

UNITED STATES BANKRUPTCY COURT
DISTRICT OF COLORADO

In re

BIG SANDY HOLDING COMPANY.

Debtor.

Bankruptcy Case Nos. 12-30138-MER

Chapter 11

**DISCLOSURE STATEMENT FOR BIG SANDY HOLDING COMPANY'S
LIQUIDATING CHAPTER 11
PLAN OF REORGANIZATION**

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I. INTRODUCTION

A. Overview

1. The Purpose of the Disclosure Statement

Big Sandy Holding Company ("Big Sandy" or "Debtor"), submits this disclosure statement ("Disclosure Statement") to provide information allowing its creditors and shareholders to make an informed vote on Big Sandy Holding Company's Liquidating Chapter 11 Plan of Reorganization, attached hereto as **Exhibit A** (the "Plan"). This Disclosure Statement describes the Plan and explains the Debtor's views regarding: pre-bankruptcy operating and financial history; the events leading up to the commencement of the Debtor's Chapter 11 Case; and significant steps the Debtor has taken during the Chapter 11 Case to liquidate its assets..

Significant steps in this Chapter 11 case have already occurred, the sale of Big Sandy's primary asset, Mile High Banks (the "Bank"), and resolution of disputes related to ownership of a tax refund asserted due to losses in prior tax years (the "Tax Refund"). As a result, the Plan is fairly simple. The Plan provides for the liquidation of the Debtor's assets through a disinterested Plan Administrator appointed through the Plan. Subject to the rights of certain parties in interest to object to the allowance and/or priority of such claims as expressly set forth in the Plan, the Plan provides for the payment in full to holders of Allowed Administrative Claims and Allowed Priority Claims, and payment of available funds to general creditors after reserves for ongoing administration and any litigation. Once all the funds have been collected and before distribution from the Tax Refund can be made to Creditors, funds will be used to pay any Administrative Expense Claims and Professional Fees. Thereafter, Distributions from the Estate will be made pro rata to undisputed claims appearing on the claims register as of that time, subject to hold backs with respect to disputed claims. Funds potentially available for distribution include approximately \$1.3 million in cash on hand (less expenses and reserves) and up to \$6 million from the Tax Refund, if and when collected.

2. Brief Explanation of Chapter 11

Big Sandy filed a petition for Chapter 11 relief on September 27, 2012 (the "Petition Date"). In Chapter 11, a debtor may reorganize its business or liquidate its assets under the protection of the Bankruptcy Court. To facilitate this process, all efforts to collect prepetition claims from a debtor and any secured creditor's attempt to foreclose on or seize property of the debtor are stayed during the pendency of the proceeding. A debtor in Chapter 11 is authorized to maintain possession of its assets as a "debtor in possession" and operate its business in the ordinary course. Among powers that a debtor in possession may exercise subject to Bankruptcy Court approval, a debtor may sell assets free and clear of liens, it may borrow money on terms approved by Bankruptcy Court, and it may assume or reject leases and executory contracts.

A chapter 11 debtor's power to sell assets, subject to Bankruptcy Court approval under Bankruptcy Code section 363(b), extends to circumstances in which a sale may not be possible outside of bankruptcy supervision and protection. In this instance, Big Sandy effectuated the sale of its ownership interest in the Bank with Bankruptcy Court approval, notwithstanding state

corporate law which would have required a vote of shareholders and provisions in the debt documents which would have required approval of certain creditors. To obtain Bankruptcy Court approval, Big Sandy was required to demonstrate that the sale was an exercise of sound business judgment and in the best interest of creditors.

3. Debt Summary

As of September 25, 2012, the Debtor had outstanding unsecured indebtedness totaling approximately \$39,889,000 in principal and \$3,989,157 in interest, consisting of: (a) the issuance of \$10 million of junior subordinated debentures in June 2003 to a statutory trust that in turn issued its preferred securities, commonly known as Trust Preferred Securities or "TruPS," to investors; (b) the issuance of \$9 million of junior subordinated debentures in August 2003 to a statutory trust that in turn issued its TruPS to investors; (c) the issuance of \$10 million of junior subordinated debentures in August 2004 to a statutory trust that in turn issued its TruPS to investors (these three debt issuances are collectively referred to as the "TruPS Debt"); and (d) the issuance of \$10 million of junior subordinated debentures in April 2005 (together with the TruPS Debt, the "Junior Subordinated Debt"). Big Sandy does not have any trade debt.

Wells Fargo Bank, National Association ("Wells Fargo") acts as trustee of each of the statutory trusts created for the Junior Subordinated Debt. Direct ownership of the notes issued by the trusts is dispersed.

B. Disclaimers and Limitations

The information contained in this Disclosure Statement is included for purposes of soliciting acceptances of, and obtaining confirmation of, the Plan and may not be relied upon for any other purpose.

Creditors should note that amendments beneficial to one or more classes of claims without further impairment of other classes may be made to the Plan prior to confirmation. Amendments of that nature may be approved by the Bankruptcy Court at the confirmation hearing without re-solicitation of creditors and equity interest holders.

The descriptions of the Plan contained in this Disclosure Statement are summaries and are qualified in their entirety by reference to the Plan. Each creditor is encouraged to analyze the terms of the Plan carefully.

The statements contained in this Disclosure Statement are believed to be accurate as of the date of its filing unless another time is specified in the Disclosure Statement. They should not be construed as implying that there has been no change in the facts set forth since the date the Disclosure Statement was prepared and the materials relied upon in preparation of the Disclosure Statement were compiled. Counsel for the Debtor makes no representation as to the accuracy of the information contained in this Disclosure Statement.

This Disclosure Statement has been neither approved nor disapproved by the Securities and Exchange Commission (the "SEC") or any state securities regulator, and neither the SEC nor

any state securities regulator has passed upon the accuracy or adequacy of the statements contained in this Disclosure Statement.

C. Definitions

1. Defined Terms In the Plan

Various terms are defined in Article II of the Plan. These defined terms are also used in the Disclosure Statement and have the same meaning in this Disclosure Statement as set forth in the Plan.

2. Other Terms

The words “herein,” “hereof,” “hereto,” “hereunder,” and others of similar inference refer to the Disclosure Statement as a whole and not to any particular section, subsection, or clauses contained in the Disclosure Statement unless otherwise specified herein. A term used herein or elsewhere in the Disclosure Statement that is not defined herein or in the Plan shall have the meaning ascribed to that term, if any, in the Bankruptcy Code or the Bankruptcy Rules. The headings in the Plan are only for convenience of reference and shall not limit or otherwise affect the provisions of the Plan.

3. Exhibits

All exhibits to the Plan and Disclosure Statement are incorporated into and are a part of the Plan and Disclosure Statement as if set forth in full herein.

D. Classification and Treatment of Claims

Class	Status	Treatment under Plan	Estimated Range of Distribution
Class 1 (General Unsecured Claims)	Impaired	Pro rata distribution of Cash from the Estate.	3.25% to 18.25%%
Class 2 (Sub. Debt's Unsecured Claims)	Impaired	Pro rata distribution of Cash from the Estate.	3.25% to 18.25%%
Class 3 (TruPS Unsecured Claims)	Impaired	Pro rata distribution of Cash from the Estate.	3.25% to 18.25%%
Class 4 (Equity Interests)	Impaired	Class 4 Equity Interests shall be cancelled and shall not receive anything under this Plan.	0%

The estimated Distributions set forth above are based upon the Debtor’s estimates of the Allowed Claims in each class, and the amount of Cash it will have upon receipt of the Federal Tax Refund, if any, and the assumption of equality in priority of distribution among Classes 1, 2 and 3 under the Plan. There is no guaranty that each Class will receive the distribution estimate above.

E. Parties Entitled to Vote on the Plan

Under the provisions of the Bankruptcy Code, not all parties in interest are entitled to vote on the Chapter 11 Plan. Creditors whose Claims are not impaired by the Plan are deemed to accept the Plan under Bankruptcy Code § 1126(f) and are not entitled to vote. Further, a Holder of Claim or Interest that does not receive or retain any property under the Plan on account of such Claims or Interests is deemed to reject the Plan under Bankruptcy Code § 1126(g). Under the Plan, the Holders of Claims or Interests in Classes 1, 2 and 3 are entitled to vote on the Plan. Classes 4 is deemed to reject the Plan.

F. Voting Procedures, Confirmation Hearing, and Cramdown

1. Classified Claims and Interests

After approval of the Disclosure Statement by the Bankruptcy Court, certain Creditors will have an opportunity to vote on the Plan. Voting will be by class as set forth in the Plan and described later in this Disclosure Statement. For classes containing more than one Claim or Interest, a class is deemed to have accepted the Plan if at least one-half of the Creditors in number holding at least two-thirds of the aggregate amount of Claims voting elect to accept the Plan.

If you are entitled to vote to accept or reject the Plan, a Ballot is enclosed for the purpose of voting on the Plan. After carefully reviewing the Plan, this Disclosure Statement, and the detailed instructions accompanying your Ballot, please indicate your acceptance or rejection of the Plan by voting in favor of or against the Plan. **For your vote to be counted, you must complete and sign your original Ballot and return it by x:xx p.m. on _____, 2013, which is the last date set by the Court to vote on the Plan.**

2. Confirmation Hearing

The Bankruptcy Court has set a hearing on Confirmation of the Plan and to consider objections to Confirmation, if any, for _____, 2013, at x:xx p.m. The Confirmation hearing will be held in Courtroom _____, Byron G. Rogers U.S. Courthouse, 1929 Stout Street, Denver, Colorado. At the hearing, the Bankruptcy Court will consider whether the Plan satisfies the requirements of the Bankruptcy Code.

3. Cramdown

If any class of Claims or Interests fails to accept the Plan, the Bankruptcy Court may confirm the Plan in accordance with Bankruptcy Code § 1129(b) on the basis that the Plan is fair and equitable and does not discriminate unfairly with respect to any nonaccepting, impaired Class. Because Classes 4 Equity Interests are deemed to reject the Plan under Bankruptcy Code § 1126(f), the Debtor is seeking confirmation of the Plan pursuant to Bankruptcy Code § 1129(b).

G. Effect of Confirmation of the Plan

Confirmation of the Plan makes the Plan and its provisions binding on the Debtor, all Creditors, including TruPS Unsecured Claims, and all Holders of Equity Interests, and other parties in interest, regardless of whether they have accepted or rejected the Plan. As a result, Creditors may receive payment on their claims only in accordance with the Plan. If confirmed, the estimated Effective Date of the Plan will be the day on which the Bankruptcy Court enters the Confirmation Order, unless such order is the subject of a stay by the Bankruptcy Court.

H. Approval of the Disclosure Statement

A decision by the Bankruptcy Court to approve this Disclosure Statement under Bankruptcy Code § 1125 is a finding that the Disclosure Statement contains information of a kind and in sufficient detail to enable a reasonable, hypothetical investor typical of holders of impaired claims to make an informed judgment about the Plan and is not a recommendation by the Bankruptcy Court either for or against the Plan.

II. HISTORY AND ORGANIZATION OF THE DEBTOR

A. History of the Debtor's Business

Big Sandy is a Colorado corporation and, prior to the sale described above, was the holding company for the Bank, which was Big Sandy's primary asset. The Bank is a Colorado state chartered bank whose deposits are insured by the FDIC. The Bank operates solely in Colorado. While owned by Big Sandy the Bank accepted deposits from and provided loans to approximately 20,000 customers throughout Colorado. The Bank's primary presence was in selected Front Range Colorado communities and in Limon, Colorado. As of the Petition, the Debtor and the Bank collectively had approximately 89 employees across the Bank's 13 locations; Big Sandy had no employees who were not also employed by the Bank. The Bank's loans were typical for a community bank operating in the Front Range area of Colorado, primarily loans secured by real estate, business loans, and loans to consumers. The Bank also offered deposit accounts to consumer and business customers, including checking accounts, money market demand accounts, and savings accounts.

B. Events Leading to Commencement of the Chapter 11 Case

Like many banks with primary operations in Colorado, the success and stability of the Bank's loan portfolio was dependent upon the real estate market in Colorado. As a result, the Bank was impacted by the nationwide housing and financial crises over the past several years, including tumbling home prices, soaring loan defaults, and high unemployment rates. Since the beginning of 2008, there have been over 450 bank failures in the United States and Colorado experienced a disproportionately high number of bank failures.

1. Regulatory Actions

The Federal Deposit Insurance Act of 1950, as amended, (the "FDIA") and FDIC regulations identify five capital categories for banking institutions — well-capitalized, adequately capitalized, undercapitalized, significantly undercapitalized, and critically undercapitalized. In 2011, the FDIC notified the Bank that it was "undercapitalized," as that

term is defined in Section 38 of the FDIA, 12 U.S.C. § 1831o. As such, the Bank was required to submit a capital restoration plan (the “Capital Restoration Plan”), and it became subject to a wide range of restrictions relating to its operations.

