and will be excused from turnover, until completion of the sale, whereupon she shall be relieved of her duties and her bond exonerated.
13		
14		
15		
16		All defaults with respect to the Loan will not be cured by payment in full on the Effective Date, and the Bank will be entitled to default interest.
17		
18		Debtor will pay any pre-payment fee on the Bank's claim which is triggered by this sale.
19		
20		Under this Plan scenario, the Bank's Claim is impaired.
21		
22		Total amount of cash payments: Approximately \$7,831,680 (comprising loan payoff, past due principal and interest at default rate through outermost possible date of sale, and fees and costs, while accounting for anticipated monthly payments to be made to the Bank in the interim by the Receiver)
23		
24		Interest rate: 10.43% (default rate pursuant to the Loan documents)
25		Loan Maturity Date: 18 months after the Effective Date
26		Frequency of payments: Single payment after, but within 18 months of, the Effective Date
27		
28		Lien Durability: Claimant to retain its lien until Claim is paid in full, whereupon Claimant shall release its lien.

b. — T

he Bank held a first-in-priority deed of trust secured by the Property (the "Loan").

The Bank shall be entitled to an allowed claim (the "Bank's Claim") pursuant to the pre-petition Loan documents, except as modified by the Plan.

The Bank filed a proof of claim for a total pre-petition claim amount of \$7,552,757.00, filed on September 7, 2012, as Claim 3. The Bank is not an insider of Debtor. The Bank will retain its lien until the allowed amount of the Bank's Claim is paid in full, whereupon the Bank shall release its lien.

Debtor intends to pay the Bank's claim as follows:

Class 1 Claim Treatment

Sale of Property Before the Effective Date

Debtor has sold the Property before the Effective Date, allowing Debtor to pay the allowed amount of the Bank's Claim in full before the Effective Date and cure all defaults through confirmation of the Plan.

The sale was completed by means of new buyer financing. Therefore all defaults with respect to the Loan will be deemed cured upon confirmation, thereby eliminating default interest on the Bank's Claim.

Debtor paid from escrow the full amount of the undisputed portion of the Bank's claim, comprising principal balance, prepayment premium, late charges, note rate interest, costs, and fees, in the total amount of \$7,667,145.09.

The Disputed Funds, including default interest of \$532,860.31, are being held by escrow pending confirmation of the Plan. Upon confirmation of the Plan and elimination of default interest, the Disputed Funds will be released to the reorganized Debtor free and clear of the Bank's interest.

The Bank's Claim is not impaired. Debtor cured all defaults on the Loan by paying the full amount of the undisputed portion of the Bank's claim from escrow. Debtor acknowledged and reinstated the maturity date of the Loan by paying the entire amount of the prepayment premium as set forth in the Loan documents. Debtor compensated the Bank for its damages incurred in reasonable reliance on the Loan documents by paying all late charges, costs, and fees as calculated by the Bank. The Bank has suffered no actual pecuniary loss for non-monetary defaults, and Debtor has not otherwise altered the legal, equitable, or contractual rights to which the Bank's claim entitled the Bank. Therefore, pursuant to 11 U.S.C. §1124(2), the Bank's claim is unimpaired.

Total amount of cash payments: \$7,667,145.09

Interest rate: 6.43% (contract rate pursuant to the Loan documents)

Frequency of payments: Single payment already made from escrow

Lien Durability: Claimant to retain its lien upon the default interest portion of the Disputed Funds until confirmation of the Plan, whereupon Claimant shall release its lien.

e.b. Class 2: Massimo and Ariane Carro, c/o Wellman & Warren, LLP

~~Massimo~~ Massimo and Ariane Carro (the "Carros") recorded on August 17, 2011, a certified copy of a judgment or an abstract thereof as Instrument No. 2011-406321 of Official Records in Orange County, California. Debtor is the judgment debtor on that judgment, which was in the amount of \$11,927, plus judgment-rate interest. The Carros are entitled to an allowed claim (the "Carro Claim") pursuant to the pre-petition judgment. The Carros are not insiders of Debtor.

Class 2 Claim Treatment

Sale of Property Before the Effective Date

Debtor has sold the Property before the Effective Date, allowing Debtor to pay the Carro Claim in full from escrow.

Under this Plan scenario, the Carro Claim is not impaired. Debtor cured all defaults on the Carro Claim by paying the full amount of the Carro Claim from escrow. Debtor acknowledged and reinstated the maturity date of the Carro Claim by paying post-judgment interest on the Carro Claim. Debtor compensated the Carros for their damages incurred in reasonable reliance on the judgment by paying post-judgment interest on the Carro Claim. The Carros suffered no actual pecuniary loss for non-monetary defaults, and Debtor has not otherwise altered the legal, equitable, or contractual rights to which the Carro Claim entitled the Carros. Therefore, pursuant to 11 U.S.C. §1124(2), the Carro Claim is unimpaired.

Total amount of cash payments: \$14,583.62

Interest rate: 10% (California judgment rate)

Frequency of payments: Single payment already made from escrow

Lien Durability: Claimants have released their lien.

and Ariane Carro (the "Carros") recorded on August 17, 2011, a certified copy of a judgment or an abstract thereof as Instrument No. 2011-406321 of Official Records in Orange County, California. The Debtor is the judgment debtor on that judgment, which is in the amount of \$11,927, plus judgment rate interest. The Carros shall be entitled to an allowed claim (the "Carro Claim") pursuant to the pre-petition judgment.

Option	Claim Treatment
<p>1</p>	<p>Sale of Property on or Before the Effective Date</p> <p>Debtor will sell the Property on or before the Effective Date, allowing Debtor to pay the Carro Claim in full on the Effective Date.</p> <p>Under this Plan scenario, the Carro Claim is not impaired.</p> <p>Total amount of cash payments: Approximately \$14,312.40</p> <p>Interest rate: 10% (California judgment rate)</p> <p>Frequency of payments: Single payment on or before the Effective Date</p> <p>Lien Durability: Claimant to retain its lien until Claim is paid in full, whereupon Claimant shall release its lien.</p>
<p>2</p>	<p>Sale of Property After the Effective Date</p> <p>Debtor will sell the Property after, but within 18 months of, the Effective Date, allowing Debtor to pay the Carro Claim in full from escrow.</p> <p>Under this Plan scenario, the Carro Claim is impaired.</p> <p>Total amount of cash payments: Approximately \$14,312.40, plus further accruing interest</p> <p>Interest rate: 10% (California judgment rate)</p> <p>Frequency of payments: Single payment after, but within 18 months of, the Effective Date</p> <p>Lien Durability: Claimant to retain its lien until Claim is paid in full, whereupon Claimant shall release its lien.</p>

2. Classes of Priority Unsecured Claims – N/A

Certain priority claims that are referred to in 11 U.S.C. §§507(a)(1)(A) and (B), (3), (4), (5), (6), and (7) are required to be placed in classes. These types of claims are entitled to priority treatment as follows: Title 11 of the United States Code requires that each holder of such a claim receive cash on the Effective Date equal to the allowed amount of such claim. However, a class of unsecured priority claim holders may vote to accept deferred cash payments of a value, as of the Effective Date, equal to the allowed amount of such claims. Debtor does not believe it is subject to any claims entitled to priority under §§507(a)(1)(A) and (B), (3), (4), (5), (6), or (7).

3. Class 3 - General Unsecured Claims

~~General unsecured claims are unsecured claims not entitled to priority under 11 U.S.C. §507(a). General Unsecured Creditors who have allowed claims ("Allowed General Unsecured Creditor Claims") are grouped in Class 3, and are unlikely to be impaired under this Plan. As set forth above, Debtor's intention is to sell the Property and close that transaction on or before the Effective Date, paying all Class 2 claimants the full value of their claim, in Cash, with interest at any applicable Contract Rate on the Effective Date. Under those circumstances, the Plan leaves unaltered the legal, equitable, and contractual rights to which each Class 2 claim entitles such claimant. 11 U.S.C. §1124(1).~~

~~However, in the event that the sale of the Property does not close on or before the Effective Date, or in the event that Debtor operates the Property in lieu of sale, Class 3 claimants will receive payment of their claims after the Effective Date, and the Class 3 claims will be impaired in that they will not have received payment in full, including any applicable interest, on the Effective Date.~~

Class	Claimant Information	Claim Treatment
3	Allowed General Unsecured Creditor Claims Total pre-petition claim amount is \$466,124.63, plus interest where applicable	Total amount of cash payments: \$466,124.63, plus interest where applicable
Option 1	Sale of Property on or Before the Effective Date Debtor will sell the Property on or before the Effective Date, allowing Debtor to pay the Allowed General Unsecured Creditor Claims in full on the Effective Date.	

	<p>Under this Plan scenario, Class 3 is not impaired.</p> <p>Total amount of cash payments: Approximately \$466,124.63, plus interest where applicable</p> <p>Interest rate: Contract or legal rate where applicable</p> <p>Frequency of payments: Single payment on or before the Effective Date</p>
<p>Option 2</p>	<p>Sale of Property After the Effective Date</p> <p>Debtor will sell the Property after, but within 18 months of, the Effective Date, allowing Debtor to pay Allowed General Unsecured Creditor Claims in full.</p> <p>Under this Plan scenario, Class 3 is impaired.</p> <p>Total amount of cash payments: Approximately \$466,124.63, plus interest where applicable</p> <p>Interest rate: Contract or legal rate where applicable</p> <p>Frequency of payments: Single payment after, but within 18 months of, the Effective Date</p>

General unsecured claims are unsecured claims not entitled to priority under 11 U.S.C. §507(a). General Unsecured Creditors who have allowed claims (“Allowed General Unsecured Creditor Claims”) are grouped in Class 3, and are not impaired under this Plan. As set forth above, Debtor has sold the Property and closed that transaction before the Effective Date. Debtor can therefore pay all Class 3 claimants the full value of their claims, in cash, with interest at any applicable contract or legal rate on the Effective Date. The Plan therefore leaves unaltered the legal, equitable, and contractual rights to which each Class 3 claim entitles such claimant. 11 U.S.C. §1124(1).

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Class 3 Claim Treatment

Allowed General Unsecured Creditor Claims

Total pre-petition claim amount is \$466,124.63, plus interest where applicable

Sale of Property Before the Effective Date

Debtor has sold the Property before the Effective Date, allowing Debtor to pay the Allowed General Unsecured Creditor Claims in full on the Effective Date.

Class 3 is not impaired. The Plan leaves unaltered the legal, equitable, and contractual rights to which Class 3 claims entitle the Class 3 claimants because Debtor will pay the full amount of the Class 3 claims on the Effective Date plus interest at the contract or legal rate. Therefore, pursuant to 11 U.S.C. §1124(1), the Class 3 claims are unimpaired.

Total amount of cash payments: Approximately \$466,124.63, plus interest where applicable

Interest rate: Contract or legal rate where applicable

Frequency of payments: Single payment on or before the Effective Date

4. Class 43 - (Interest Holders)

Interest holders are the parties who hold ownership interest (i.e., equity interest) in Debtor. Debtor is a limited liability company: Debtor's general partner, Rettig Portfolio, Inc., is therefore the interest holder~~Interest holders are the parties who hold ownership interest (i.e., equity interest) in Debtor. Debtor is a corporation: Debtor's corporate parent is therefore the interest holder.~~

Class	Claimant Information	Claim Treatment
4	Interest-holder. Claim is unimpaired.	Pursuant to 11 U.S.C. §1129(b)(2)(b)(ii) the Class 43 creditor shall not be required to provide a contribution of substantial new value in order to retain its Interests, because the plan provides that each holder of an unsecured claim shall receive or retain on account of such claim property of a value, as of the Effective Date of the Plan, equal to the allowed amount of such claim.

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D. Means of Effectuating the Plan

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1. Funding for the Plan

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2. The Plan will be funded in the following manner:

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General

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The Estate primarily comprises cash which is the net sales proceeds from sale of the Property, in the approximate amount of \$1,427,519.60, assuming Debtor is able to eliminate the Bank's default interest through Plan confirmation. If Debtor is unable to eliminate the Bank's default interest through Plan confirmation, the Estate will have approximately \$894,659.30. The approximate total amount of claims against the Estate which were not paid through escrow, including priority tax, administrative, and general unsecured claims, is \$686,125.

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In the First Amended Plan, Debtor proposed to sell the Property prior to the Effective Date and use the net sales proceeds from such sale to pay all creditors in full on the Effective Date. Debtor was able to sell the Property pursuant to the First Amended Plan, and will be able to pay all creditors in full on the Effective Date.

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Excuse of Turnover; Operation of the Property

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Prior to the Petition Date, Bank initiated the Pre-Petition Litigation and was granted the appointment of the Receiver. After commencement of this Bankruptcy, Debtor stipulated to excusing Receiver from compliance with the requirements of 11 U.S.C. §§543(a), 543(b)(1), and 543(c) for immediate turnover of the Property and the Rents derived therefrom. Because the Property has sold, the Receiver has no further duties to perform other than: payment of final expenses of the Receivership Estate through and including September 9, 2013; production and delivery of final accounting and reports with respect to the Receivership Estate;

1 and turnover of net funds of the Receivership Estate to 1617 Westcliff, LLC as Debtor-in-
2 Possession in its Chapter 11 Bankruptcy proceeding.

3 Debtor, the Bank, and the Receiver have entered into stipulations, filed in
4 the Pre-Petition Litigation and the Bankruptcy, regarding wind-down of the Receivership,
5 discharge of the Receiver, exoneration of the Receiver's bond, and dismissal of the Pre-Petition
6 Litigation.

7 The Plan will be funded in the following manner:

8 **General**

9 The Estate primarily comprises the Property, valued at between \$9.25 million and
10 \$10 million. The approximate total amount of claims against the Estate, including priority tax,
11 administrative, secured, and general unsecured claims, is \$8,212,600.

12 Debtor proposes to sell the Property prior to the Effective Date, and use the net
13 sales proceeds from such sale to pay all creditors in full on the Effective Date. If unable to sell
14 the Property on or before the Effective Date, Debtor intends to sell the Property after but within
15 18 months of the Effective Date.

16 Debtor has retained Lee & Associates Investor Services Group to market the
17 Property for sale. Debtor believes that the Property is saleable for an amount sufficient to pay all
18 creditors in full. As more than one potential buyer has offered and/or contracted to purchase the
19 Property for \$9.4 million and higher, sale of the Property should generate proceeds more than
20 sufficient to pay all creditors in full, plus applicable interest.

21 **Excuse of Turnover; Operation of the Property**

22 Prior to the Petition Date, Bank initiated litigation against Debtor in the Superior
23 Court of the State of California, County of Orange, in Case No. 30-2011-00520252-CU-OR-CJC
24 ("Pre-Petition Litigation"). In the Pre-Petition Litigation, Bank sought, and was granted, the
25 appointment of Receiver for, among other things, the Pre-Petition Collateral, pursuant to the
26 Order Confirming Appointment of Receiver and Granting Preliminary Injunction entered on
27 January 5, 2012 ("Receiver Order"). Pursuant to the Receiver Order, after filing her oath and
28 bond, Bellann Raile of Cordes & Company was appointed as receiver ("Receiver") took

1 ~~immediate possession of the Property and the other pre-petition collateral, maintaining and~~
2 ~~preserving the same and collecting all rents, issues, and profits ("Rents").~~

3 ~~After commencement of this Bankruptcy, Debtor stipulated to excusing Receiver~~
4 ~~from compliance with the requirements of 11 U.S.C. §§543(a), 543(b)(1), and 543(c) for~~
5 ~~immediate turnover of the Property and the Rents derived therefrom (the "Receivership~~
6 ~~Stipulation"). No term of the Receivership Stipulation prevented Debtor or Bank from filing a~~
7 ~~motion to compel Receiver's compliance with 11 U.S.C. §§543(a), 543(b)(1), and 543(c) in the~~
8 ~~future, and the non-moving party's right to object to the same.~~

9 ~~In order for Receiver to discharge her duties, she required the use of the funds in~~
10 ~~her possession, some or all of the Rents collected after approval of this agreement, and any other~~
11 ~~cash collateral as defined in 11 U.S.C. §363(a) (collectively, "Cash Collateral") for the purpose~~
12 ~~of funding expenses with respect to the operation and maintenance of the Property, adequate~~
13 ~~protection payments to Bank, and the payment of the quarterly fees to the Office of the United~~
14 ~~States Trustee. The Bank consented to Receiver's use of the Cash Collateral, pursuant to the~~
15 ~~terms and subject to the conditions set forth in the Receivership Stipulation.~~

16 ~~The Bank was entitled to adequate protection for the Receiver's use of Cash~~
17 ~~Collateral, as well as for the imposition of the automatic stay under 11 U.S.C. §362. Pursuant~~
18 ~~the to Receivership Stipulation, the Bank was granted adequate protection in the form of: (i) first~~
19 ~~priority replacement liens and security interests with the same extent, validity, scope, and priority~~
20 ~~as the prepetition liens and security interests held by Bank; and (ii) cash payments as provided~~
21 ~~for in the Receivership Stipulation. The replacement liens and security interests did not attach to~~
22 ~~any of the Debtor's assets in which Bank did not have a lien or security interest upon the Petition~~
23 ~~Date (except to the extent provided in 11 U.S.C. §552(b)), including, without limitation,~~
24 ~~avoiding power claims under 11 U.S.C. §§ 544, 545, 547, 548, or 549.~~

25 ~~The operating expenses during the Receiver's possession of the Property have~~
26 ~~been higher than they were under the Debtor's management. Debtor proposes to attempt to sell~~
27 ~~the Property in order to effect payment of all creditors pursuant to this Plan. While attempting to~~
28 ~~sell the Property, Debtor consents to the Receiver maintaining possession of the Property.~~

1 Therefore, the Receivership Stipulation shall remain in effect through and including the 18th
2 month after the Effective Date of the Plan.