The Bank submitted a Capital Restoration Plan to the FDIC. The Capital Restoration Plan outlined sources of new capital, merger opportunities, and recapitalization initiatives for outright sales. The FDIC required the Bank to resubmit a Capital Restoration Plan specifying (i) steps the Bank will take to become adequately capitalized, (ii) the levels of capital to be attained during each year in which the Capital Restoration Plan shall be in effect, (iii) how the Bank will comply with the restrictions or requirements then in effect under § 38(e)(2)(B) of the BHC Act, and (iv) types and levels of activities in which the Bank will engage.

Big Sandy and the Bank submitted revised capital restoration plan (the “Revised Capital Restoration Plan”), outlining sources of new capital, merger opportunities, and recapitalization initiatives for outright sales. In the fall of 2011, the Bank became “significantly undercapitalized,” as that term is defined in section 38 of the FDIA, 12 U.S.C. § 1831. In December 1, 2011, the FDIC issued a Supervisory Prompt Corrective Action Directive (the “Regulatory Order”). The Regulatory Order stated that the Bank’s capital condition had deteriorated from “undercapitalized” to “significantly undercapitalized,” as that term is defined in section 38 of the FDIA, 12 U.S.C. § 1831, and required the Bank to, among other things, recapitalize within 30 days of receipt or, in the event the Bank was unable to do so, immediately take any necessary action resulting in the acquisition of the Bank by another insured depository institution holding company or the merger of the Bank with another insured depository institution.

The Bank and Big Sandy were unable to comply with the important terms requiring the recapitalization or sale of the Bank. Full satisfaction of the Regulatory Order ultimately depended on raising a significant amount of additional capital. Accordingly, the Bank and Big Sandy determined that recapitalization of the Bank was the only path for restoring the Bank to financial viability on an ongoing basis.

2. The Company’s Efforts to Recapitalize

The regulatory actions described above took place as Big Sandy tried to buttress its capital, which efforts were largely unsuccessful. In May, 2009, the Company withdrew its application under the Troubled Asset Relief Program due to the Bank’s inability to qualify for the program. In May, 2009, the Company also sent letters to Holders of the TruPS declaring a deferral of interest payments on the TruPS Debt. On January 20, 2010, the Company issued a Private Placement Memorandum, but received insufficient capital to reach the required capital levels from that memorandum. As part of its effort to comply with the terms of the Regulatory Order, Big Sandy retained Keefe, Bruyette & Woods (“KBW”) on February 25, 2011, to assess the feasibility of raising capital sufficient to meet the Bank’s regulatory requirements and to allow the Company the ability to execute its own strategic plan. From February 2011 to June 2011, KBW reviewed the financial condition of the company, met with various members of the management team, helped the Company establish a virtual data room for prospective investors and maintained that site on behalf of the Company. No parties executed a non-disclosure

agreement to enter into meaningful discussions regarding the recapitalization of the Company.

In addition to the efforts of KBW, the Company contacted certain investors and had discussions with certain banks and bank holding companies regarding the sale of branches, deposits and loans. As a result of these discussions, on June 15, 2011, KBW, the Company and the Bank agreed to enter into a new agreement to broaden KBW's role as advisor to the Big Sandy and the Bank. The revised engagement letter called for KBW to advise the Company and the Bank on the possible sale of or the possible sale of significant assets of the Company, including the sale of the Bank. None of these discussions led to any transaction due to the inability of the possible buyers to raise capital sufficient to execute a transaction.

In early August 2011, Big Sandy directed KBW to contact other banks and bank holding companies to gauge how many parties would be interested in acquiring the Big Sandy or the Bank in a controlled sale. After a period of due diligence, one interested party expressed an interest in assessing a possible transaction, but the party was not willing to provide Big Sandy with a preliminary merger proposal. Prompted by additional loan losses in the first quarter or second quarter of 2012 and by previously identified potentially interested parties that indicated interest in an outright sale of the Bank, the Debtor decided to investigate and pursue a transaction whereby it would sell its interest in the Bank as part of a process under section 363 of the Bankruptcy Code in order to effectuate a recapitalization of the Bank to meet capital directives set forth in the Bank's Regulatory Order. During the course of its engagements, KBW contacted over 70 potential investors and strategic partners and received executed non-disclosure agreements from 17 parties, including the eventual purchaser.

3. Voluntary Chapter 11 Filing

In order to create process certainty for the sale of its assets, the Debtor filed a voluntary petition for Chapter 11 relief on September 27, 2012 commencing Case No. 12-30138-MER (the "Chapter 11 Case").

C. Events During Chapter 11 Case

1. General Matters

In the Chapter 11 Case, the Debtor has liquidated its assets and exercised the powers and duties of a trustee pursuant to the Bankruptcy Code. On the first day of its Chapter 11 Case, Debtor filed several motions, including a motion for DIP financing along with a motion to approve sale of the Bank, that would, in the Debtor's view, enable the Debtor to quickly effectuate the sale of the Bank's capital stock and ensure compliance with regulatory requirements.

2. Employment of Professionals

The Debtor retained Brownstein Hyatt Farber Schreck, LLP as its general bankruptcy counsel and Jones & Keller, P.C. as Special Regulatory Counsel in order for Debtor to carry out its duties as a debtor in possession. Additionally, Debtor retained McAdams Wright Ragen, Inc.

("MWR") pursuant to sections 327 and 328(a) and Fed. R. Bankr. P. 2014(e), as the Debtor's financial advisor.

3. Sale of Bank Stock

After its efforts to recapitalize the Bank and ensure regulatory compliance, Big Sandy believed that an expedited sale of the Bank's Shares at the best possible price, with the Purchaser's commitment to concurrently recapitalize the Bank, was the best way to protect values for the benefit of the Debtor's creditors and other stakeholders.

On October 26, 2012, the Bankruptcy Court entered its order approving the bid procedures. A competing bid was received and the Debtor conducted an auction of the Debtor's stock in the Bank on November 29, 2013. The revised and improved bid of Strategic Growth Bancorp, Inc. ("SGB"), the stalking horse bidder, was determined to be the successful bid, and a written settlement agreement reached among SGB, the Debtor and the creditor representatives. The settlement agreement, as amended, provided for the Debtor to receive 6/17th of the first seventeen million dollars collected on the Tax Refund.

The Court entered a final order approving the Sale on December 7, 2012 (Dkt. # 112). Pursuant to the authority granted to the Debtor under the orders, the Debtor sold its entire equity ownership, generating Cash for the Estate.

4. Post-Sale Management Changes.

Prior to the Petition Date and through consummation of the sale of the Bank, Big Sandy's chief executive officer was Mr. Dan Allen. Big Sandy's board consisted of shareholders and people prominent in the communities served by the Bank. After consummation of the sale, the majority of Big Sandy's board of directors resigned. Mr. Allen then resigned as chief executive officer but remained on the board of directors.

Since April 2103, Big Sandy's chief executive officer has been Mr. Thomas M. Kim. Mr. Kim has extensive experience in turnarounds and workouts, and is very familiar with the bankruptcy process. Mr. Kim also sits on Big Sandy's board. Messrs. Allen and Kim are the sole board members at this time. Pursuant to Section 8.04 of the Plan, the Plan Administrator shall have the powers of sole shareholder, sole director and sole officer from and after the Effective Date, and Mr. Thomas M. Kim shall act as a consultant to the Plan Administrator.

III. DESCRIPTION OF THE PLAN

A. Description of the Plan and Means of Implementation

The entire text of the Plan has been provided with this Disclosure Statement, and a general overview of the Plan is provided in Article I. The following is a brief summary of certain provisions of the Plan; however, this summary is not comprehensive. The Plan and not the Disclosure Statement is the legally operative document that controls the relationship between the Debtor and its Creditors. Therefore, the Plan should be read carefully and independently of this Disclosure Statement. Creditors are urged to consult

with counsel and other professionals in order to fully resolve any questions concerning the Plan.

B. Plan Administrator

The Debtor's assets will remain in the estate and shall be administered by the Plan Administrator, Kenneth L. Tepper. The Plan Administrator is discussed in Article IV of this Disclosure Statement.

C. Treatment of Claims and Equity Interests

The Plan provides claims will be treated based upon their type, as follows:

1. Tax Claims

Except to the extent any entity entitled to payment of any Allowed Tax Claim has received payment on account of such Claim prior to the Effective Date, each Holder of an Allowed Tax Claim shall be paid in full on the Effective Date, unless such Holder of an Allowed Tax Claim agrees to different treatment.

[The Debtor anticipates no material Tax Claims Proofs of Claim have been filed by the Internal Revenue Service in the amount of [\$3,150,100.00], and by the Arapahoe County, Colorado Treasurer in the amount of [\$39,315.04]. The proof of claim filed by the Internal Revenue Service is based upon estimates. Big Sandy believes it is entitled to a sizable refund (discussed elsewhere in this Disclosure Statement) and the Internal Revenue Service should have to net Tax Claim.

2. Professional Fees

All Professionals seeking payment of Professional Fees shall provide to the Debtor, on or before the date that is 15 days after the Confirmation Order is entered, an estimate of fees through and including the Effective Date. An amount equal to the total of all such fee estimations combined shall be withheld until approval of their respective final fee applications, which applications shall be filed on or before the date that is 28 days after the Effective Date. The Professional Fees shall be paid from Cash on hand.

The following is a table of the Professional fees estimated to be unpaid as of the Effective Date:

Professional	Services Provided	Amount of Fees
Brownstein Hyatt Farber Schreck, LLP	Debtor's Bankruptcy Counsel	\$25,000
McAdams Wright Ragen, Inc.	Debtor's Financial Advisor	\$0
Jones & Keller	Special Counsel (Reg. Matters)	\$0

Seward & Kissell LLP	Substantial Contribution as Attorney for Certain Creditors	\$45,318.13
Brown Legal Advisors, LLC	Substantial Contribution as Attorney for Certain Creditors	\$45,840.00

3. Statutory Fees

On the Effective Date, the Debtor shall make all payments required to be paid to the U.S. Trustee pursuant to § 1930 of Title 28 of the United States Code. All fees payable pursuant to § 1930 of Title 28 of the United States Code after the Effective Date shall be paid on a quarterly basis until the Chapter 11 Case is closed, converted, or dismissed.

4. Classified Claims

The remaining Claims and Equity Interests are divided into 4 Classes.

Class 1: General Unsecured Claims.

a. Distributions to Holders of Allowed Class 1 Claims shall be made by the Plan Administrator. Subject to Order of the Bankruptcy Court determining different priorities pursuant to Section 6.03 of the Plan, Holders of Allowed Class 1 Claims shall receive their *pro rata* share of the distributions based upon the total amount of all Allowed and Disputed Class 1 Claims pending at the time of such Distribution. No Distribution shall be made in respect of any Disputed Class 1 Claim. The *pro rata* portion of the funds applicable to each Disputed Class 1 Claim shall be withheld unless and until such Claim becomes an Allowed Claim. The *pro rata* portion of the funds withheld in respect of any Disputed Class 1 Claim which is subsequently Disallowed shall be distributed on Allowed Class 1 Claims as provided in Section 5.01 of the Plan.

b. The Plan Administrator shall make subsequent Distributions to Holders of Allowed Class 1 Claims to the extent there are sufficient funds available which are not required to be withheld for Disputed Claims. Subsequent Distributions will be made first to Holders of Disputed Class 1 Claims that have become Allowed Claims until they have received the same percentage on their claims as other Allowed Claims and then *pro rata* to all Holders of Allowed Class 1 Claims.

c. The Plan Administrator shall continue to make Distributions to Class 1 Claims until all Allowed Class 1 Claims have been paid in full or until a final decree has entered in the Chapter 11 case.

Class 2: Subordinated Debt Claims.

a. Distributions to Holders of Allowed Class 2 Claims shall be made by the Plan Administrator. Subject to Order of the Bankruptcy Court determining different priorities pursuant to Section 6.03 of the Plan, Holders of Allowed Class 2 Claims shall receive

their *pro rata* share of the distributions from the remaining funds based upon the total amount of all Allowed and Disputed Class 1, 2 and 3 Claims pending at the time of such Distribution. No Distribution shall be made in respect of any Disputed Class 2 Claim. The *pro rata* portion of the funds applicable to each Disputed Class 2 Claim shall be withheld unless and until such Claim becomes an Allowed Claim. The *pro rata* portion of the funds withheld in respect of any Disputed Class 2 Claim which is subsequently Disallowed shall be distributed on Allowed Class 2 Claims as provided in Section 5.02 of the Plan.

b. The Plan Administrator shall make subsequent Distributions to Holders of Allowed Class 2 Claims to the extent there are sufficient funds available which are not required to be withheld for Disputed Claims. Subsequent Distributions will be made first to Holders of Disputed Class 2 Claims that have become Allowed Claims until they have received the same percentage on their claims as other Allowed Claims and then *pro rata* to all Holders of Allowed Class 2 Claims.

c. The Plan Administrator shall continue to make Distributions to Class 2 Claims until all Allowed Class 2 Claims have been paid in full or until a final decree has entered in the Chapter 11 case.