3 If Debtor is unable to close a sale of the Property on or before the Effective Date,
4 then upon the Effective Date the Receiver shall replace the current property manager with a new
5 property manager to be agreed upon by Receiver and Debtor.

6 Ongoing Payments to the Bank and Use of Cash Collateral

7 While the Receiver remains in possession of the Property, the terms of the
8 Receivership Stipulation shall remain in effect, including the Receiver's authority to use cash
9 collateral, and the Bank shall continue to receive payments pursuant to paragraph 7 of the
10 Receivership Stipulation, which provides as follows:

11 Receiver may use Bank's Cash Collateral to pay operating expenses
12 pursuant to Receiver Order as modified by the terms of this Stipulation.
13 Operating expenses to be paid from Cash Collateral shall be those
14 Receiver believes to be reasonably necessary to allow for the smooth and
15 efficient operation of the Debtor, including pre-petition claims of critical
16 vendors or utilities. Receiver shall notify Debtor and Bank of any pre-
17 petition claims she proposes to pay. Receiver also shall pay quarterly fees
18 owing to the Office of the United States Trustee. Receiver shall establish,
19 in her reasonable discretion and approved in writing by Bank, an adequate
20 reserve not to exceed \$100,000 for future expenses, including Receiver's
21 Court approved fees. Receiver shall refresh the reserve up to \$100,000
22 from Cash Collateral as it becomes available. To the extent that Cash
23 Collateral is available after payment of the amounts provided for above,
24 Receiver shall, on or before the 10th calendar day of each month
25 commencing with September 10, 2012, pay: (i) first, any delinquent real
26 property taxes (and any penalties and interest on such taxes) assessed with
27 respect to the Pre-Petition Collateral; (ii) second, adequate protection
28 payments to Bank in an amount equal to the contract rate of principal and
non-default interest on a cumulative basis starting with the payment (if
any) on September 10, 2012, which payments Bank shall apply upon
receipt to amounts owing under the Loan Documents; (iii) third, all
remaining funds, net of the above enumerated payments, shall be
segregated in a separate account and held by Receiver, to be used only in
accordance with further Order of this Court.

2.3. Corporate Actions

26 On the Effective Date, all acts and transactions described in or contemplated by
27 the Plan documents will be deemed authorized and approved in all respects pursuant to the
28

1 Court's Confirmation Order. All matters and transactions provided for in the Plan documents
2 ~~concerning the sale of the Property~~, and any other action required by Debtor or Reorganized
3 Debtor in connection with the Plan documents, will be deemed to have been ordered by the
4 Court and fully authorized, without any requirement of further action or resolution by those
5 authorized to act on behalf of Debtor or Reorganized Debtor, notwithstanding any requirements
6 under non-bankruptcy law. As of the Effective Date, the appropriate officers of Debtor or
7 Reorganized Debtor shall be authorized and directed to issue, execute, deliver, file, and/or record
8 any contracts, agreements, instruments, or other documents contemplated by the Plan documents
9 (or necessary or desirable to effect the transactions contemplated by the Plan documents) and
10 take such actions as may be necessary or appropriate to effectuate and further evidence the terms
11 and conditions of the Plan documents, in the name of and on behalf of Debtor or Reorganized
12 Debtor, without any partner or member action whatsoever.

13 Debtor shall request Bankruptcy Court approval and authority for any act or
14 transaction contemplated by the Plan documents which occurs or is expected to occur prior to the
15 Effective Date. Entry of an order approving or authorizing such act or transaction will be
16 deemed to have been ordered by the Court and fully authorized, without any requirement of
17 further action or resolution by those authorized to act on behalf of Debtor or Reorganized
18 Debtor, notwithstanding any requirements under non-bankruptcy law.

19 //

20 //

21 3.4. Continued Legal Existence

22 Debtor shall continue to exist after the Effective Date, as the Reorganized Debtor,
23 and Reorganized Debtor shall have all the powers and duties set forth in the Plan and under the
24 applicable law in the jurisdiction in which the Debtor is ~~incorporated or~~ formed and pursuant to
25 the respective formation documents in effect before the Effective Date, ~~except to the extent such~~
26 ~~formation documents are amended by or in accordance with the Plan or otherwise, and to the~~
27 ~~extent such documents are amended, such documents are deemed to be amended pursuant to the~~
28 ~~Plan and require no further action or approval.~~

1 ///

2 ///

3

4

4.5. Post-confirmation Management of Debtor's Affairs

5

6

Debtor will handle all post-confirmation management issues with respect to its affairs and the Bankruptcy, including payment of creditor claims pursuant to the Plan.

7

5. — Post confirmation Operation of the Property

8

See above, section III.D.1.

9

6. — Post confirmation Management of the Property

10

See above, section III.D.1.

11

7.6. Officers of Reorganized Debtor

12

13

The officers and directors of Debtor shall continue to serve as officers and directors of Reorganized Debtor, subject to the provisions of their existing governing documents.

14

8.7. Disbursing Agent

15

16

Reorganized Debtor shall act as disbursing agent under the Plan and make all distributions required under the Plan. Reorganized Debtor may employ or contract with other entities to assist in or perform the distribution of property to be distributed.

17

18

9.8. Employment and Compensation of Professionals

19

20

In carrying out its duties under the Plan, Debtor shall use the services of the professionals employed by order of the Bankruptcy Court prior to confirmation of the Plan, as well as any additional brokers employed subsequently. Marshack Hays has been involved in this bankruptcy since its inception, and is familiar with the issues and procedural history of the case. The continued employment of Marshack Hays and other previously employed professionals will save the fees and costs associated with counsel, accountants, and agents not already familiar with the matters which the professionals will undertake. Since their involvement in Debtor's case, the professionals have conducted investigations and obtained special knowledge that will assist Debtor in carrying out the provisions of the Plan and assist with the winding up of the case, including claims objections.

28

1 Except as set forth in this Plan to the contrary, any professional who is employed
2 by Debtor in this case, either prior to or after confirmation of the Plan, who seeks payment of its
3 Post-Confirmation fees and costs will be entitled to seek payment of such fees and costs without
4 the need for any further order of the Court.

5 ///

6 ///

7 ///

8
9 10.9. Risk Factors

10 The proposed Plan has the following risks:

11 This Plan carries minimal risk. There are more than sufficient assets in this Estate
12 to pay all creditors in full, and the Plan provision regarding sale of the Property before the
13 Effective Date has already been met. ~~Furthermore, this bankruptcy has already seen two~~
14 ~~proposed sales of the Property, sale of which would realize net assets sufficient to pay all~~
15 ~~creditors in full. Debtor was unable to complete those sales due to circumstances beyond~~
16 ~~Debtor's control, but believes that it will, with the professional assistance of a qualified broker,~~
17 ~~be able to effectuate prompt sale of the Property.~~

18 ~~There is a slim possibility of default under the terms of the Plan, in that Debtor~~
19 ~~and the Bank have a sometimes adversarial relationship and the Bank has, among other things,~~
20 ~~moved for relief from stay with respect to the Property and sought to erect obstacles to Debtor's~~
21 ~~ability to negotiate with former tenants and resolve tenancy and property issues. Like most~~
22 ~~Debtors and secured creditors, they have significant differences of opinion and have had~~
23 ~~difficulty coming to agreement on several issues in this Bankruptcy. Debtor intends to work~~
24 ~~with the Bank to seek agreement on key issues to ensure payment of all creditors as efficiently as~~
25 ~~possible.~~

26 11.10. Objections to Claims

27 The right to litigate, resolve, and settle objections to Claims (at the expense of the
28 Estate), whether or not the subject of litigation as of the Effective Date, will be vested in Debtor

as of the Effective Date. From and after the Effective Date, Debtor as representative of the Estate shall have the sole right to file, prosecute, litigate, and settle any objections to Claims, whether or not any such objection is pending as of the Effective Date. Notwithstanding that Debtor shall have the right to file, litigate, prosecute, and settle objections to Claims on behalf of the Estate, nothing contained in the Plan will be deemed to obligate Debtor to take any such actions, all of which will be determined in the Debtor's sole discretion. DEBTOR HAS NOT FULLY REVIEWED ALL CLAIMS OR DETERMINED WHETHER OBJECTIONS TO CLAIMS EXIST. THIS INVESTIGATION IS ONGOING AND WILL OCCUR ~~IN LARGE~~ ~~PART AFTER~~ BEFORE THE EFFECTIVE DATE. CREDITORS AND OTHER PARTIES-IN-INTEREST SHOULD BE, AND ARE PURSUANT TO THE TERMS OF THE PLAN SPECIFICALLY ADVISED THAT, NOTWITHSTANDING THAT THE EXISTENCE OF ANY PARTICULAR OBJECTION TO CLAIM MAY NOT BE LISTED, DISCLOSED, OR SET FORTH IN THE PLAN OR DISCLOSURE STATEMENT, AN OBJECTION TO CLAIM MAY BE BROUGHT AGAINST ANY CLAIMANT ~~AFTER THE EFFECTIVE DATE~~.

~~12.11.~~ 11. Unclaimed Distributions

Distributions to holders of Allowed Claims will be made either: (a) at the addresses set forth in the Proof of Claim filed by the creditor; (b) at the address set forth in any written notice of address change delivered to creditor's counsel or Debtor's counsel after the date on which any related Proof of Claim was filed; or (c) at the address reflected in the Schedules relating to the applicable Allowed Claim if no Proof of Claim has been filed by the creditor and neither Creditor nor Debtor has received a written notice of a change of address.

Debtor shall not be required to perform any investigation or inquiry as to the proper address for any creditor if the address stated in any Proof of Claim filed by the creditor, written notice of change of address filed by the creditor, or address identified in the Schedules is incorrect. Any unclaimed distribution provided for under the Plan (which will include: (a) checks which have been returned as undeliverable without a proper forwarding address; (b) checks which were not mailed or delivered because of the absence of a proper address to which to mail or deliver the same; or (c) checks which remain un-negotiated for a period of sixty (60)

1 days) will be retained as an asset of the Estate, and total distributions on account of allowed
2 unsecured creditor claims shall be accordingly reduced.

3 13.12. Cancellation of Existing Security Interests

4 Debtor has sold the Property, but the Bank retains a security interest in a portion
5 of the Disputed Funds until Plan confirmation. Confirmation of the Plan will cancel the Bank's
6 security interest in the Disputed Funds. The Plan Confirmation Order will provide that all
7 defaults have been cured, default interest has been eliminated, the Bank's interest in the Disputed
8 Funds has terminated, and the title company shall deliver the Disputed Funds to Debtor. ~~If Debtor~~
9 ~~sells the Property, then upon payment in full of each secured claim the holder of such secured~~
10 ~~claim shall deliver to the purchaser any termination statements, instruments of satisfactions, or~~
11 ~~releases of all security interests with respect to its allowed secured claim that may be reasonably~~
12 ~~required in order to terminate any related financing statements, mortgages, mechanics' liens, or~~
13 ~~lis pendens. On the Effective Date, the holder of such allowed secured claim shall be deemed to~~
14 ~~have authorized the Purchaser to file any termination statements, instruments of satisfactions, or~~
15 ~~releases of all such security interests with respect to its allowed secured claim that may be~~
16 ~~necessary to effectuate a termination or release of such security interest.~~

17 VII. TREATMENT OF MISCELLANEOUS ITEMS

18 A. Executory Contracts and Unexpired Leases

19 1. Assumptions

20 Pursuant to order of the Court, Debtor assigned to the buyer of the Property
21 Leases which the buyer wished to assume, and has rejected all Leases which buyer did not wish
22 to assume.

23 2. Rejections

24 Effective immediately before the Effective Date, each executory contract or
25 unexpired lease of the Debtor that has not expired by its own terms before the Effective Date or
26 previously been assumed by the Debtor in Possession is rejected, as of the Effective Date,
27 pursuant to 11 U.S.C. §365. Debtor reserves the right to elect to assume any executory contract
28 or unexpired lease at any time before the Plan Confirmation Hearing. The Confirmation Order

1 shall constitute an Order of the Bankruptcy Court approving all such rejections as of the
2 Effective Date. Any claim for damages arising from the rejection under the Plan of an executory
3 contract or unexpired lease must be filed within sixty (60) days after the Effective Date or be
4 forever barred and unenforceable against Debtor, Reorganized Debtor, and its properties and
5 barred from receiving any distribution under the Plan.

6 3. Changes in Rates Subject to Regulatory Commission Approval

7 Debtor is not subject to governmental regulatory commission approval of rates.

8 1. Assumptions

9 ~~On the Effective Date, Debtor shall assume all leases under which Debtor leases~~
10 ~~any portion of the Property, including the Assumed Leases. If Debtor sells the Property, Debtor~~
11 ~~shall promptly assign to the buyer any Assumed Leases which buyer wishes to assume, and shall~~
12 ~~promptly reject any Assumed Leases which buyer does not wish to assume.~~

13 2. Rejections

14 ~~Effective immediately before the Effective Date, each executory contract or~~
15 ~~unexpired lease of the Debtor, other than the Assumed Leases, that has not expired by its own~~
16 ~~terms before the Effective Date or previously been assumed by the Debtor in Possession is~~
17 ~~rejected, as of the Effective Date, pursuant to 11 U.S.C. §365. Debtor reserves the right to elect~~
18 ~~to assume any executory contract or unexpired lease at any time before the Plan Confirmation~~
19 ~~Hearing. The Confirmation Order shall constitute an Order of the Bankruptcy Court approving~~
20 ~~all such rejections as of the Effective Date. Any Claim for damages arising from the rejection~~
21 ~~under the Plan of an executory contract or unexpired lease must be filed within sixty (60) days~~
22 ~~after the Effective Date or be forever barred and unenforceable against Debtor, Reorganized~~
23 ~~Debtor, and its properties and barred from receiving any distribution under the Plan.~~

24 3. Changes in Rates Subject to Regulatory Commission Approval

25 Debtor is not subject to governmental regulatory commission approval of rates.

26 B. Retention of Jurisdiction

27 The United States Bankruptcy Court for the Central District of California will
28 retain jurisdiction over this bankruptcy proceeding, Debtor, and consummation of this Plan to the

1 extent provided by law. This retention of jurisdiction shall specifically include, but not be
2 limited to, the following:

3 1. The classification, allowance, disallowance, or estimation of the claim of
4 any claimant and the re-examination of claims which have been allowed for the purposes of
5 determining acceptance of the Plan at the time of the Confirmation Hearing and the
6 determination of such objections as may be filed to claims. The failure by Debtor to object to or
7 to examine any claim for the purpose of determining acceptance of this Plan shall not be deemed
8 to be a waiver of the right of Debtor to object to or to re-examine the claim, in whole or in part,
9 at a later date.

10 2. Except for as otherwise provided in this Plan, the determination of all
11 questions and disputes regarding title to the assets of Debtor, the Estate, or the Reorganized
12 Debtor and the determination of all causes of action, controversies, disputes, or conflicts,
13 whether or not subject to any action pending as of the Confirmation Date, in which the Debtor or
14 the Reorganized Debtor is a party including but not limited to claims for relief pursuant to 11
15 U.S.C. §§ 542-553.

16 ///

17 2. ///

18 3. The correction of any defect, the curing of any omission, or the
19 reconciliation of any inconsistency in the Plan or in the Confirmation Order as may be necessary
20 to carry out the purposes and intent of the Plan.

21 4. The resolution of any motions, adversary proceedings, contested or
22 litigated matters, and any other matters, and the granting or denying of any applications
23 involving Debtor or Reorganized Debtor that may be pending on the Effective Date.

24 ~~4. The resolution of any motions, adversary proceedings, contested or~~
25 ~~litigated matters and any other matters and grant or deny any applications involving Debtor or~~
26 ~~Reorganized Debtor that may be pending on the Effective Date.~~

1 5. The modification of the Plan after confirmation pursuant to Title 11 of the
2 United States Code and the Bankruptcy Rules, or if in the best interests of the Estate and the
3 creditors, modification of this Plan even after the Plan has been substantially consummated.

4 6. The enforcement and interpretation of the terms and conditions of the Plan
5 or the Confirmation Order, and the determination of such matters, and the making of such orders
6 consistent with the Plan as may be necessary or desirable to effectuate the provisions of the Plan.

7 7. The determination, either before or after the closing of this bankruptcy
8 case, of any Claims concerning state, local, and federal taxes pursuant to 11 U.S.C. §§346, 505,
9 525, or 1146 or other applicable law, and Debtor's, Reorganized Debtor's, or the Estate's
10 entitlement, if any, to tax attributes which may have been property of the Estate, either before or
11 after the closing of this bankruptcy case.

12 8. The shortening or extending, for cause, of the time fixed for doing any act
13 or thing under the Plan, on such notice, if any, as the Bankruptcy Court shall determine to be
14 appropriate.

15 9. The entry of any order, including, without limitation, any injunction, to
16 enforce the title, rights, and powers of the Estate, Debtor, or Reorganized Debtor and such
17 limitations, restrictions, terms, and conditions of such title, rights, and powers as the Bankruptcy
18 Court may deem necessary.

19 10. The determination of any disputes arising under or relating to any order
20 entered by the Bankruptcy Court in the bankruptcy case.

21 11. The determination of the validity, extent, or priority of any liens and
22 security interests against property of Debtor, Reorganized Debtor, or the Estate.

23 12. The determination of all actions and proceedings which relate to pre-
24 confirmation matters affecting Debtor or the Estate whether such action or proceeding is brought
25 before or after the Effective Date.