Class 3: TruPS Unsecured Claim.

d. Distributions to Holders of Allowed Class 3 Claims shall be made by the Plan Administrator. Subject to Order of the Bankruptcy Court determining different priorities pursuant to Section 6.03 of the Plan, Holders of Allowed Class 3 Claims shall receive their *pro rata* share of the distributions from the remaining funds based upon the total amount of all Allowed and Disputed Class 1, 2 and 3 Claims pending at the time of such Distribution. No Distribution shall be made in respect of any Disputed Class 3 Claim. The *pro rata* portion of the funds applicable to each Disputed Class 3 Claim shall be withheld unless and until such Claim becomes an Allowed Claim. The *pro rata* portion of the funds withheld in respect of any Disputed Class 3 Claim which is subsequently Disallowed shall be distributed on Allowed Class 3 Claims as provided in Section 5.02 of the Plan.

e. The Plan Administrator shall make subsequent Distributions to Holders of Allowed Class 3 Claims to the extent there are sufficient funds available which are not required to be withheld for Disputed Claims. Subsequent Distributions will be made first to Holders of Disputed Class 3 Claims that have become Allowed Claims until they have received the same percentage on their claims as other Allowed Claims and then *pro rata* to all Holders of Allowed Class 3 Claims.

f. The Plan Administrator shall continue to make Distributions to Class 3 Claims until all Allowed Class 3 Claims have been paid in full or until a final decree has entered in the Chapter 11 case.

Class 4: Equity Interests. Class 4 Equity Interests shall be cancelled and shall not receive anything under the Plan.

D. Relative Payment Priorities of Class 1, 2 and 3

The Subordinated Debt Documents and the TruPs Documents contain provisions subordinating the right to payment in respect of claims in Classes 2 and 3 to senior indebtedness, as defined in each of the relevant sets of documents. Pursuant to Bankruptcy Code section 510(a), subordination agreements are enforceable in bankruptcy cases. Nevertheless, operation of these provisions as to payment priorities in the case is not without doubt. General unsecured creditors may contend that their claims fall within the definitions of senior indebtedness in the relevant documents, but the holders of Class 2 and 3 Claims would contest that. In addition, the various subordination provisions in the Subordinated Debt Documents and TruPs Documents could give rise to disputes between Class 2 and Class 3 creditors as to the relative priority among such claims.

The Plan proposes that Classes 1, 2 and 3 receive distributions *pari passu*, notwithstanding possible operation of or various interpretations of the subordination provisions in the Subordinated Debt Documents and TruPs Documents. Pursuant to Section 6.03 of the Plan, the Bankruptcy Court may order a different priority prior to confirmation of the Plan based upon interpretation of the documents. If the Bankruptcy Court orders a different priority, the Plan Administrator will make distributions in accordance with the ordered priority without modification to the Plan.

E. Executory Contracts and Unexpired Leases

1. Assumption or Rejection of Executory Contracts and Unexpired Leases.

Pursuant to Bankruptcy Code §§ 365(a) and 1123(b)(2), all executory contracts and unexpired leases that exist between the Debtor and any party that have not been previously assumed pursuant to an order of the Bankruptcy Court shall be deemed rejected on the Effective Date.

2. Claims Based on Rejection of Executory Contracts or Unexpired Leases.

With respect to Claims arising from the rejection of executory contracts or unexpired leases pursuant to Section 7.01 of the Plan, the bar date to file Proofs of Claim in this Case shall be reopened for a period of 28 days after the Effective Date and all such Proofs of Claim must be filed with the Bankruptcy Court during that time. Any Claim arising from the rejection of an executory contract or unexpired lease pursuant to Section 7.01 of the Plan for which a Proof of Claim is not timely filed within that time period shall be forever barred from assertion against the Estate, its successors and assigns, or its assets and properties, unless otherwise ordered by the Bankruptcy Court or as otherwise provided herein.

F. Sources of Information for Disclosure Statement; Financial Reporting

Substantially all of the factual information utilized in this Disclosure Statement, including but not limited to the amount of Claims, was obtained from information provided by the Debtor's books, records, monthly operating reports, and Schedules and the claims register.

G. Anticipated Litigation

The Plan Administrator has the sole discretion and authority to investigate, prosecute, compromise, settle, discontinue, abandon, dismiss, or otherwise resolve such Reserved Causes of Action for the benefit of the Estate as representative of the Estate pursuant to Bankruptcy Code § 1123(b).

H. Feasibility and Distributions to Creditors

The Bankruptcy Code requires that a debtor demonstrate that confirmation of a plan is not likely to be followed by liquidation or the need for further financial reorganization unless the plan calls for liquidation. This Plan calls for the liquidation of the Debtor and is, therefore, by definition feasible. The Debtor has analyzed its ability to meet its obligations under the Plan. Based upon the Debtor's current Cash on hand and its projection of Cash from the Federal Tax Refund, the Debtor will be able to make all payments required under the Plan for Administrative Expense Claims and Tax Claims and distribute the remaining funds to Allowed Class 1, 2 and 3 Claims based on pro rata share. Accordingly, the Debtor believes that the Plan satisfies the feasibility requirement of the Bankruptcy Code.

I. Federal Income Tax Consequences to Creditors

1. In General

Any tax advice contained in this Disclosure Statement is not intended or written to be used, and cannot be used, by any taxpayer for the purpose of avoiding tax-related penalties under the Internal Revenue Code of 1986, as amended. Any tax advice contained in this Disclosure Statement was written to support the promotion of the transactions described in this Disclosure Statement.

The following discussion is not intended as a substitute for professional tax advice, including the evaluation of recently enacted and pending legislation, since recent changes in the federal income taxation of reorganizations under the Bankruptcy Code are complex and lack authoritative interpretation. The Debtor has not received, nor will it request, a ruling from the IRS as to any of the tax consequences of the Plan with respect to holders of Claims. The Debtor assumes no responsibility for the tax effect that Confirmation and receipt of any distribution under the Plan may have on any given creditor or other party in interest. The brevity of the following discussion requires omission of matters that might affect one or more Holders of Claims against the Debtor depending upon their circumstances. **Accordingly, the Debtor recommends that Creditors and other parties in interest consult with their own tax advisors concerning the federal, state and local tax consequences of the Plan.**

Creditors may be required to report income or may be entitled to a deduction as a result of implementation of the Plan.

To the extent a Creditor receives, or expects to receive, less pursuant to the Plan than the Creditor's basis in the claim to which such amount relates, the Creditor may be permitted to claim a bad debt deduction. The amount, timing and character of the deduction will depend,

among other things, upon the Creditor's tax accounting method for bad debts, the Creditor's tax status, the nature of the Creditor's claim, whether the creditor receives consideration in more than one year, and whether the creditor has previously taken a bad debt deduction or worthless security deduction with respect to the Creditor's claim. If the debt is not business related, a deduction is only available if the debt is worthless. A cash basis taxpayer can deduct a bad debt only if an actual cash loss has been sustained or if the amount deducted was included in income. All accrual-basis taxpayers must use the specific charge-off method to deduct business bad debts.

To the extent that a Creditor receives payment pursuant to the Plan in an amount in excess of the creditor's adjusted tax basis in the claim to which payment relates, the excess will be treated as income or gain to the creditor. A Creditor not previously required to include in its taxable income any accrued but unpaid interest on a claim may be treated as receiving taxable interest, to the extent the amount it receives pursuant to the Plan is allocable to such accrued but unpaid interest. A Creditor previously required to include in its taxable income any accrued but unpaid interest on a claim may be entitled to recognize a deductible loss, to the extent the amount of interest actually received by the creditor is less than the amount of interest taken into income by the creditor.

IV. INFORMATION REGARDING PLAN ADMINISTRATOR AND OTHER MATTERS

A. Identity of Plan Administrator

The Debtor's assets will remain in the estate and shall be administered by the Plan Administrator, Kenneth L. Tepper, who will be compensated at the rate of \$7,500 per month plus expenses. A copy of Mr. Tepper's *curriculum vitae* is attached at **Exhibit B**.

The Debtor proposes Mr. Tepper as proposed Plan Administrator based upon his extensive qualifications and experience, upon the recommendation of certain creditors who recommended that the Debtor consider Mr. Tepper; and after Mr. Tepper interviewed with the Debtor's current board of directors. Mr. Tepper is chief executive officer of Kildare Financial Group, Inc. Mr. Tepper currently serves as Liquidation Trustee for Guaranty Financial, Inc., a former bank holding company (Guaranty Bank) and which is a debtor in a case pending in the United States Bankruptcy Court for the Northern District of Texas. Over the course of a career spanning over 25 years, Mr. Tepper has held positions with the FDIC (and dealt with them in a professional capacity), he has served as a bank officer, and president of a bank holding company, among other things.

Mr. Tepper will be assisted by Thomas M. Kim, current chief executive officer of the Debtor, who will be compensated at the rate of \$10,000 per month for the term during which Mr. Kim serves.

B. Powers of Plan Administrator

1. Causes of Action

Except as otherwise provided in the Plan, as of the Effective Date, the Plan Administrator shall have the sole discretion and authority to investigate, prosecute, compromise, settle, discontinue, abandon, dismiss, or otherwise resolve claims and causes of action of any kind for the benefit of the Estate pursuant to Bankruptcy Code § 1123(b). The Plan Administrator may use the cash of the Debtor for the investigation and, in his discretion, prosecution of such claims. Further, on and after the Effective Date, the Plan Administrator shall have the authority to compromise, settle, discontinue, abandon, dismiss, or otherwise resolve all claims or causes of action as representative of the Estate pursuant to Bankruptcy Code § 1123(b) when the proposed settlement amount is to be less than \$25,000 without notice and a hearing and without an order of the Bankruptcy Court. All other settlements shall be subject to notice and a hearing pursuant to Bankruptcy Code § 102(1) and a Final Order of the Bankruptcy Court approving the settlement.

2. Duties and Authority of the Plan Administrator

The Plan Administrator shall have the authority and duties set forth in Section 8.02 of the Plan. These powers include:

- i. To take control of, preserve, and convert to Cash property of the Estate, subject to the terms of this Plan;
- ii. To investigate and prosecute or abandon all Causes of Action belonging to or assertible by the Estate, including all Avoidance Claims;
- iii. To review and object to Claims filed against the Debtor;
- iv. To compromise all disputes, including all Causes of Action, Avoidance Claims and Objections to Claims;
- v. To make distributions on account of all Allowed Claims consistent with the terms of this Plan;
- vi. To retain persons and professionals to assist in carrying out the powers and duties enumerated pursuant to this Plan;
- vii. To enter into contracts as necessary to assist in carrying out the powers and duties enumerated pursuant to this Plan;
- viii. To hire employees and/or terminate current employees of the Debtor;
- ix. To pay expenses incurred in carrying out the powers and duties enumerated pursuant to this Plan, including professional fees incurred after the Effective Date;
- x. To take all necessary actions to assure that the corporate existence of the Debtor remains in good standing until entry of a final decree closing the Chapter 11 Case;
- xi. To open and maintain bank accounts and deposit funds and draw checks and make disbursements in accordance with the Plan;

xii. In general, without in any manner limiting any of the foregoing, to deal with the assets of the Estate or any part or parts thereof in all other ways as would be lawful for any person owning the same to deal therewith; provided, however, that the investment powers of the Debtor, other than those reasonably necessary to maintain the value of the Debtor's assets and to further the liquidating purpose, are limited to the power to invest in demand and time deposits, such as short term certificates of deposit, in banks and other savings institutions, or other temporary, liquid investments, such as United States Treasury Bills;

xiii. At the appropriate time, to ask the Bankruptcy Court to enter the final decree.

C. Objections to Claims and Settlements:

After the Effective Date, Objections to Claims may be made, and Objections to Claims made previous thereto shall be pursued, by the Debtor pursuant to Bankruptcy Code § 1123(b). Further, the Plan Administrator may settle any Disputed Claim where the proposed Allowed Claim is to be less than \$25,000 without notice and a hearing and without an order of the Bankruptcy Court. All other settlements shall be subject to notice and a hearing pursuant to Bankruptcy § 102(1) and a Final Order of the Bankruptcy Court approving the settlement.

The Debtor will request that the Bankruptcy Court, via the Confirmation Order or a separate order, set a bar date of [XX] days after the Effective Date for Holders of Claims to file proofs of claim, and will mail notice of such bar date to Creditors pursuant to the Bankruptcy Rules.

D. Other Provisions

Creditors and other parties in interest are directed to the Plan with respect to the provisions that are not specifically discussed in this Disclosure Statement.

V. POTENTIAL SOURCES OF PAYMENT TO CREDITORS

A. Cash

The Debtor anticipates having \$1.3 million in cash on hand as of the Effective Date. A portion of this cash will be used for post-confirmation expenses and professional fees. The Plan Administrator has discretion to distribute some or all cash on hand at any time he deems appropriate.

B. Tax Refund

Big Sandy and the Bank filed consolidated federal income tax returns prior to sale of the Bank to SGB. Prior to commencement of this Chapter 11 case, they filed amended returns for several years seeking refunds of approximately \$22 million in the aggregate. Of this sum, all but approximately \$500,000 was attributable to losses incurred by the Bank, the remainder being Big Sandy losses. The Bank carried the anticipated refund on its balance sheet presented to regulatory agencies.

Disputes over ownership of the Tax Refund between Big Sandy and the Bank were settled pursuant to the agreements reached with SGB in connection with the sale. Pursuant to the agreement, Big Sandy will receive 6/17 of the first \$17 millions in tax refund collected (after accounting for expenses). Assuming the Tax Refund is at least \$17 million (plus expenses), Big Sandy creditors will receive \$6 million. If the Tax Refund is less, Big Sandy's recovery will be less accordingly.

The Internal Revenue Service is currently examining the claimed refund. The examination requires inquiry into the status and value of loans carried on the Bank's books at particular points in time. If the IRS approves a refund, such refund will be subject to review by the Congressional Joint Committee on Taxation. Disputes over the Tax Refund may need to be litigated. The Debtor does not have a reliable estimate as to the time required, but the process could take a year or more.

The Plan provides for pursuit of the Tax Refund by Big Sandy, as Big Sandy is the taxpayer. The Bank will advance costs associated with the pursuit, subject to reimbursement from the first dollars recovered. Big Sandy may not settle or compromise the Tax Refund without consent of the Bank.

C. Litigation Recoveries

The Plan also provides that any recoveries from litigation could be available to supplement returns to creditors under the Plan. Pursuit and settlement of litigation will be in the discretion of the Plan Administrator. The Debtor (and Plan Administrator) have not completed analysis of potential claims, and no recoveries have been assumed for purposes of estimates of recovery.

VI. RISK FACTORS

As with any plan or other financial transaction, there are certain risk factors which must be considered. It should be noted that all risk factors cannot be anticipated, that some events will develop in ways that were not foreseen and that many or all of the assumptions that have been used in connection with this Disclosure Statement and the Plan will not be realized exactly as assumed. Some or all of such variations may be material. While every effort has been made to be reasonable in this regard, there can be no assurance that subsequent events will bear out the analysis set forth herein. Not all possible risks can be, or are discussed in this Disclosure Statement. Under the Plan, some of the principal risk that Holders of Claims should be aware of, in the Debtor's view, are as follows:

- Bankruptcy Code Order Regarding Priorities. As discussed in Article III above, the Plan proposes to distribute funds *pari passu* among creditors in Classes 1, 2 and 3, but also provides that the Bankruptcy Court may order a different priority. If the Bankruptcy Court orders a different priority of distribution, some creditors may receive a greater distribution than estimated, while others receive no distribution at all.

- Amount and Timing of Tax Refund. As discussed in Article V(B) of this Disclosure Statement, the amount and timing of the Tax Refund are subject to factors outside the control of the Debtor or Plan Administrator. Disputes over the amount, or delay in completion of the review, could reduce or delay distributions to creditors.
- Uncertainties Related to Litigation – As described above, the Plan Administrator has the authority to pursue all of the Debtor’s potential causes of action. The Plan Administrator may elect to pursue no litigation. Alternatively, the Plan Administrator may pursue litigation and be unsuccessful. Because litigation expenses are not capped under this Plan, expenses associated with unsuccessful litigation could reduce recoveries. The estimates of payout to creditors do not assume any litigation recoveries.
- Dilution of Distributions Based on Allowed Claims – No final determination has been made as to which Claims will be Disputed Claims, and it is possible that the number of Disputed Claims may be material and that the amounts allowed in respect of such Disputed Claims may be materially in excess of the estimates of Allowed Claims used to develop the Plan and this Disclosure Statement. The Holders of Allowed Claims are subject to the risk of dilution if the amount of actual Allowed Claims exceeds such estimates. Accordingly, distributions to the Holders of Allowed Claims are at risk of being adversely affected by the total amount of Allowed Claims.
- Costs of Administering the Estate - The disbursement of the proceeds of any Litigation Recoveries will require certain administrative costs that may vary based on a variety of factors. Such administrative costs cannot be predicted with certainty and will be paid from cash on hand. Accordingly, such expenses may affect recoveries under the Plan.

VII. ALTERNATIVES AND POTENTIAL PLAN RECOVERY

A. Chapter 7 Liquidation

An alternative to confirmation of the Plan would be liquidation of the Debtor’s assets by a trustee appointed in a case under Chapter 7 of the Bankruptcy Code. The Chapter 7 trustee would make all of his own decisions with respect to the liquidation of the Estate, the hiring of professionals, the pursuit of any claims or litigation, and the payment or objection to Claims, and regard as to the Tax Refund. If a Chapter 7 trustee were appointed, the Chapter 7 trustee would be paid pursuant to the provisions of § 326(a) of the Bankruptcy Code, which would add an additional Administrative Expense Claim.

As of the date of this Disclosure Statement, the Debtor has sufficient cash to make an initial distribution to Holders of Allowed Class 1 and 2 Claims. The Plan involves administration by a Plan Administrator who is very well qualified to address issues and challenges that arise in bank liquidating company cases and regarding the Tax Refund, it

provides certainty regarding distributions, expedites distributions to Holders of Allowed Class 1 and Class 2 Claims and prevents the additional expenses, such as the Chapter 7 trustee's fee that would be incurred if the Chapter 11 Case were converted to a case under Chapter 7 of the Bankruptcy Code. Consequently, the Debtor has formulated its Plan and liquidated its assets in a manner that it believes will provide the best possible return in the shortest possible time to Creditors.

B. Dismissal of Bankruptcy Case

The Debtor does not believe that dismissal of the Bankruptcy Case would be to the advantage of parties in interest. It would not leave a mechanism for pursuit of the Tax Refund or distribution of funds to creditors.

August 22, 2013


BIG SANDY HOLDING COMPANY

Debtor and Debtor-in-Possession

By: _____

Title: Chief Executive Officer

BROWNSTEIN HYATT FARBER SCHRECK, LLP

By: _____

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Attorneys for the Debtor

EXHIBIT A

**PLAN OF REORGANIZATION
[TO BE ATTACHED]**

UNITED STATES BANKRUPTCY COURT
DISTRICT OF COLORADO

In re

BIG SANDY HOLDING CO.,

Debtor.

Bankruptcy Case No. 12-30138-MER

Chapter 11

CHAPTER 11 PLAN OF BIG SANDY HOLDING CO.

Dated: August 22, 2013

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DEBTOR'S PLAN OF REORGANIZATION

ARTICLE I INTRODUCTION

Pursuant to Title 11 of the United States Code, 11 U.S.C. §§ 101 et seq., Big Sandy Holding Company (the "Debtor"), proposes the following Plan of Reorganization (the "Plan").

ARTICLE II DEFINITIONS, RULES OF INTERPRETATION, COMPUTATION OF TIME

2.01 **Definitions.** As used herein, the following terms have the respective meanings specified below, unless the context otherwise requires:

"Administrative Expense Claim" means any right to payment constituting a cost or expense of administration of the Chapter 11 Case under §§ 503(b), 507(a)(2), or 1114(e)(2) of the Bankruptcy Code, including, without limitation, any actual and necessary costs and expenses of preserving the Estate, any actual and necessary costs and expenses of operating the business of the Debtor, any indebtedness or obligations incurred or assumed by the Debtor in connection with the conduct of its business or liquidation of its assets, any Professional fee claim, and any fees or charges assessed against the Estate under § 1930 of Title 28 of the United States Code.

"Allowed" means, with respect to any Claim, the Claim or portion thereof that is not a Disputed Claim or Disallowed Claim: (a) for which a Proof of Claim was timely filed with the Bankruptcy Court or the Claims Agent, Objection shall have been interposed (b) for which no Proof of Claim thereof was filed, to the extent that such Claim has been listed by the Debtor in its Schedules as liquidated in amount and not disputed or contingent as to liability, and as to which no Objection (c) which arises from the recovery of property under §§ 550 or 553 of the Bankruptcy Code and is allowed in accordance with § 502(h) of the Bankruptcy Code; (d) which is allowed under the Plan; or (e) which is allowed by a Final Order.

"Avoidance Claims" means any and all rights, claims, causes of action or rights to avoid any transfer or incurrence of debt that may be asserted or recovered by the Debtor in its capacity as debtor-in-possession pursuant to Chapter 5 of the Bankruptcy Code.

"Bank" means Big Sandy Holding Co.'s wholly owned bank subsidiary, Mile High Banks.

"Business Day" means any day other than a Saturday, Sunday or any legal holiday under federal law or the State of Colorado.

"Cash" means legal tender of the United States of America and equivalents thereof.

"Causes of Action" means, without limitation, any and all actions, causes of action, liabilities, obligations, rights, suits, debts, sums of money, damages, judgments, claims and demands whatsoever, whether known or unknown, in law, equity or otherwise.

“Chapter 11 Case” or **“Case”** means the case under Chapter 11 of the Bankruptcy Code commenced by the Debtor, styled In re Big Sandy Holding Co., currently pending as case No. 12-30138-MER on the docket of the Bankruptcy Court.

“Claim” has the meaning set forth in § 101(5) of the Bankruptcy Code.

“Confirmation Date” means the date on which the Clerk of the Bankruptcy Court enters the Confirmation Order on the docket of the Chapter 11 Case.

“Confirmation Order” means the order of the Bankruptcy Court confirming this Plan pursuant to § 1129 of the Bankruptcy Code.

“Creditor” has the meaning ascribed to such term in § 101(10) of the Bankruptcy Code.

“Debtor” means Big Sandy Holding Company.

“Disallowed” means, when referring to a Claim, a Claim or any portion thereof, that (a) has been disallowed or expunged, in whole or part, by a Final Order; (b) has been withdrawn by agreement of the Debtor and the Holder thereof, in whole or in part; (c) has been withdrawn, in whole or in part, by the Holder thereof; (d) is listed in the Schedules as zero or as disputed, contingent or unliquidated and in respect of which a Proof of Claim has not been timely filed or deemed timely filed pursuant to the Plan, the Bankruptcy Code or any Final Order of the Bankruptcy Court; (e) has been reclassified, expunged, subordinated or estimated to the extent that such reclassification, expungement, subordination or estimation results in a reduction in the filed amount of any Proof of Claim; or (f) is evidenced by a Proof of Claim which has been filed, or which has been deemed to be filed under applicable law or order of the Bankruptcy Court or which is required to be filed by order of the Bankruptcy Court, but as to which such Proof of Claim was not timely or properly filed. In each case a Disallowed Claim is disallowed only to the extent of disallowance, withdrawal, reclassification, expungement, subordination or estimation.

“Disputed Claim” means any Claim as to which an Objection is pending or contemplated by the Debtor.

“Distribution” means any payment of Cash by the Debtor called for under the Plan.

“Effective Date” means the first day after the conditions to effectiveness of the Plan provided in Section 10.01 hereof have been satisfied.

“Estate” means the estate in this Chapter 11 Case.

“Equity Interests” means any ownership interests in and with respect to the Debtor.

“Final Order” means an order of the Bankruptcy Court as to which the time to appeal, petition for certiorari or move for reargument or rehearing has expired and as to which no appeal, petition for certiorari or other proceeding for reargument or rehearing will then be pending or as to which any right to appeal, petition for certiorari, reargument, or rehearing will have been

waived in writing, in form and substance, satisfactory to the Debtor or, in the event that an appeal, writ of certiorari, or reargument or rehearing thereof has been sought, such order of the Bankruptcy Court will have been determined by the highest court to which such order was appealed, or certiorari reargument or rehearing will have been denied and the time to take any further appeal, petition for certiorari or move for reargument or rehearing will have expired; provided, however, that the possibility that a motion under Rule 59 or Rule 60 of the Federal Rules of Civil Procedure, or any analogous rule under the Federal Rules of Bankruptcy Procedure, may be filed with respect to such order will not cause such order not to be a Final Order.

“General Unsecured Claim” means any Claim other than a Priority Claim, a Secured Claim, an Equity Interest or an Administrative Expense Claim.

“Holder” means the holder of any Claim or Equity Interest.

“Impaired” means, when used in reference to a Claim or Equity Interest or a class thereof, a Claim or Equity Interest or class thereof that is impaired within the meaning of § 1124 of the Bankruptcy Code.

“Objection” means any objection, application, motion, complaint or any other legal proceeding seeking, in whole or in part, to disallow, determine, liquidate, classify, reclassify, establish the priority of, expunge, subordinate, or estimate any Claim (including the resolution of any request for payment of any Administrative Expense Claim), or Equity Interest, other than a Claim or an Equity Interest that is Allowed.

“Petition Date” means September 27, 2012.

“Plan” means this Chapter 11 plan, either in its present form or as the same may be altered, amended or modified from time to time.

“Plan Administrator” means Kenneth L. Tepper or any successor.

“Priority Claim” means any Claim entitled to priority under § 507(a)(1), (4), (5), (6), or (7) of the Bankruptcy Code.

“Professionals” means the professionals retained by the Debtor under §§ 327 of the Bankruptcy Code and to be compensated pursuant to §§ 327, 328, 330, 331, or 503(b)(2) or (4) of the Bankruptcy Code.

“Proof of Claim” means a proof of claim filed in this Chapter 11 Case.