26 13. The liquidation or allowance of any Claim as well as any objection or
27 dispute concerning any Claim of the Estate.

28

1 14. The determination of all questions and disputes regarding collection of
2 assets of Debtor or the Estate as of the Confirmation Date.

3 15. The entry of an order concluding and terminating the bankruptcy case.

4 16. Such other matters to the extent provided by law.

5 C. Preservation of Rights of Action and Defenses.

6 Except to the extent such rights, claims, causes of action, defenses, and
7 counterclaims are expressly and specifically released in connection with the Plan or in any
8 settlement agreement approved during the Bankruptcy: (i) any and all rights, claims, causes of
9 action, defenses, and counterclaims accruing to Debtor or the Estate (including, without
10 limitation, avoiding power causes of action and breach of contract claims) shall remain assets of
11 and vest in Reorganized Debtor.~~(including, without limitation, avoiding power causes of action)~~
12 ~~shall remain assets of and vest in the applicable Reorganized Debtor;~~ whether or not litigation
13 relating thereto is pending on the Effective Date, and whether or not any such rights, claims,
14 causes of action, defenses, and counterclaims have been Scheduled or otherwise listed or referred
15 to in the Plan, or any other document filed with the Bankruptcy Court; and (ii) neither Debtor nor
16 Reorganized Debtor waives, relinquishes, or abandons (nor shall it be estopped or otherwise
17 precluded from asserting) any right, claim, cause of action, defense, or counterclaim that
18 constitutes property of Debtor's Estate: (a) whether or not such right, claim, cause of action,
19 defense, or counterclaim has been listed or referred to in the Schedules, the Plan, or any other
20 document filed with the Bankruptcy Court; (b) whether or not such right, claim, cause of action,
21 defense, or counterclaim is currently known to Debtor; and (c) whether or not a defendant in any
22 litigation relating to such right, claim, cause of action, defense, or counterclaim filed a proof of
23 claim in the Bankruptcy, filed a notice of appearance or any other pleading or notice in the
24 Bankruptcy, voted for or against the Plan, or received or retained any consideration under the
25 Plan. Without in any manner limiting the scope of the foregoing, notwithstanding any otherwise
26 applicable principle of law or equity, including, without limitation, any principles of judicial
27 estoppel, *res judicata*, collateral estoppel, issue preclusion, or any similar doctrine, the failure to
28 list, disclose, describe, identify, or refer to a right, claim, cause of action, defense, or

1 counterclaim, or potential right, claim, cause of action, defense, or counterclaim, in Debtor's
2 Schedules, the Plan, or any other document filed with the Bankruptcy Court shall in no manner
3 waive, eliminate, modify, release, or alter the Reorganized Debtor's right to commence,
4 prosecute, defend against, settle, and realize upon any rights, claims, causes of action, defenses,
5 or counterclaims that Debtor or Reorganized Debtor has or may have as of the Confirmation
6 Date. Reorganized Debtor may commence, prosecute, defend against, recover on account of,
7 and settle all rights, claims, causes of action, defenses, and counterclaims in their sole discretion
8 in accordance with what is in the best interests, and for the benefit, of Reorganized Debtor.

9 **VIII. TAX CONSEQUENCES OF PLAN**

10 CREDITORS AND INTEREST HOLDERS CONCERNED WITH HOW THE
11 PLAN MAY AFFECT THEIR TAX LIABILITY SHOULD CONSULT WITH THEIR OWN
12 ACCOUNTANTS, ATTORNEYS, AND/OR ADVISORS. There are significant tax
13 consequences of any Chapter 11 plan because the Tax Code embodies many complicated rules
14 which make it difficult to state completely and accurately all the tax implications of any action.
15 Debtor's ~~proposed~~ general counsel, Marshack Hays LLP, does not provide tax advice. Debtor
16 has been advised to seek independent tax advice, as are all creditors advised. At this time,
17 Debtor is unaware of any negative tax consequences arising from confirmation of the Plan.

18 **IX. CONFIRMATION REQUIREMENTS AND PROCEDURES**

19 PERSONS OR ENTITIES CONCERNED WITH CONFIRMATION OR THE
20 PLAN SHOULD CONSULT WITH THEIR OWN ATTORNEYS BECAUSE THE LAW ON
21 CONFIRMING A PLAN OF REORGANIZATION IS VERY COMPLEX. The following
22 discussion is intended solely for the purpose of alerting readers about basic confirmation issues,
23 which they may wish to consider, as well as certain relevant deadlines. Debtor CANNOT and
24 DOES NOT represent that the discussion contained below is a complete summary of the law on
25 this topic. Many requirements must be met before the Court can confirm a Plan. Some of the
26 requirements include: that the Plan must be proposed in good faith; acceptance of the Plan;
27 whether the Plan pays creditors at least as much as creditors would receive in a Chapter 7
28 liquidation; and whether the Plan is feasible. These requirements are not the only requirements

1 for confirmation.

2 A. Who May Vote or Object

3 1. Who May Object to Confirmation of the Plan

4 Any party in interest may object to the confirmation of the Plan, but as explained
5 below ~~no one not everyone~~ is entitled to vote to accept or reject the Plan because no creditors are
6 impaired under the Plan.

7 2. Who May Vote to Accept/Reject the Plan

8 Creditor claims are not impaired under the Plan pursuant to 11 U.S.C. §1124.
9 Therefore all creditors are conclusively presumed to have accepted the Plan, and solicitation of
10 acceptances (i.e. votes in favor of the Plan) is not required. There will be no voting on the Plan.
11 ~~A creditor or interest holder has a right to vote for or against the Plan if that creditor or interest~~
12 ~~holder has a claim which is both: (1) allowed or allowed for voting purposes; and (2) classified~~
13 ~~in an impaired class.~~

14 a. What Is an Allowed Claim/Interest

15 ~~As noted above, a creditor or interest holder must first have an allowed claim or~~
16 ~~interest to have the right to vote.~~ Generally, any scheduled or filed claim or interest will be
17 allowed, unless a party in interest brings a motion objecting to the claim. ~~When an objection to a~~
18 ~~claim or interest is filed, the creditor or interest holder holding the claim or interest cannot vote~~
19 ~~unless the Court, after notice and hearing, either overrules the objection or allows the claim or~~
20 ~~interest for voting purposes.~~

21 THE BAR DATE FOR FILING A PROOF OF CLAIM IN THIS CASE WAS
22 NOVEMBER 30, 2012. Creditors should not deem the lack of an objection to be consent that
23 their claims will be paid by the Plan. A creditor or interest holder may have an allowed claim or
24 interest even if a proof of claim or interest was not timely filed. A claim is deemed allowed if:
25 (1) it is scheduled on Debtor's schedules and such claim is not scheduled as disputed, contingent,
26 or, unliquidated; and (2) no party in interest has objected to the claim. An interest is deemed
27 allowed if it is scheduled and no party in interest has objected to the interest. There have not yet
28 been any objections to any of the claims identified in Debtor's amended schedules. **Debtor**

1 retains the right to file objections to claims and to seek modification of creditor claims
2 under applicable law, including through state court litigation.

3 ///

4 b. What Is an Impaired Claim/Interest

5 As noted above, an allowed claim or interest only has the right to vote if it is in a
6 class that is impaired under the Plan. A class is impaired if the Plan alters the legal, equitable, or
7 contractual rights of the members of that class. ~~For example, a class comprising general~~
8 ~~unsecured claims is impaired if the Plan fails to pay the members of that class 100% of what they~~
9 ~~are owed plus interest.~~

10 In this case, Debtor believes that ~~none of its creditors~~ ~~classes 1 through 3 may~~
11 ~~bear~~ impaired, and that ~~holders of claims in each of these classes~~ ~~all creditors~~ are therefore
12 ~~entitled~~ ~~deemed to have to vote to~~ ~~accept~~ ~~ed or reject~~ the Plan. Parties who dispute Debtor's
13 characterization of their claim or interest as being ~~impaired or~~ unimpaired may file an objection
14 to the Plan contending that Debtor has incorrectly characterized the class.

15 B. Liquidation Analysis

16 Under certain circumstances, a Chapter 11 plan must pass the Best Interest Test to
17 be confirmable. Under the Best Interest test, if a claimant or interest holder is in an impaired
18 class and that claimant or interest holder does not vote to accept the Plan, then that claimant or
19 interest holder must receive or retain under the Plan property of a value not less than the amount
20 that such holder would receive or retain if Debtor's assets were liquidated under Chapter 7 of the
21 Bankruptcy Code. All creditors in this case are receiving the treatment required in 11 U.S.C.
22 §1124 for a Plan to classify claims as unimpaired. Because no creditors are impaired under the
23 Plan, the Best Interest Test is not required in this case.