“Schedules” mean the Schedules of Assets and Liabilities, the List of Holders of Interests, and the Statement of Financial Affairs filed by the Debtor in this Case.

“Secured Claim” means any Claim, to the extent reflected in the Schedules or a Proof of Claim as being secured and properly perfected, which is secured by a timely perfected Lien, as defined by § 101(37) of the Bankruptcy Code, on collateral, to the extent of the value of the

Estate's interest in such collateral, as determined as of the relevant determination date.

"SPA" means the Stock Purchase Agreement dated as of September 27, 2012 between Debtor and Strategic Growth Bancorp, Inc. as amended by the Tax Settlement Agreement and the Second Amendment to Stock Purchase Agreement dated December 5, 2012.

"Subordinated Debt Unsecured Claims" means the claims arising from the Subordinated Debt Documents.

"Subordinated Debt Documents" means the Purchase Agreement dated April 27, 2005 with Bear Stearns & Co., Inc. as Initial Purchaser and Big Sandy Holding Company as Issuer; the Indenture dated as of April 29, 2005 with Wells Fargo Bank, National Association as Trustee and Big Sandy Holding Company as Issuer; and all documents and agreements related to the foregoing.

"Tax Claim" means any claim entitled to priority under § 507(a)(8) of the Bankruptcy Code.

"Tax Settlement Agreement" means the Settlement Agreement dated as of December 3, 2012, among Eton Park Capital Management, L.P.; Zions Bancorporation; Wells Fargo Bank, National Association, in its capacity as Institutional Trustee of Horizon Cap I; Strategic Growth Bancorp; and the Debtor.

"Tax Refund" means the refund sought from the Internal Revenue Service for taxes paid in previous years, in the approximate amount of \$22 million, the allocation of which between the Debtor and the Banks is the subject of Tax Settlement Agreement.

"TruPS Claims" means the claims arising from TruPS Documents.

"TruPS Documents" means (a) the Purchase Agreement dated June 4, 2003, with Bear Stearns & Co., Inc. as Initial Purchaser, Horizon Cap I as Issuer and Big Sandy Holding Company as Sponsor; the Guarantee Agreement dated June 6, 2003 with Big Sandy Holding Company as Guarantor; the Indenture dated as of June 6, 2003, with Wells Fargo Bank, National Association as Trustee and Horizon Cap I as Issuer; (b) the Purchase Agreement dated August 27, 2003 with Bear Stearns & Co., Inc. as Initial Purchaser, Horizon Cap II as Issuer and Big Sandy Holding Company as Sponsor; the Guarantee Agreement dated August 29, 2003 with Big Sandy Holding Company as Guarantor; the Indenture dated as of August 29, 2003, with Wells Fargo Bank, National Association as Trustee and Horizon Cap II as Issuer; (c) the Purchase Agreement dated August 24, 2004 with Bear Stearns & Co., Inc. as Initial Purchaser, Horizon Cap II as Issuer and Big Sandy Holding Company as Sponsor; the Guarantee Agreement dated August 26, 2004 with Big Sandy Holding Company as Guarantor; the Indenture dated as of August 26, 2004, with Wells Fargo Bank, National Association as Trustee and Horizon Cap II as Issuer; and (d) and all documents and agreements related to the foregoing.

2.02 **Rules of Interpretation.** Wherever from the context it appears appropriate, each term stated in either the singular or the plural will include both the singular and the plural and pronouns stated in the masculine, feminine or neuter gender will include the masculine, feminine

and neuter. Unless otherwise specified, all section, article, schedule or exhibit references in the Plan are to the respective Section in, Article of, Schedule to, or Exhibit to, the Plan. The words “herein,” “hereof,” “hereto,” “hereunder,” and other words of similar import refer to the Plan as a whole and not to any particular section, subsection or clause contained in the Plan. The rules of construction contained in § 102 of the Bankruptcy Code will apply to the construction of the Plan. A term used herein that is not defined herein, but that is used in the Bankruptcy Code, will have the meaning ascribed to that term in the Bankruptcy Code. The headings in the Plan are for convenience of reference only and will not limit or otherwise affect the provisions of the Plan.

2.03 **Computation of Time.** In computing any period of time prescribed or allowed by the Plan, the provisions of Bankruptcy Rule 9006(a) shall apply.

ARTICLE III **TREATMENT OF UNCLASSIFIED CLAIMS**

3.01 **Administrative Expense Claims.** The deadline for filing an Administrative Expense Claim (other than post-petition operating expenses or professional fees) shall be 30 days after the Effective Date (the “Administrative Expense Claim Bar Date”). Except to the extent any entity entitled to payment of an Allowed Administrative Expense Claim has received payment on account of such Claim prior to the Effective Date, each Holder of an Allowed Administrative Expense Claim shall be paid in full in Cash by the later of either the date that is 14 days after the Effective Date or the date that is 14 days after the Administrative Expense Claim is Allowed.

3.02 **Tax Claims.** Except to the extent any entity entitled to payment of any Allowed Tax Claim has received payment on account of such Claim prior to the Effective Date, each Holder of an Allowed Tax Claim shall receive, in full and final satisfaction of its Allowed Tax Claim, Cash in an amount equal to the amount of such Tax Claim to be paid in full by the date that is 14 days after the Effective Date.

3.03 **Professional Fees.** All Professionals seeking payment of professional fees or reimbursement of expenses incurred through and including the Effective Date under § 503(b)(2), of the Bankruptcy Code (“Professional Fees”) shall file their respective final applications on or before the date that is 60 days after the Effective Date.

3.04 **Statutory Fees.** On or before 30 days after the Effective Date, the Plan Administrator shall make all payments required to be paid the U.S. Trustee pursuant to § 1930 of Title 28 of the United States Code. All fees payable pursuant to § 1930 of Title 28 of the United States Code after the Effective Date shall be paid by the Plan Administrator on a quarterly basis until the Chapter 11 Case is closed, converted, or dismissed.

ARTICLE IV **DESIGNATION OF CLASSES**

4.01 **Classification.** Claims and Equity Interests are classified for all purposes, including voting, confirmation, and distribution pursuant to the Plan, as follows:

<u>Class</u>	<u>Status</u>	<u>Voting Rights</u>
Class 1 (General Unsecured Claims)	Impaired	Entitled to Vote
Class 2 (Subordinated. Debt Claims)	Impaired	Entitled to Vote
Class 3 (TruPS Claims)	Impaired	Entitled to Vote
Class 4 (Equity Interests)	Impaired	Deemed to Reject

ARTICLE V
TREATMENT OF CLASSIFIED CLAIMS AND EQUITY INTERESTS

5.01 **Class 1: General Unsecured Claims.** Subject to the terms of Article VI hereof and at such times as the Plan Administrator elects, in his discretion, to make Distributions, holders of Allowed Class 1 Claims shall receive their pro rata share of monies distributed to Holders of Allowed Class 1, Class 2 and Class 3 Claims based upon the total amount of all Allowed and Disputed Class 1, Class 2 and Class 3 Claims pending at the time of such Distribution.

5.02 **Class 2: Subordinated Debt Claims.** Subject to the terms of Article VI hereof and at such times as the Plan Administrator elects, in his discretion, to make Distributions, holders of Allowed Class 2 Claims shall receive their pro rata share of monies distributed to Holders of Allowed Class 1, Class 2 and Class 3 Claims based upon the total amount of Allowed and Disputed Class 1, Class 2 and Class 3 Claims pending at the sum of such Distribution.

5.03 **Class 3: TruPS Claims.** Subject to the terms of Article VI hereof and at such times as the Plan Administrator elects, in his discretion, to make Distributions, holders of Allowed Class 3 Claims shall receive their pro rata share of monies distributed to Holders of Allowed Class 1, Class 2 and Class 3 Claims based upon the total amount of Allowed and Disputed Class 1, Class 2 and Class 3 Claims pending at the sum of such Distribution.

5.04 **Class 4: Equity Interests.** Class 4 Equity Interests shall be cancelled and shall not receive anything under this Plan.

5.05 **Cramdown.** If any class of Claims fails to accept the Plan in accordance with § 1126(c) of the Bankruptcy Code, the Bankruptcy Court may confirm the Plan in accordance with § 1129(b) of the Bankruptcy Code on the basis that the Plan is fair and equitable and does not discriminate unfairly with respect to any non-accepting, impaired Class.

ARTICLE VI
PROVISIONS REGARDING RESOLUTION OF CLAIMS
AND DISTRIBUTIONS UNDER THE PLAN

6.01 Method of Distributions under the Plan.

a. In General. Subject to Bankruptcy Rule 9010, all Distributions under the Plan shall be made by the Plan Administrator to the Holders of each Allowed Claim at the address of such Holder as listed on the Schedules or Proof of Claim, as applicable.

b. Distributions of Cash. The Plan Administrator shall maintain its post-Effective Date bank accounts in compliance with Bankruptcy Code § 345. Payments made by the Debtor pursuant to the Plan shall be made by check. All checks for distribution shall be negotiated within 90 days of the date of such check, after which such check shall be void. A Creditor who does not negotiate payment within the 90-day period shall have one year after the check becomes void to assert payment on account of its claim pursuant to this Plan, after which time its Claim shall be reduced to zero. At such time, the Plan Administrator will no longer be obligated to reserve for such Claim or make any further distributions in respect of such Claims.

c. Timing of Distributions. Any payment or Distribution required to be made under the Plan on a day other than a Business Day shall be made on the next succeeding Business Day.

d. Tax Withholding. Distributions to Holders of Allowed Claims shall be net of amounts, if any, required to be withheld pursuant to applicable State and Federal wage or backup withholding requirements.

6.02 Discretion of Plan Administrator. Distributions in respect of Claims in Classes 1, 2 and 3 shall be made as such times, and in such amounts, as the Plan Administrator elects in his sole discretion. In making such Distributions, the Plan Administrator may consider factors such as anticipated expenses of administration or litigation, expected sources of funds, and any other relevant factor.

6.03 Priorities. Upon objection of an affected creditor to confirmation of the Plan, the Bankruptcy Court may, at the confirmation hearing, consider and interpret the provisions in the documents governing the Subordinated Debt Claims and the Trups Claims regarding subordination. In such event, the payment priorities determined by the Bankruptcy Court shall govern distributions to Class 1, 2 and 3 creditors.

6.04 Objections to Claims.

a. After the Effective Date, Objections to Claims may be made, and Objections to Claims made previous thereto shall be pursued, only by the Plan Administrator at his sole discretion.

b. After the Effective Date, the Plan Administrator may settle any Disputed Claim where the proposed Allowed Claim is to be less than \$25,000 without notice and a hearing and without an order of the Bankruptcy Court. All other settlements shall be subject to notice and a hearing pursuant to § 102(1) of the Bankruptcy Code and a Final Order of the Bankruptcy Court approving the settlement.

6.05 **Reserves for Disputed Claims.** Subject to § 3.01 of the Plan, if any Claim is a Disputed Claim, no distribution provided hereunder shall be made on account of such Claim unless and until said Disputed Claim becomes an Allowed Claim. In the event a Distribution is made while there is a Disputed Claim, the Distribution that would be paid on account of the Disputed Claim shall be withheld and remain in the a bank account maintained in compliance with §6.01(b) of the Plan until the Claim is Allowed or Disallowed. If the Claim is Allowed, the Holder of the Allowed Claim will receive its withheld Distribution.

6.06 **Claims Estimation.** The Plan Administrator may at any time request that the Bankruptcy Court estimate any contingent or unliquidated Claim pursuant to § 502(c) of the Bankruptcy Code regardless of whether the Debtor or Plan Administrator has previously objected to such Claim or whether the Bankruptcy Court has ruled on any such objection, and the Bankruptcy Court shall retain jurisdiction to estimate any Claim at any time concerning any objection to any Claim, including during the pendency of any appeal relating to any such Objection. In the event that the Bankruptcy Court estimates any contingent or unliquidated Claim, that estimated amount shall constitute either the Allowed amount of such Claim or a maximum limitation on such Claim, as determined by the Bankruptcy Court. If the estimated amount constitutes a maximum limitation on such Claim, the Plan Administrator may elect to pursue any supplemental proceedings to object to any ultimate payment on such Claim. All of the aforementioned procedures are cumulative and not exclusive of one another. Claims may be estimated and subsequently compromised, settled, withdrawn or resolved by any mechanism pursuant to this Plan or approved by the Bankruptcy Court.

6.07 **Claims Allowance.** Except as expressly provided in the Plan or any order entered in the Chapter 11 Case prior to the Effective Date (including the Confirmation Order), the Plan Administrator shall have and shall retain after the Effective Date any and all rights and defenses that the Debtor had with respect to any Claim as of the Petition Date. All Claims of any entity, subject to § 502(d) of the Bankruptcy Code, shall be deemed Disallowed as of the Effective Date unless and until such entity pays in full the amount that it owes the Debtor.

ARTICLE VII

EXECUTORY CONTRACTS AND UNEXPIRED LEASES

7.01 **Assumption or Rejection of Executory Contracts and Unexpired Leases.** Pursuant to §§ 365(a) and 1123(b)(2) of the Bankruptcy Code, all executory contracts and unexpired leases that exist between the Debtor and any party that have not been previously assumed pursuant to an order of the Bankruptcy Court, shall be deemed rejected on the Effective Date.