24 C. Feasibility

25 Another requirement for confirmation involves the feasibility of the Plan. A plan
26 is feasible if confirmation of the Plan is not likely to be followed by Chapter 7 liquidation or the
27 need for further financial reorganization—of Debtor or any successor to Debtor under the Plan—
28 unless such liquidation or reorganization is proposed in the Plan.

1 3. — Who is Not Entitled to Vote

2 The following four types of claims are not entitled to vote: (1) claims that have
3 been disallowed; (2) claims in unimpaired classes; (3) claims entitled to priority pursuant to 11
4 U.S.C. §§507(a)(1), (a)(2), and (a)(8); and (4) claims in classes that do not receive or retain any
5 value under the Plan. Claims in unimpaired classes are not entitled to vote because such classes
6 are deemed to have accepted the Plan. Claims entitled to priority pursuant to 11 U.S.C. §§
7 507(a)(1), (a)(2), and (a)(7) are not entitled to vote because such claims are not placed in classes
8 and they are required to receive certain treatment specified by the Code. Claims in classes that
9 do not receive or retain any value under the Plan do not vote because such classes are deemed to
10 have rejected the Plan. EVEN IF YOUR CLAIM IS OF THE TYPE DESCRIBED ABOVE,
11 YOU MAY STILL HAVE A RIGHT TO OBJECT TO THE CONFIRMATION OF THE
12 PLAN.

13 4. — Who Can Vote in More Than One Class

14 A creditor whose claim has been allowed in part as a secured claim and in part as
15 an unsecured claim is entitled to accept or reject a Plan in both capacities by casting one ballot
16 for the secured part of the claim and another ballot for the unsecured claim.

17 5. — Votes Necessary to Confirm the Plan

18 If impaired classes exist, the Court cannot confirm the Plan unless: (1) at least one
19 impaired class has accepted the Plan without counting the votes of any insiders within that class;
20 ~~///~~
21 and (2) all impaired classes have voted to accept the Plan, unless the Plan is eligible to be
22 confirmed by “cramdown” on non-accepting classes, as discussed later.

23 6. — Votes Necessary for a Class to Accept the Plan

24 A class of claims is considered to have accepted the Plan when more than one-
25 half (1/2) in number and at least two-thirds (2/3) in dollar amount of the claims which actually
26 voted, voted in favor of the Plan. A class of interests is considered to have accepted the Plan
27 when at least two-thirds (2/3) in amount of the interest holders of such class which actually
28 voted, voted to accept the Plan.

1 7. Treatment of Nonaccepting Classes

2 As noted above, even if all impaired classes do not accept the proposed Plan, the
3 Court may nonetheless confirm the Plan if the nonaccepting classes are treated in the manner
4 required by the Code. The process by which nonaccepting classes are forced to be bound by the
5 terms of the Plan is commonly referred to as “cramdown.” The Code allows the Plan to be
6 “crammed down” on nonaccepting classes of claims or interests if it meets all consensual
7 requirements except the voting requirements of 11 U.S.C. § 1129(a)(8) and if the Plan does not
8 “discriminate unfairly” and is “fair and equitable” toward each impaired class that has not voted
9 to accept the Plan as referred to in 11 U.S.C. § 1129(b) and applicable case law.

10 8. Request for Confirmation Despite Nonacceptance by Impaired Class(es)

11 The party proposing the Plan asks the Court to confirm the Plan by cramdown on
12 impaired classes if any of these class creditors do not vote to accept the Plan.

13 B. Liquidation Analysis

14 Another confirmation requirement is the “Best Interest Test,” which requires a
15 liquidation analysis. Under the Best Interest Test, if a claimant or interest holder is in an
16 impaired class and that claimant or interest holder does **not** vote to accept the Plan, then that
17 claimant or interest holder must receive or retain under the Plan property of a value not less than
18 the amount that such holder would receive or retain if Debtor’s assets were liquidated under
19 Chapter 7 of the Bankruptcy Code.

20 ///

21 In a Chapter 7 case, a debtor’s assets are usually sold by a Chapter 7 trustee. Secured creditors are
22 paid first from the sales proceeds of properties on which the secured creditor has a lien.
23 Administrative claims are paid next. Next, unsecured creditors are paid from any remaining sales
24 proceeds, according to their rights to priority. Unsecured creditors are paid pro rata: which is to say
25 that the amount they will receive on account of their claim is a percentage, calculated by the amount
26 their allowed claim in relationship to the amount of all allowed unsecured claims. Finally, interest
27 holders receive the balance that remains after all creditors are paid, if any.
28 For the Court to be able to confirm the Plan, the Court must find that all creditors and interest

holders who do not accept the Plan will receive at least as much under the Plan as such holders would receive under a Chapter 7 liquidation. Debtor maintains that this requirement is met here because the assets of the Estate are more than sufficient to pay all creditors in full if they are sold in an orderly manner pursuant to the Plan, but not if they are liquidated under Chapter 7. Conversion to Chapter 7 at this point would significantly increase the administrative expenses of this Estate, and would allow for no possibility of curing the default interest currently owing to the Bank. To elucidate this point, below is a demonstration, in balance sheet format, that all creditors and interest holders will receive the same percentage distribution under the Plan as such creditor or interest holder would receive under a Chapter 7 liquidation.

Total Current Assets	\$9,700,000
Westcliff Office Plaza	\$9,500,000
Cash on Hand	\$200,000
TOTAL ASSETS AT LIQUIDATION VALUE ³	\$8,750,000
Less: Costs of Sale (3%)	\$256,500
Less: Secured creditor claim of Wells Fargo Bank, N.A. ⁴	\$7,839,581
Less: Secured creditor claim of Carros	\$14,312.40
Less: Projected Chapter 7 administrative expenses ⁵	\$302,850
Less: Chapter 11 administrative expenses	\$250,000
—(1) Balance for unsecured claims	\$86,756.60
—(2) Total amt of all unsecured claims (including priority and general)	\$466,124.63

C. —

% OF THEIR CLAIMS WHICH UNSECURED CREDITORS WOULD RECEIVE

—OR RETAIN IN A CH. 7 LIQUIDATION: 19%

³ Calculated at 90% of non-liquidation valuation for real property asset.

⁴ Pursuant to the Bank's Motion for Relief from Stay, including all default interest, late fees, attorneys' fees, and other charges.

⁵ Calculated \$272,850 for Chapter 7 Trustee fee; \$25,000 for Chapter 7 attorneys' fees; \$5,000 accounting fee.

~~% OF THEIR CLAIMS WHICH UNSECURED CREDITORS WILL RECEIVE
— OR RETAIN UNDER THE PLAN: 100%~~

~~Thus, creditors' recovery under the proposed Plan is significantly more than creditors would receive under a Chapter 7 liquidation. The Plan is confirmable.~~

~~D. — Feasibility~~

~~Another requirement for confirmation involves the feasibility of the Plan. A plan is feasible if confirmation of the Plan is **not** likely to be followed by Chapter 7 liquidation or the need for further financial reorganization of Debtor or any successor to Debtor under the Plan unless such liquidation or reorganization is proposed in the Plan.~~

There are at least two important aspects of a feasibility analysis. The first aspect considers whether Debtor will have enough cash on hand on the Effective Date of the Plan to pay all the claims and expenses which are entitled to be paid on such date. Debtor maintains that this aspect of feasibility is satisfied. As noted above, ~~the only claims and expenses which are entitled~~ all allowed claims are entitled to be paid on the Effective Date ~~are the projected administrative claims. Total allowed administrative fees and costs at this time are \$121,318.96~~ claims are estimated to be \$686,125. Debtor has approximately \$850,000 of cash on hand as of the filing of this Disclosure Statement. If Debtor is able to eliminate the Bank's default interest through Plan confirmation, the Estate will have an additional \$532,860.31, plus the \$100,000 hold-back. Debtor will therefore have no difficulty paying all claims entitled to be paid on the Effective Date.

~~. Debtor has, or will have shortly after the filing of this Disclosure Statement, cash on hand of \$200,000. Administrative claimants have agreed or will agree to defer payment of their further fees and costs until the real property asset of the Estate is liquidated.~~

The second aspect considers whether Debtor will have enough cash over the life of the Plan to make the required Plan payments. Again, all allowed claims will be paid on the Effective Date. Debtor has cash on hand sufficient to make the required Plan payments.