7.02 **Claims Based on Rejection of Executory Contracts or Unexpired Leases.**

With respect to Claims arising from the rejection of executory contracts or unexpired leases pursuant to Section 7.01 of this Plan, the bar date to file Proofs of Claim shall be 60 days after the Effective Date and all such Proofs of Claim must be filed during that time. Any Claim arising from the rejection of an executory contract or unexpired lease pursuant to Section 7.01 of this Plan for which a Proof of Claim is not timely filed within that time period shall be forever barred from assertion against the Debtor officers, directors or agents of the Debtor, the Estate, its successors and assigns, or its assets and properties, unless otherwise ordered by the Bankruptcy Court or as otherwise provided herein.

ARTICLE VIII
PLAN ADMINISTRATOR

8.01 **Appointment.** On the Effective Date, Kenneth L. Tepper shall be appointed Plan Administrator. He shall exercise the powers and carry out the duties of the Plan Administrator set forth in this Plan until closing of the Case or such time as he is unable to serve, in which case, the Bankruptcy Court may appoint a successor. The Plan Administrator shall be compensated at \$7,500 per month, plus reasonable out of pocket expenses.

8.02 **Powers and Duties.** The powers and duties of the Plan Administrator shall include:

- i. To take control of, preserve, and convert to Cash property of the Estate, subject to the terms of this Plan;
- ii. To investigate and prosecute or abandon all Causes of Action belonging to or assertible by the Estate, including all Avoidance Claims;
- iii. To review and object to Claims filed against the Debtor;
- iv. To compromise all disputes, including all Causes of Action, Avoidance Claims and Objections to Claims;
- v. . To make distributions on account of all Allowed Claims consistent with the terms of this Plan;
- vi. To retain persons and professionals to assist in carrying out the powers and duties enumerated pursuant to this Plan;
- vii. To enter into contracts as necessary to assist in carrying out the powers and duties enumerated pursuant to this Plan;
- viii. To hire employees and/or terminate current employees of the Debtor;

ix. To pay expenses incurred in carrying out the powers and duties enumerated pursuant to this Plan, including professional fees incurred after the Effective Date;

x. To take all necessary actions to assure that the corporate existence of the Debtor remains in good standing until entry of a final decree closing the Chapter 11 Case;

xi. To open and maintain bank accounts and deposit funds and draw checks and make disbursements in accordance with the Plan;

xii. In general, without in any manner limiting any of the foregoing, to deal with the assets of the Estate or any part or parts thereof in all other ways as would be lawful for any person owning the same to deal therewith; provided, however, that the investment powers of the Debtor, other than those reasonably necessary to maintain the value of the Debtor's assets and to further the liquidating purpose, are limited to the power to invest in demand and time deposits, such as short term certificates of deposit, in banks and other savings institutions, or other temporary, liquid investments, such as United States Treasury Bills;

xiii. At the appropriate time, to ask the Bankruptcy Court to enter the final decree.

8.03 **No Liability.** The Plan Administrator shall have authority to bind the Estate consistent with the terms of the Plan and shall incur no personal liability for contracts or agreements into which he may enter on behalf of the Estate.

8.04 **Corporate Governance.** The Debtor shall maintain good corporate standing. For purposes of corporate governance, the Plan Administrator shall have the powers of sole shareholder, sole director and sole officer. Thomas M. Kim shall act as a consultant to the Plan Administrator at compensation of \$10,000 per month plus reasonable out of pocket expenses for a term ending the earlier of (a) one year from the Confirmation Date or (b) the distribution of the Tax Refund proceeds to the Bank in accordance with the terms of the Plan and the Tax Settlement Agreement, which term may be extended in the sole discretion of the Plan Administrator.

8.05 **Tax Refund.** In order to effectuate the Tax Settlement Agreement and maximize potential return to the Estate from the Tax Refund:

a. **Moss Adams.** The retention by the Debtor of Moss Adams, LLP ("Moss Adams") as accountants for the Debtor shall continue on the terms and conditions previously approved, without the need for an additional engagement agreement or further order of the Bankruptcy Court. The Bank will advance Moss Adams' fees and expenses in defense of the Tax Refund. The Bank will then be reimbursed the fees and expenses paid to Moss Adams out of the first dollars received on account of the ultimate Tax Refund. Once the Bank is reimbursed in full, the parties will split the refund in the 6/17

ratio as provided in the SPA; provided that the refund so split shall be net of the fees and expenses paid to Moss Adams in connection with the IRS inquiry

b. Defense of Tax Refund. The Debtor shall take such steps as are reasonably necessary, without expenditure of funds, to assist Moss Adams in respect of the Tax Refund. The Debtor (whether acting through the Plan Administrator or otherwise) shall not compromise or settle the Tax Refund except with the express consent of the Bank.

c. Receipt of Funds. The portion of the Tax Refund allocable to the Bank, when paid and received by the Debtor, will be held in trust for the benefit of the Bank and paid over to the Bank as soon as reasonably practicable as provided in the Tax Settlement Agreement and the SPA.

ARTICLE IX

IMPLEMENTATION AND EFFECT OF CONFIRMATION OF PLAN

9.01 Term of Bankruptcy Injunction or Stays. All injunctions or stays provided for in the Chapter 11 Case under §§ 105 or 362 of the Bankruptcy Code, or otherwise, and in existence on the Confirmation Date, shall remain in full force and effect.

9.02 Estate. Except as provided in this Plan, on the Effective Date the property of the Estate shall remain vested in the Estate until entry of the final decree in this case as provided in the Plan.

9.03 Substantial Contribution Claim. In recognition and in compensation for the substantial contribution to the Case in connection with the sale of the Bank and the Tax Settlement Agreement, Wells Fargo Bank, National Association, in its capacity as Institutional Trustee of Horizon Cap 1 and Eton Park Capital Management, L.P. (together the "Substantial Contribution Claimants") will receive an Allowed Administrative Expense Claim in the amount of \$91,158.13, which will be payable in accordance with §3.01 of the Plan without further order of the Court.

9.04 Payment of Certain Fees and Expenses. The Plan Administrator shall pay the fees and expenses of the Substantial Contribution Claimants incurred after the Bankruptcy Court approved the sale of the Bank (the "Post-Sale Fees") as soon as reasonably practicable after the Effective Date. As a precondition to payment of the Post-Sale Fees, the Substantial Contribution Claimants shall, after the Effective Date, submit to the Bankruptcy Court invoices and an application for payment of such Post-Sale Fees. The Bankruptcy Court shall review each application for payment of Post-Sale Fees for reasonableness, as required under section 1129(a)(4) of the Bankruptcy Code. After the Bankruptcy Court has approved an application for payment of Post-Sale Fees as reasonable, the Plan Administrator shall, as soon as practicable thereafter, pay or otherwise reimburse the Substantial Contribution Claimants for all such approved Post-Sale Fees.

9.05 Causes of Action. Except as otherwise provided in the Plan, as of the Effective Date, pursuant to § 1123(b)(3)(B) of the Bankruptcy Code, any and all Causes of Action

accruing to the Debtor, or the Debtor in its capacity as debtor-in-possession, not released or compromised pursuant to this Plan, including, without limitation, actions under §§ 544, 545, 547, 548, 549, 550, 551, and 553 of the Bankruptcy Code, shall remain assets of the Estate, and the Plan Administrator shall have the authority to prosecute such Causes of Action for the benefit of the Estate. On and after the Effective Date, the Plan Administrator shall have the authority to compromise, settle, discontinue, abandon, dismiss, or otherwise resolve all such Causes of Action when the proposed settlement amount is to be less than \$25,000 without notice and a hearing and without an order of the Bankruptcy Court. All other settlements shall be subject to notice and a hearing pursuant to § 102(1) of the Bankruptcy Code and a Final Order of the Bankruptcy Court approving the settlement.

9.06 **Corporate Existence of the Debtor.** As of the Effective Date, the Debtor shall maintain its good standing as a corporation under the laws of the state of its incorporation until and unless the Debtor files the appropriate documents dissolving the Debtor.

9.07 **Discharge.** Except as otherwise provided herein, and irrespective of any prior orders of the Bankruptcy Court or any other court of competent jurisdiction, on the Effective Date: (1) the rights afforded in the Plan and the treatment of all Claims and Equity Interests herein shall be in exchange for and in complete satisfaction, discharge and release of all Claims and Equity Interests of any nature whatsoever, including any interest accrued on such Claims from and after the Petition Date, or any of its assets, property or its Estate; (2) the Plan shall bind all Holders of Claims and Equity Interests, regardless of whether any such Holders failed to vote to accept or to reject the Plan or voted to reject the Plan; and (3) all Claims against and Equity Interests in the Debtor, and the Debtor in its capacity as debtor-in-possession, shall be satisfied, discharged and released in full, and the Debtor's liability with respect thereto shall be extinguished completely, including, without limitation, any liability of the kind specified under § 502(g) of the Bankruptcy Code; *provided, however*, that nothing in this Plan shall discharge any liabilities of the Debtor arising after the entry of the Confirmation Order or that is not otherwise a Claim within the meaning of § 101(5) of the Bankruptcy Code.

9.08 **Preservation of Setoff Rights.** On and after the Effective Date, rights of setoff pursuant to Bankruptcy Code § 553 shall be preserved. After the Effective Date, such setoff may be exercised pursuant to agreement of the Debtor and the affected Creditor. Any disputes regarding the right of setoff shall be determined upon motion before the Bankruptcy Court.

ARTICLE X

EFFECTIVENESS OF THE PLAN

10.01 **Conditions Precedent to Effectiveness.** The Plan shall not become effective unless and until the following have been satisfied:

- a. The Confirmation Order, in form and substance reasonably satisfactory to the Debtor, shall have been entered by the Bankruptcy Court;
- b. There is no stay or injunction in effect with respect to the Confirmation Order; and

c. 14 days shall have passed since the Confirmation Order has been entered by the Bankruptcy Court.

ARTICLE XI
RETENTION OF JURISDICTION

11.01 **Bankruptcy Court Jurisdiction**. The Bankruptcy Court shall have exclusive jurisdiction of all matters arising out of and related to the Chapter 11 Case and this Plan pursuant to, and for the purposes of, §§ 105(a) and 1142 of the Bankruptcy Code and for, among other things, the following purposes:

a. To determine pending applications for the assumption or rejection of executory contracts or unexpired leases, if any are pending, and the allowance of Claims resulting therefrom;

b. To determine any and all adversary proceedings, applications and contested matters;

c. To determine any Objection to Administrative Expense Claims or Claims;

d. To issue such orders in aid of execution and consummation of the Plan, to the extent authorized by § 1142 of the Bankruptcy Code;

e. To consider any amendments to or modifications of the Plan, to cure any defect or omission, or reconcile any inconsistency in any order of the Bankruptcy Court, including, without limitation, the Confirmation Order;

f. To determine all applications for compensation and reimbursement of expenses of professionals under §§ 330, 331 and 503(b) of the Bankruptcy Code;

g. To determine disputes arising in connection with the interpretation, implementation or enforcement of the Plan;

h. To determine disputes arising in connection with the recovery of all assets of the Debtor and property of the Estate, wherever located;

i. To determine matters concerning taxes in accordance with §§ 346, 505 and 1146 of the Bankruptcy Code;

j. To determine any other matter not inconsistent with the Bankruptcy Code;
and

k. To enter a final decree closing the Chapter 11 Case.

ARTICLE XII
MISCELLANEOUS PROVISIONS

12.01 **Effectuating Documents and Further Transactions.** The Debtor is authorized to execute, deliver, file or record such contracts, instruments, releases and other agreements or documents and take such actions as may be necessary or appropriate to effectuate and further evidence the terms and conditions of the Plan and any notes or securities pursuant to the Plan.

12.02 **Aid in Implementation of Plan.** The Bankruptcy Court may direct the Debtor and any other necessary party to execute or deliver or to join the execution or delivery of any instrument required to effect the Plan, and to perform any other act necessary to consummate the Plan.

12.03 **Exculpation.** The Debtor and any of its shareholders, officers, directors, employees, advisors and agents shall neither have nor incur any liability to any Holder of a Claim, or any party acting or asserting a claim through a Holder of a Claim, for any act or omission in connection with, related to, or arising out of, the pursuit of confirmation of the Plan, the consummation of the Plan or the administration of the Plan or the property to be distributed under the Plan, except for willful misconduct or gross negligence, and, in all respects, the Debtor and its shareholders, officers, directors, employees, advisors and agents, shall be entitled to rely upon the advice of counsel with respect to their duties and responsibilities under the Plan. In addition, the Debtor's professionals, including the Debtor's attorneys, and Thomas M. Kim, shall neither have nor incur any liability to any Holder of a Claim, or any party acting or asserting a claim through a Holder of a Claim, for any act or omission in connection with, related to, or arising out of the Chapter 11 Case, except for willful misconduct or gross negligence. For the avoidance of doubt, except for the Debtor's attorneys and Mr. Thomas M. Kim, neither the Debtor nor any of its shareholders, officers, directors, employees, or agents shall be exculpated for any act or omission in connection with, related to, or arising out of the Chapter 11 Case, including the sale of the Bank and all acts or omissions taken after the Petition Date, other than acts or omission taken after the Petition Date in connection with, related to, or arising out the pursuit of confirmation of the Plan, the consummation of the Plan or the administration of the Plan or the property to be distributed under the Plan.