~~The Plan provides for payment of all creditors in full within 18 months from the Effective Date. Debtor fully expects that efficient sale of the real property asset of the Estate will allow for full consummation of the Plan and payment of all creditors in full within 18 months from the Effective Date. The Estate's inability to pay all claims in through sale within 18 months after the Effective Date shall be a default under the terms of the Plan entitling claimants to file a motion to convert the case to Chapter 7 or seek the appointment of a Chapter 11 Trustee. The Plan is therefore feasible.~~

X. EFFECT OF CONFIRMATION OF PLAN

A. Discharge

~~Debtor is not entitled to a discharge pursuant to 11 U.S.C. §1141(d)(3) On and after the Effective Date, the rights afforded in the Plan and the treatment of all claims and interests therein shall be in exchange for and in complete satisfaction, discharge, and release of all claims and interests of any nature whatsoever, including any interest accrued on such claims from and after the Petition Date, against Debtor and Debtor in Possession, or any of its assets or properties. Except as otherwise provided in the Plan or the Confirmation Order on and after the Effective Date: (a) Debtor shall be deemed discharged and released to the fullest extent permitted by 11 U.S.C. §1141 from all claims and interests, including claims and interests that arose before the Effective Date and all debts of the kind specified in 11 U.S.C. §§502(g), 502(h) or 502(i) of the Bankruptcy Code, whether or not: (i) a proof of claim or proof of interest based on such debt or interest is filed or deemed filed pursuant to 11 U.S.C. §501; (ii) a claim or interest based on such debt or interest is allowed pursuant to 11 U.S.C. §502; or (iii) the holder of a claim or interest based on such debt or interest has accepted the Plan; and (b) all persons shall be precluded from asserting against Reorganized Debtor, its successors, or its assets or properties any other or further claims or interests based upon any act or omission, transaction, or other activity of any kind or nature that occurred before the Effective Date. Except as otherwise provided in the Plan or the Confirmation Order, on and after the Effective Date, the Confirmation Order shall act as a discharge of any and all claims against and all debts and liabilities of Debtor, as provided in 11 U.S.C. §§524 and 1141.~~

1 B. Injunction

2 Debtor is not entitled to a discharge pursuant to 11 U.S.C. §1141(d)(3): therefore
3 no discharge injunction shall apply.~~In addition to the injunction provided under 11 U.S.C.~~
4 ~~§524(a), on and after the Effective Date, all persons who have held, currently hold, or may hold a~~
5 ~~debt, claim or interest discharged under the Plan are permanently enjoined from taking any of the~~
6 ~~following actions on account of any such discharged debt, claim or interest: (a) commencing or~~
7 ~~continuing in any manner any action or other proceeding against Debtor, Reorganized Debtor, or~~
8 ~~its property; (b) enforcing, attaching, collecting or recovering in any manner any judgment,~~
9 ~~award, decree or order against Debtor, Reorganized Debtor, its successor or its property; (c)~~
10 ~~creating, perfecting, or enforcing any lien or encumbrance against Debtor, Reorganized Debtor,~~
11 ~~its successor or its property; and (d) commencing or continuing any action, in any manner, in any~~
12 ~~place that does not comply with or is inconsistent with the provisions of the Plan or the~~
13 ~~Confirmation Order. Any person injured by any willful violation of the foregoing injunction may~~
14 ~~recover actual damages, including costs and attorneys' fees, and, in appropriate circumstances,~~
15 ~~may recover punitive damages, from the willful violator.~~

16 C. Limitation of Liability

17 On and after the Effective Date, neither Debtor, Debtor in Possession, nor any of
18 its members, partners, employees, officers, directors, agents, or representatives, nor any
19 professional persons employed by any of them, shall have or incur any liability to any person or
20 entity for any authorized act taken or authorized omission made in good faith in connection with:
21 (a) the management or operation of Debtor or the discharge of its duties under Title 11 of the
22 United States Code; (b) the negotiation, formulation, development, proposal, disclosure,
23 solicitation, Confirmation, or implementation of this Plan, including with respect to objections to
24 Claims or negotiating or preparing any contract, instrument, release, or other agreement or
25 document pursuant to this Plan; (c) the implementation of any of the transactions provided for or
26 contemplated in this Plan; (d) the administration of this Plan or the assets and property to be
27 distributed pursuant to this Plan; or (e) the performance of services related to the above. Nothing
28

1 in the foregoing shall relieve any party from liability on account of gross negligence or willful
2 misconduct.

3 ///

4 D. Successor and Assigns

5 The rights, benefits, and obligations of any entity named or referred to in the Plan
6 are binding on, and will inure to the benefit of, any permitted heirs, executors, administrators,
7 successors, or assigns of such entity.

8 ++

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10 E. Amendment, Revocation, Modification and Severability.

11 The First Amended Plan has been amended or modified before the
12 Effective Date by Debtor pursuant to 11 U.S.C. §1127. The Plan may be further amended or
13 modified before the Effective Date by Debtor to the extent provided by 11 U.S.C. §1127. Debtor
14 reserves the right to withdraw the Plan before the Confirmation Date. Debtor reserves the right
15 to modify or amend the Plan upon a determination by the Bankruptcy Court that the Plan, as it is
16 currently drafted, is not confirmable pursuant to 11 U.S.C. §1129. To the extent such a
17 modification or amendment is permissible under 11 U.S.C. §1127 without the need to solicit
18 acceptances, Debtor reserves the right to sever any provisions of the Plan that the Bankruptcy
19 Court finds objectionable.

20 ~~The Plan may be amended or modified before the Effective Date by Debtor to the~~
21 ~~extent provided by 11 U.S.C. §1127. Debtor reserves the right to withdraw the Plan before the~~
22 ~~Confirmation Date. Debtor reserves the right to modify or amend the Plan upon a determination~~
23 ~~by the Bankruptcy Court that the Plan, as it is currently drafted, is not confirmable pursuant to 11~~
24 ~~U.S.C. §1129. To the extent such a modification or amendment is permissible under 11 U.S.C.~~
25 ~~§1127 without the need to solicit acceptances, Debtor reserves the right to sever any provisions~~
26 ~~of the Plan that the Bankruptcy Court finds objectionable.~~

27 F. No Admission

28

1 Except as specifically provided in the Plan, nothing contained in the Plan shall be
2 deemed or construed in any way as an admission by Debtor or the Estate with respect to any
3 matter set forth in the Plan, including the amount or allowability of any Claim, or the value of
4 any property of the Estate.

5 G. 11 U.S.C. §1146(c) Exemption

6 In accordance with 11 U.S.C. §1146(c), the making delivery, filing or recording
7 of any mortgages, deeds of trust, leasehold mortgages, leases (whether recorded or unrecorded)
8 and/or the various instruments and documents of transfer as specified in or contemplated by the
9 Plan (collectively, "Instruments of Transfer") and/or the exhibits thereto are hereby exempt from
10 taxation under any law imposing a recording tax, stamp tax, transfer tax, or any similar tax. The
11 appropriate state or local government officers are hereby directed to accept for filing or recording
12 all Instruments of Transfer or other documents of transfer to be filed and recorded in accordance
13 with the Plan and the exhibits thereto, without payment of any such tax or government
14 assessment, and without the presentation of any affidavits, instruments, or returns otherwise
15 required for recording other than the Confirmation Order. The Bankruptcy Court retains
16 jurisdiction to enforce the foregoing direction by contempt proceedings or otherwise.

17 //

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20 H. Binding Effect

21 The Plan and all rights, duties, and obligations thereunder shall be binding upon
22 and inure to the benefit of Debtor, Reorganized Debtor, holders of claims, holders of interests,
23 and their respective successors and assigns.

24 I. Governing Law

25 Unless a rule of law or procedure is supplied by federal law (including Title 11 of
26 the United States Code and the Federal Rules of Bankruptcy Procedure), or by an express choice
27 of law provision in any agreement, contract, document, or instrument provided for or executed in
28 connection with the Plan, the rights and obligations arising under the Plan and any agreement,

1 contract, document, or instrument provided for or executed in connection with the Plan, shall be
2 governed by, and construed and enforced in accordance with, the laws of the State of California,
3 without giving effect to the principles of conflict of laws thereof.

4 J. Payment Dates

5 Whenever any payment or distribution to be made under the Plan shall be
6 due on a day other than a Business Day, such payment or distribution shall instead be made,
7 without interest, on the next Business Day.

8 ~~Whenever any payment or distribution to be made under the Plan shall be due on~~
9 ~~a day other than a Business Day, such payment or distribution shall instead be made, without~~
10 ~~interest, on the immediately following Business Day.~~

11 K. Headings

12 The headings used in the Plan are inserted for convenience only and neither
13 constitutes a portion of the Plan nor in any manner affects the construction of the provisions of
14 the Plan.

15 L. Revesting of Property

16 Except as otherwise provided in the Plan any agreement, instrument, or other
17 document incorporated therein, on the Effective Date, all property in the Estate, all causes of
18 action, and any property acquired by Debtor pursuant to the Plan shall vest in the Reorganized
19 Debtor, free and clear of all liens, claims, charges, or other encumbrances. On and after the
20 Effective Date, the Reorganized Debtor may operate its business and may use, acquire, or
21 dispose of property and compromise or settle any claims or causes of action without supervision
22 or approval by the Bankruptcy Court and free of any restrictions of Title 11 of the United States
23 Code or the Federal Rules of Bankruptcy Procedure. The Reorganized Debtor shall become, on
24 the Effective Date of the Plan, the exclusive representative of its Estate. Subject to the
25 provisions of the Plan, but notwithstanding whether they are set forth in the Plan, on and after the
26 Effective Date, the Estate shall retain and the Reorganized Debtor may enforce any and all
27 rights, claims, causes of action, powers, privileges, licenses, and franchises of the Debtor or
28 Estate, including all rights regarding tax determinations under 11 U.S.C. §505, all causes of

action arising under the Plan and Title 11 of the United States Code~~Except as otherwise provided in the Plan any agreement, instrument, or other document incorporated therein, on the Effective Date, all property in each Estate, all causes of action, and any property acquired by Debtor pursuant to the Plan shall vest in the Reorganized Debtor, free and clear of all Liens, claims, charges, or other encumbrances. On and after the Effective Date, the Reorganized Debtor may operate its business and may use, acquire, or dispose of property and compromise or settle any claims or causes of action without supervision or approval by the Bankruptcy Court and free of any restrictions of Title 11 of the United States Code or the Federal Rules of Bankruptcy Procedure. The Reorganized Debtor shall become, on the Effective Date of the Plan, the exclusive representative of its Estate. Subject to the provisions of the Plan, but notwithstanding whether they are set forth in the Plan, on and after the Effective Date, the Estate shall retain and the Reorganized Debtor may enforce any and all rights, claims, causes of action, powers, privileges, licenses, and franchises of the Debtor or Estate, including all rights regarding tax determinations under 11 U.S.C. §505, all causes of action arising under the Plan and Title 11 of the United States Code.~~

M. Post-Confirmation Status Report

Within 60 days of the entry of the order confirming the Plan, or as otherwise ordered by the Court, Debtor shall file a status report with the Court explaining what progress has been made toward consummation of the confirmed Plan and payment of all unsecured creditors in full. The status report shall be served on the United States Trustee, the twenty largest unsecured creditors, and those parties who have requested special notice. Further status reports shall be filed every 120 days and served on the same entities~~Within 120 days of the entry of the order confirming the Plan, or as otherwise ordered by the Court, Debtor shall file a status report with the Court explaining what progress has been made toward consummation of the confirmed Plan. The status report shall be served on the United States Trustee, the twenty largest unsecured creditors, and those parties who have requested special notice. Further status reports shall be filed every 120 days and served on the same entities.~~

N. Quarterly Fees

1 Quarterly fees accruing under 28 U.S.C. §1930(a)(6) to date of
2 confirmation shall be paid by Debtor to the United States Trustee on or before the Effective Date
3 of the Plan. Quarterly fees accruing under 28 U.S.C. §1930(a)(6) after confirmation shall be
4 paid by Debtor to the United States Trustee in accordance with 28 U.S.C. §1930(a)(6) until entry
5 of a final decree, or entry of an order of dismissal or conversion to Chapter 7. Quarterly fees
6 ~~accruing under 28 U.S.C. §1930(a)(6) to date of confirmation shall be paid by the Receiver to the~~
7 ~~United States Trustee on or before the Effective Date of the Plan. Quarterly fees accruing under~~
8 ~~28 U.S.C. §1930(a)(6) after confirmation shall be paid by Debtor to the United States Trustee in~~
9 ~~accordance with 28 U.S.C. §1930(a)(6) until entry of a final decree, or entry of an order of~~
10 ~~dismissal or conversion to Chapter 7.~~

11 O. Post-Confirmation Conversion/Dismissal

12 A creditor or party in interest may bring a motion to convert or dismiss the case
13 under 11 U.S.C. § 1112(b), after the Plan is confirmed, if there is a default in performing any
14 material provisions of the Plan. If the Court orders the case converted to Chapter 7 after the Plan
15 is confirmed, then all property that had been property of the Chapter 11 Estate, and that has not
16 been disbursed pursuant to the Plan, will remain the property of the bankruptcy Estate subject to
17 administration by the Chapter 7 trustee. A creditor or party in interest may bring a motion to
18 ~~convert or dismiss the case under 11 U.S.C. § 1112(b), after the Plan is confirmed, if there is a~~
19 ~~default in performing any material provisions of the Plan. If the Court orders the case converted~~
20 ~~to Chapter 7 after the Plan is confirmed, then all property that had been property of the Chapter~~
21 ~~11 Estate, and that has not been disbursed pursuant to the Plan, will remain the property of the~~
22 ~~bankruptcy Estate subject to administration by the Chapter 7 trustee.~~

23 //

24 P. Final Decree

25 Once the Estate has been fully administered as referred to in Rule 3022 of the
26 Federal Rules of Bankruptcy Procedure, Debtor or other party as the Court shall designate in the
27 Plan Confirmation Order, shall file a motion with the Court to obtain a final decree to close the
28 case.

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DATED: ~~July~~ October 18, 2013 Respectfully submitted,

MARSHACK HAYS LLP

/s/ Sarah C. Boone

By: _____

D. EDWARD HAYS

SARAH C. BOONE

Attorneys for Debtor and Debtor-in-Possession,
1617 WESTCLIFF, LLC

DECLARATION OF GARY RETTIG

I, GARY RETTIG, declare as follows:

I am the President and sole shareholder of Rettig Portfolio, Inc., which is the corporate parent and sole member of 1617 Westcliff, LLC, Debtor and Debtor-in-Possession in this Chapter 11 Bankruptcy proceeding and proponent of the modified First Amended Chapter 11 Plan of Reorganization described in this Disclosure Statement. I have provided documents and information to my attorneys at Marshack Hays LLP, and assisted in preparing this Disclosure Statement. I have reviewed this Disclosure Statement, and I believe that its contents are accurate and complete.

This declaration is made in Newport Beach, California, on ~~July 1~~ October 18, 2013.

GARY RETTIG

PROOF OF SERVICE OF DOCUMENT

I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding. My business address is:
870 Roosevelt Avenue, Irvine, CA 92620

A true and correct copy of the foregoing document entitled (*specify*): **(REDLINED) DEBTOR'S PROPOSED DISCLOSURE STATEMENT DESCRIBING MODIFIED FIRST AMENDED CHAPTER 11 PLAN OF REORGANIZATION; AND DECLARATION OF GARY RETTIG IN SUPPORT** will be served or was served: **(a)** on the judge in chambers in the form and manner required by LBR 5005-2(d); and **(b)** in the manner stated below:

1. TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF): Pursuant to controlling General Orders and LBR, the foregoing document will be served by the court via NEF and hyperlink to the document. On **October 18, 2013**, I checked the CM/ECF docket for this bankruptcy case or adversary proceeding and determined that the following persons are on the Electronic Mail Notice List to receive NEF transmission at the email addresses stated below:

- ATTORNEY FOR DEBTOR: Sarah C Boone sboone@marshackhays.com, ecmarshackhays@gmail.com
- ATTORNEY FOR BURNHAM-WARD PROPERTIES: cdjang@rutan.com
- U.S. TRUSTEE: Michael J Hauser michael.hauser@usdoj.gov
- ATTORNEY FOR DEBTOR: D Edward Hays ehays@marshackhays.com, ecmarshackhays@gmail.com
- ATTORNEY FOR TORCHLIGHT LOAN SERVICES: Aron M Oliner roliner@duanemorris.com
- INTERESTED PARTY: Leonard M Shulman lshulman@shbllp.com
- U.S. TRUSTEE: United States Trustee (SA) ustpreion16.sa.ecf@usdoj.gov

☐ Service information continued on attached page

2. SERVED BY UNITED STATES MAIL:

On **October 18, 2013**, I served the following persons and/or entities at the last known addresses in this bankruptcy case or adversary proceeding by placing a true and correct copy thereof in a sealed envelope in the United States mail, first class, postage prepaid, and addressed as follows. Listing the judge here constitutes a declaration that mailing to the judge will be completed no later than 24 hours after the document is filed.

DEBTOR

1617 WESTCLIFF, LLC
2651 WAVERLY DRIVE
NEWPORT BEACH, CA 92663

NOTICE PURPOSES

SECURITIES EXCHANGE COMMISSION
5670 WILSHIRE BLVD.
11TH FLOOR
LOS ANGELES, CA 90036

☐ Service information continued on attached page

3. SERVED BY PERSONAL DELIVERY, OVERNIGHT MAIL, FACSIMILE TRANSMISSION OR EMAIL (state method for each person or entity served): Pursuant to F.R.Civ.P. 5 and/or controlling LBR, on (date) **October 18, 2013**, I served the following persons and/or entities by personal delivery, overnight mail service, or (for those who consented in writing to such service method), by facsimile transmission and/or email as follows. Listing the judge here constitutes a declaration that personal delivery on, or overnight mail to, the judge will be completed no later than 24 hours after the document is filed.

Via Personal Delivery:

Honorable Mark S. Wallace
United States Bankruptcy Court - Central District of California
411 West Fourth St., Suite 6135
Santa Ana, CA 92701-4593

☐ Service information continued on attached page

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

October 18, 2013

Date

Layla Bergini

Printed Name

/s/ Layla Bergini

Signature

This form is mandatory. It has been approved for use by the United States Bankruptcy Court for the Central District of California.