12.04 **Post-Effective Date Fees and Expenses.** From and after the Effective Date, in the ordinary course of business and without the necessity for any approval by the Bankruptcy Court, the Debtor shall pay the reasonable fees and expenses of professional persons incurred after the Effective Date, including, without limitation, those fees and expenses incurred in connection with the implementation and consummation of the Plan.

12.05 **Post-Effective Date Statutory Fees.** All fees payable pursuant to § 1930 of Title 28 of the United States Code incurred after the Effective Date shall be paid in accordance with applicable law. The Debtor shall submit post-confirmation reports in compliance with applicable law.

12.06 **Amendment or Modification of the Plan.** Alterations, amendments or modifications of the Plan may be proposed in writing by the Debtor at any time before the

Confirmation Date, provided that the Plan, as altered, amended or modified, satisfies the conditions of §§ 1122 and 1123 of the Bankruptcy Code, and the Debtor shall have complied with § 1125 of the Bankruptcy Code. The Plan may be altered, amended or modified at any time after the Confirmation Date and before substantial consummation, provided that the Plan as altered amended or modified satisfies the requirements of §§ 1122 and 1123 of the Bankruptcy Code, and the Bankruptcy Court, after notice and a hearing, confirms the Plan, as altered, amended or modified, under § 1129 of the Bankruptcy Code and the circumstances warrant such alterations, amendments or modifications. A Holder of a Claim or Equity Interest that has accepted the Plan shall be deemed to have accepted the Plan, as altered, amended or modified, if the proposed alteration, amendment or modification does not materially and adversely change the treatment of the Claim or Equity Interest of such Holder.

12.07 **Severability**. In the event that the Bankruptcy Court determines, before the Confirmation Date, that any provision in the Plan is invalid, void or unenforceable, such provision shall be invalid, void or unenforceable with respect to the Holder or Holders of such Claims or Equity Interests as to which the provision is determined to be invalid, void or unenforceable. The invalidity, voidness, or unenforceability of any such provision shall not limit or affect the enforceability and operative effect of any other provision of the Plan.

12.08 **Revocation or Withdrawal of the Plan**. The Debtor shall have the right to revoke or withdraw the Plan before the Confirmation Date. If the Debtor revokes or withdraws the Plan before the Confirmation Date, then the Plan shall be deemed null and void. In such event, nothing contained herein shall constitute or be deemed a waiver or release of any Claims by or against the Debtor or any other person or to prejudice in any manner the rights of the Debtor or any person in any further proceedings involving the Debtor.

12.09 **Section 1125(e) Good-Faith Compliance**. The Debtor, the Plan Administrator and other Parties subject to this Chapter 11 proceeding, and each of their respective representatives, shall be deemed to have acted in "good-faith" under section 1125(e) of the Bankruptcy Code in connection with the confirmation and consummation of this Plan.

12.10 **Binding Effect**. The Plan shall be binding upon and inure to the benefit of the Debtor and the Holders of Claims and Equity Interests and their respective successors and assigns.

12.11 **Notices**. To be effective, all notices, requests and demands to or upon the Debtor shall be in writing and, unless otherwise expressly provided herein, shall be deemed to have been duly given or made when actually delivered or, in the case of notice by facsimile transmission or electronic mail, when received, addressed as follows:

If to the Plan Administrator:

Kenneth L. Tepper
1125 Mill Creek Road
Gladwyne, PA 19035
ktepper@kildarecapital.com

12.12 **Governing Law.** Except to the extent the Bankruptcy Code, the Federal Rules of Bankruptcy Procedure or other federal law is applicable, or to the extent the Plan provides otherwise, the rights and obligations arising under the Plan shall be governed by, and construed and enforced in accordance with the laws of the State of Colorado without giving effect to the principles of conflicts of law of such jurisdiction.

12.13 **Allocation of Plan Distributions Between Principal and Interest.** To the extent that any Allowed Claim entitled to a Distribution under the Plan is comprised of indebtedness and accrued but unpaid interest thereon, such Distribution shall, for federal income tax purposes, be allocated to the principal amount of the Claim first and then, to the extent the consideration exceeds the principal amount of the Claim, to accrued but unpaid interest.

12.14 **Cancellation of Instruments.** On the Effective Date, except to the extent otherwise provided herein, all notes, stock, instruments, certificates and other documents evidencing the Subordinated Debt Claims, the TruPS Claims, and Equity Interests, shall be deemed automatically canceled, shall be of no further force, whether surrendered for cancellation or otherwise, and the obligations of the Debtor thereunder or in any way related thereto shall be discharged.

12.15 **Limited Survival of Subordinated Debt Documents and the TruPS Documents.** Notwithstanding Section 12.14 above, (a) the Subordinated Debt Documents and the TruPS Documents will continue in effect solely for purposes of (i) allowing the indenture trustees for the Subordinated Debt Unsecured Claims and the TruPS Claims to receive and make the Distributions to be made on account of the Subordinated Debt Unsecured Claims and the TruPS Claims, from Distributions received from the Reorganized Debtor in accordance with the Subordinated Debt Documents, the TruPS Documents, and this Plan, and (ii) permitting the indenture trustees to maintain any rights or charging liens that they may have under the applicable Subordinated Debt Documents, the TruPS Documents, and (b) allowing the Holders of Subordinated Debt Unsecured Claims and TruPS Claims to receive Distributions in accordance with the Plan.

August 22, 2013

BIG SANDY HOLDING CO.,
Debtor and Debtor-in-Possession

By: 
Title: Chief Executive Officer

APPROVED AS TO FORM:

BROWNSTEIN HYATT FARBER SCHRECK, LLP

By: 
s/Michael J. Pankow
Michael J. Pankow, Esq.
Joshua M. Hantman, Esq.
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Email: jhantman@bhfs.com

Attorneys for the Debtor

EXHIBIT B

CURRICULUM VITAE OF KENNETH L. TEPPER

Kenneth Lewis Tepper, Esquire

1125 Mill Creek Road
Gladwyne, Pennsylvania 19035

Phone: 610.662.7702
KTepper@KildareCapital.com

- **Court appointed Resolution & Reorganization Fiduciary**
- **Proactive Leadership for Challenged Financial Institutions**
- **Independent Board / Director Service for Public Enterprises**

OVERVIEW:

- Scope:** Career Banking Professional, Court-appointed bankruptcy asset management and disposition, FDIC Credit & Resolution Specialist, Public Company CEO leadership, Independent Board Service with Committee qualification as "Financial Expert".
- Location:** United States Domestic / Nationwide
- Priorities:** Relentless attention to detail matched with rapid problem solving;
Stringent professional, ethical and moral standards;
Top-line inspiration, bottom-line discipline.

EXPERIENCE:

Two decades of executive leadership in heavily regulated environments, with emphasis upon stakeholder ROE, regulatory compliance, corporate governance and financial reporting;

- **Liquidation Trustee**, \$13 billion failed FDIC-insured bank/holding company;
- **Chairman**, Plan Committee for \$6 billion bank holding company (in reorganization)
- **Chairman**, Plan Committee for \$4 billion bank holding company (in reorganization)
- **President/CEO**, NASDAQ listed FDIC-insured bank/holding company (sold)
- **President/CEO/Chairman**, NASDAQ listed financial services company (sold);
- **General Counsel**, NASDAQ listed FDIC-insured bank/holding company;
- **Federal Agent**, Federal Deposit Insurance Corporation (RTC/ERO);

PROFESSIONAL PROFILE:

- *Performance-driven leader with stringent ethical standards among public markets. Strong executive communication skills at the corporate board level with broad-based planning, reporting and compliance expertise.*
- *Demonstrated underwriting and credit capacity including origination, servicing and securitization of complex commercial, residential and consumer portfolios. Aggressive non-accrual loss mitigation for impaired CRE, C&I and esoteric classified assets.*
- *Extensive FDIC, FRB, OTS, SEC, IRS and FINRA regulatory experience with Sarbanes-Oxley / Dodd-Frank / Bankruptcy skill set.*
- *Comprehensive access to capital markets and institutional community before, during and after the road show. Strong "Reg D" investor relations among retail, family office, private equity, hedge and institutional constituencies.*

Kenneth Lewis Tepper
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CAREER HIGHLIGHTS:

Bank Holding Company Liquidation: As Liquidation Trustee, appointed by United States Bankruptcy Court to manage the liquidation of one of the largest single financial institution failures in US history with over \$13 billion of assets at FDIC intervention. Identified prospective claims and causes of actions related to failure in order to preserve and protect interests of creditors that included the FDIC in its receivership capacity. Managed extensive network of professionals (legal, accounting, tax and financial) assigned to prosecution of such claims and supervised complex commercial litigation related to preference/avoidance actions and other causes of action expected to result in cash recovery. Supervised complex tax discovery intended to produce significant refunds on behalf of the Estate.

Capital Markets and Institutional Equity: Effectively led a series of fully subscribed initiatives on behalf of public companies spanning a ten-year period including IPO, secondary offerings, private placement of public equity (PIPE), trust preferred securities (TruPS) and rated senior debt generating proceeds that exceeded \$225.0 million. Maintained open and balanced buy-side institutional communications within analyst community through routine earnings calls, 10-K, 10-Q and 8-K SEC reports, public audit and Sarbanes-Oxley certification.

EFT / Network Expertise: As Chairman and CEO, envisioned and implemented comprehensive turnaround, recapitalization and expansion of one of the world's largest publicly traded convenience banking enterprises (ATM's), disbursing in excess of \$2.0 billion annually through over 20,000 locations and 500+ staff throughout the United States, UK, Canada, Ireland, France and Germany.

Complex Asset Resolution: Developed highly effective practices and strategies for rapid recovery of non-performing debt. Participated in receivership management and disposition of more than \$15.0 billion in real estate / commercial loans related to failed financial institutions during the S&L crisis, with regulatory experience in intervention, conservatorship, receivership and asset marketing. Authored RTC Eastern Regional training resource (the "REO Continuum") that described asset recovery policy under FIRREA and "net present value" liquidation of impaired assets owned in receivership capacity.

CIVIC EXPERIENCE:

POLITICAL: Elected Chairman, Republican State Finance Committee to lead campaign funding in support of U.S. Senate, Congressional and Legislative office-holders throughout the Commonwealth of Pennsylvania. Served in senior leadership for local and national elections including the highly contested Coverdell US Senate race in Georgia. Elected as Republican candidate for Judge of Elections in Montgomery County, PA.

CIVIC/MILITARY: During Operation Iraqi Freedom, selected by National Guard Association of the United States (NGAUS) as inaugural recipient of the Montgomery Medal for "Outstanding Support to the National Guard", presented to TRM Corporation by over 3,000 officers and enlisted service personnel at the 126th general conference in 2004 attended by the President. Selected for US Navy civilian program onboard aircraft carrier USS Eisenhower (CVN-69) and ballistic nuclear submarine USS Maine (SSBN-741) during Atlantic theatre deployment.

COMMERCIAL: Appointed by Governor Ridge under the Department of Commerce to Board of Directors of Pennsylvania Industrial Development Agency ("PIDA"), responsible for underwriting and origination of multi-billion dollar commercial and real estate collateralized credit issued to attract and retain state business. Elected Board of Directors for Integrity Health providing managed care for municipalities and public agencies (www.integrityhealth.com).

PHILANTHROPY: Served in leadership capacity for a variety of charitable organizations and initiatives to include White House "Easter Egg Roll" (Clinton administration), Philadelphia Police Athletic League and Hearing & Speech Institute. Served as Chairman for the Atlanta Crescendo Ball and Co-sponsored Philadelphia Congressional Medal of Honor Society Awards recognizing President Bush and Bob Hope. Provide ongoing leadership for Maynooth College & Seminary through recurring annual event honoring His Eminence Cardinal Sean Brady, Primate of All Ireland.

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PROFESSIONAL EXPERIENCE:

**United States Bankruptcy Court - Nationwide
Plan Committee Chairman / Liquidation Trustee, 2011 - present**

Appointed Title 11 Liquidation Trustee by Court Order in the Northern District of Texas, responsible for all aspects of holding company liquidation process and procedure for Guaranty Financial, Inc. ("GFG"). GFG owned Guaranty Bank, the 10th largest bank failure in US history with over \$13 billion of assets and 162 branches at time of intervention. Failure was estimated to cause a loss to FDIC of over \$3 billion through the Bank Insurance Fund. As Trustee, directed 2004 depositions and identification of claims related to recovery of cash, instigated preference actions in excess of \$6 million and filed causes of actions requesting payment of over \$1 billion from prior owners, directors and officers. Represent FDIC through their assignment of certain rights and remedies related to failure and manage as fiduciary their 15% interest in the Estate. Manage all accounting and reporting aspects on behalf of the Estate, supervise engagement of professionals, communication among creditors and US Bankruptcy Court / US Trustee assigned to GFG. Elected Chairman, Plan Committee for Imperial Capital, Inc. and FirstFederal Capital, Inc., California-based bank holding companies now insolvent pursuant with confirmed reorganization plans.

**Kildare Financial Group, Inc. - Radnor, Pennsylvania
Chief Executive Officer, 2011 - present**

Kildare Financial owns Kildare Capital, Inc. a FINRA-regulated full-service, middle market investment bank/BD focused upon corporate finance, municipal underwriting and generally underserved segments of the financial services industry. On behalf of a growing list of municipal issuers, the Firm offers highly effective auction rate programs for student loan asset backed securities with an initial portfolio exceeding \$10.0 billion. Since 2010, Kildare facilitated over \$2.0 billion of ARS transactions and was nationally ranked "top ten" by MSRB for auction rate activity. The Firm's corporate finance group provides comprehensive capital markets, restructuring, mortgage finance and asset management services. Clients include public and private enterprises comprised of financial institutions, private equity and investment advisors. Kildare employs highly qualified banking professionals who each possess appropriate Federal and State licensing for respective practice disciplines including FINRA Series 4, 7, 24, 27, 79 & 63. Kildare Capital is a FINRA (#45796), MSRB (#A6199) and SIPC member since 2001.

**Institutional Financial Management, Inc. - Philadelphia, Pennsylvania
Managing Director, Financial Institutions Group, 2008 - 2010**

With the Financial Institutions Group, established an asset acquisition unit underwriting more than \$1.0 billion of commercial loans in connection with prospective private equity investment. Prepared bank regulatory business plans submitted by clients to Federal Reserve, FDIC and OTS and managed regulatory review process to facilitate approval for assisted and unassisted transactions. Supervised and performed loan-level due diligence, balance sheet review, ALLL adequacy for commercial and residential portfolios and analyzed retail branch premiums. Consummated restructure of complex commercial hospitality loans exceeding \$100.0 million.

**TRM Corporation, Inc. - Portland, Oregon / Philadelphia, Pennsylvania
Chairman / President & CEO, 2001 - 2007**

TRM Corporation was a publically owned (NASDAQ) provider of multi-national convenience banking services (ATMs), offering real-time account information and disbursing cash in excess of \$2.0 billion annually. Elected as Chairman of the Board in June 2001, subsequently appointed President & CEO in June 2002 in order to alleviate operating losses resulting from over-expansion and payroll atrophy (exceeding \$30 million). With more than \$200.0 million gross revenue from operations in the US, Canada, United Kingdom, Ireland, France and Germany, the company had over 500 employees serving a diverse retail customer base that included Wal-Mart, Shell Oil, Ahold, Cumberland Farms, Pantry, British Petroleum, CVS, Resorts International, Whitbread PLC, and British Telecom. Combined with a legacy network of in-store "pay-per-copy" copiers, TRM had retail presence in over 37,000 worldwide locations. Developed and implemented an eighteen month financial plan to reinvigorate sales, reduce overhead and restore financial performance. Attracted proven industry expertise to assure plan execution while reducing international headcount to increase efficiency ratios. Performance to "plan" resulted in full economic recovery and return to profitability.

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Upon completion of the business plan -

- Annual Sales increased from \$82.6 to \$94.8 million; annual SG&A Expense decreased from \$26.6 to \$24.8 million;
- Annual Capital expenditures reduced by \$12.0 million; annual Operating Income improved from (\$1.8) loss to \$9.1 million;
- Annual Net Income improved from (\$4.0) loss to \$5.5 million; annual EBITDA tripled from \$6.1 to \$18.8 million;
- Annual EPS improved from a loss of (\$.57) to earnings of \$.74 per share; shareholders equity increased from \$42.1 to exceed \$125.0 million by end of tenure.

Redeemed all issued and outstanding preferred stock at par -

- Restored \$20.0 million in value on behalf of institutional investors;
- Significantly reduced annual interest expense; simplified balance sheet and terminated dilutive impact of EITF 03-6.

Restored strategic balance -

- Resolved complex multi-million dollar litigation and insurance claims related to prior strategic transaction with zero resulting material impact to the company;
- Restored performing status of existing debt with lender, eliminating punitive rate structure and reducing outstanding \$30.0 million loan balance to zero;

Introduced industry-leading best-practices –

- Revised work-flow, reduced physical plant 35% to dramatically improve productivity;
- Enhanced reporting, budgeting, accounting, treasury and governance standards.

Responsible for multi-billion dollar treasury function -

- Funded in excess of \$2.0 billion ATM cash disbursements annually through a cash-secured commercial paper conduit with DZ Bank. Managed multinational line of credit i/a/o \$20.0 million and mitigated foreign exchange risk related to revenue generating operations in four currencies, with \$20.0 million cap-ex budget;

As CEO, in connection with a fully subscribed secondary stock offering underwritten by Freidman, Billings & Ramsey ("FBR"), generated proceeds of \$50.0 million designated to support internal growth. Subsequently raised \$40.0 million in a fully subscribed private placement of common stock with Bank of America Securities ("BOAS") as Placement Agent. Obtained B2 Senior Secured Bank Credit Facility Rating from Moody's and B+ from Standard & Poor's related to loan syndication of \$150.0 million lead by Bank of America Securities. Further to Sarbanes-Oxley compliance, completed conversion of legacy accounting system into Oracle. Implemented comprehensive 404-compliance program supervised by PWC and Audit Committee. Exit strategy included \$100.0 sale of leading UK-based ATM estate;

- As part of an international expansion strategy, obtained LINK membership and established full-placement ATM program in the United Kingdom that organically grew to include over 100 employees and 2,500 units over a four year period;
- Consummated strategic combinations adding over 1,000 units, each immediately EPS accretive at combined total cost of approximately £2.0 million;
- TRM-UK subsidiary marketed and sold for approximately \$100.0 million USD.

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USABancShares, Inc. - Philadelphia, Pennsylvania
President & CEO, 1993 - 2001

USABancShares was a publicly owned (NASDAQ) Federal Reserve Bank Holding Company, with operating finance-related subsidiaries including an FDIC-insured bank and SIPC insured brokerage firm. The company was formed exclusively to acquire the bank and following acquisition became public through 1995 IPO, with former FDIC Chairman L. William Seidman serving as Advisory Board Chairman. Relying upon a traditional community bank business plan, the company enjoyed profitability through an asset base expanding from \$12.0 million to over \$300.0 million in four years. Achieved asset growth through both organic origination and acquisition of one-off loans, portfolios and whole FDIC-assisted institutions. Following initial capitalization through IPO, the company completed sale of trust preferred securities and a secondary stock offering used to fund online expansion. In 1998, the company launched an industry leading, internally engineered online banking division rated as the leading U.S. online financial services site. Innovative online products and services included;

- *EnergyOne*: Award winning promotional deposit account that required a single ("One") dollar as opening balance for DDA account. Rapidly generated deposits, providing a cost efficient method for cross selling other online offerings (with average balances substantially in excess of opening deposits);
- *CDenergy*: First-ever sale of FDIC-insured certificate of deposits using a reverse auction format, allowing customers to "bid" in real time for competitive CD rates. Yields dropped incrementally with each successive bid until "auction" ended, as buyers were notified of their purchase at winning rates;

Prior to sale of the company to Berkshire Holdings, departed USABancShares and assumed role as Chairman of the Board of TRM Corporation.

Eagle Bancshares, Inc. - Atlanta, Georgia
Director Merchant Banking Division, 1991 - 1993

Eagle Bancshares (NASDAQ-"EBSI"), was a publicly owned Atlanta-based U.S. Federal Reserve Thrift Holding Company operating finance-related subsidiaries including a well-capitalized FDIC-insured Thrift ("Tucker Federal") and real estate services group. Recruited by Chairman of the Board as senior management to initiate an entrepreneurial Merchant Banking Division that helped grow from \$250.0 million to over \$1.0 billion in a four year period. Acquired residential mortgage operation that produced a substantial component of revenue. Merchant Banking Division engagements included;

- Acquisition of RTC Commercial Loan Portfolio: Retained by a commercial bank holding company, performed due diligence and provided pricing guidance related to the acquisition of a \$100 million RTC portfolio of mixed asset class loans. Negotiated loan sale agreement with representations, warranties and transfer of servicing rights;
- Acquisition of Knoblauch Private Bank and Marion Bank: As lead investment banker, on behalf of private sector client, valued and acquired two failed banks post-intervention from Pennsylvania State Workers Insurance Fund ("SWIF"), total assets in excess of \$200.0 million spread across four retail branches. Negotiated purchase and assumption agreement for transfer of assets related to the transaction;
- Award of \$1.0 billion charge-off loan ("JDC") portfolio: Selected by RTC through competitive bid process, prepared RFP resulting in the award of a \$1.0 billion charged-off commercial debt portfolio. Created joint venture with MWOB (diversity) asset management company, exceeding projected 100 basis-point recovery.

Prior to sale of the company to Royal Bank of Canada at a significant premium to book value, departed Eagle Bancshares and assumed role as President & CEO, MerchantBancShares / USABancShares.

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Federal Deposit Insurance Corporation, Eastern Region

Credit Specialist, 1989 - 1991

Recruited through the North Eastern Consolidated Office in Valley Forge, Pennsylvania, assigned as FDIC employee to the Resolution Trust Corporation (RTC) for management and disposition of failed Savings & Loans. Served both conservatorship and receivership operations, specializing in the resolution of complex sub and non-performing debt. With extensive management responsibility for private sector personnel, served as a member of RTC management in several of the Eastern Region's largest failures, including City Federal in New Jersey (\$12.0 billion) and Fulton Federal in Atlanta (\$2 billion). Authored RTC Eastern Regional training material on Resolution of Sub/Non-performing Debt ("The REO Continuum"), which established protocol for maximizing cash recovery of assets under FIRREA legislation. Served with over 15 intervention teams for failed thrifts seized by RTC (to include CenTrust in Miami, Florida) that required inventory of existing balance sheet assets and reconstitution into conservatorship for public re-opening. Supervised and directed staff of failed thrifts in order to facilitate transition to Federal ownership.

- As Assistant Managing Agent-Credit for Fulton Federal, negotiated the sale of balance sheet assets and retail network of 35+ branches to SouthTrust Bank. Aggressively managed \$36.0 million REO portfolio and billion dollar performing and non-performing loan portfolio. Supervised all lending, servicing and processing staff for institution, reporting directly to Managing Agent;
- Assigned to SCRC (senior credit review) in Atlanta, Georgia for preparation and presentation of major cases (\$25.0 million+) for A-1 comprised credit decisions under regional (or national) office delegated authority.

Prior to anticipated RTC "sunset", departed to assume role as Director, Merchant Banking Division for Eagle Bancshares, Inc. (NASDAQ-"EBSI").

Royal Bank of Pennsylvania, Philadelphia, Pennsylvania

General Counsel and Secretary, 1987 - 1989

On behalf of the most profitable bank holding companies in the United States, served as General Counsel and Secretary for Royal Bank of Pennsylvania (a publicly owned Federal Reserve Bank Holding Company). Member of senior management responsible for non-performing / delinquent loan portfolio and the Bank's largest complex credits. Maintained industry leading credit quality ratios. Directed and underwrote refinance of AFL-CIO JFK Hospital i/a/o \$20.0 million, negotiated municipal guarantee with the Mayor of Philadelphia. Originated, underwrote and maintained dynamic credit relationships including the Trump Organization, originated a senior lien mortgage collateralized by Trump Marina (subsequently repaid in the entirety). Supervised loan documentation and served as liaison with outside counsel related to litigation and Federal and State regulatory compliance including 10-K, 10-Q, 8-K, proxy and annual meetings.

- Eliminated outside legal expense by over 15% by active management of billing and time allocation among firms, and retention of certain collection matters on an internal basis;
- Reduced non-performing loan balances by active, day-to-day asset management; supervised delinquent loan portfolio and significantly improved performance ratios.

In connection with the S&L crisis, departed to assume role as FDIC Credit Specialist with assignment to failed \$12.0 billion City Federal Savings in New Jersey.

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EDUCATION:

Villanova University School of Law Philadelphia, Pennsylvania: Juris Doctor, 1988
Emory University Atlanta, Georgia: Bachelor of Arts (History), 1984
The Episcopal Academy Philadelphia, Pennsylvania: HS Diploma, 1980

PROFESSIONAL ACCREDITATION:

PA Attorney at Law Admitted to Practice, Supreme Court of United States / Pennsylvania Bar
FINRA Series 7 Securities License
FINRA Series 63 Securities License
FINRA Series 79 Securities License

PROFESSIONAL AFFILIATION:

Turnaround Management Association (**TMA**)
American Bankruptcy Institute (**ABI**)
Association of Insolvency and Restructuring Advisors (**AIRA**)
National Association of Consumer Bankruptcy Attorneys (**NACBA**)
International Association of Restructuring, Insolvency, and Bankruptcy Professionals (**INSOL**)

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