

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SANTA ROSA DIVISION

In re
CLEMENT C. and ANN MARIE
CARINALLI,

Debtors

S.S.Ns: XXXX-XX-8623 and
XXXX-XX-5690

Case No. 09-12986
Under Chapter 11

DISCLOSURE STATEMENT FOR
DEBTORS' AND COMMITTEE'S AMENDED JOINT PLAN OF REORGANIZATION
(Dated August 17, 2010)

MEYERS LAW GROUP, P.C.
A Professional Corporation
MERLE C. MEYERS, ESQ. CA Bar #66849
EDIE WALTERS, ESQ., CA Bar #262730
D. CLARKE SUGAR, ESQ., CA Bar #251681
44 Montgomery Street, Suite 1010
San Francisco, California 94104
Telephone: (415) 362-7500
Facsimile: (415) 362-7515
Email: mmeyers@mlg-pc.com
ewalters@mlg-pc.com
csugar@mlg-pc.com

PACHULSKI, STANG ZIEHL & JONES LLP
JOHN D. FIERO, ESQ. CA Bar #136557
MAXIM B. LITVAK, ESQ. CA Bar #215852
150 California Street, 15th Floor
San Francisco, CA 94111
Telephone: (415) 263-7000
Facsimile: (415) 263-7010
Email: jfiero@pszjlaw.com
mlitvak@pszjlaw.com

Attorneys for Official Committee of Unsecured
Creditors

Attorneys for Clement C. Carinalli and Ann Marie Carinalli,
Debtors-in-Possession

TABLE OF CONTENTS

1 INTRODUCTION2

2 A. Filing of the Plan.....2

3 B. Right to Vote on the Plan.....3

4 C. Voting Instructions.....4

5 D. Confirmation Hearing5

6 II. DESCRIPTION OF THE PLAN5

7 A. Introduction.....5

8 B. Classification and Treatment of Claims.....6

9 C. Material Elements of the Plan.....9

10 1. Formation of Creditors’ Trust.....9

11 2. Appointment of Trustee.10

12 3. Appointment of Plan Committee.12

13 4. Treatment of Secured Claims.....12

14 (a) Class B (Equity Properties and Senior Liens).....12

15 (b) Class C (Junior Liens).....13

16 (c) Class D (Overencumbered Properties).....13

17 (d) Class E (Luther Burbank Savings).....13

18 (e) Class F (Other Secured Claims).....13

19 (f) Class G (Early Option Unsecured Claims).14

20 (g) Class H (General Unsecured Claims).14

21 5. Secured Creditor Treatment Options.15

22 (a) Foreclosure Option.....15

23 (b) Transfer Option.....15

24 (c) Release Option.....15

25 (d) Protocols Option.16

26 6. Order Regarding Modification of Foreclosure Procedures.....17

27 7. Calculation of Elections and Voting by Multi-Lender Subclasses.18

28 8. Excluded Assets.....18

29 9. Continuing Role and Compensation of Debtors.19

30 10. Debtors’ Discharge and Asset Ownership21

31 11. Preservation of Causes of Action.....21

32 D. Recommendation as to Plan.....22

33 III. INFORMATION REGARDING THE CHAPTER 11 ESTATE22

34 A. Events Leading to Commencement of Chapter 11 Case23

35 B. The Debtors and Their Business Interests23

36 IV. SIGNIFICANT EVENTS DURING THE CHAPTER 11 CASE23

37 A. Operation of Business by Debtors-in-Possession23

38 B. Appointment of Official Unsecured Creditors’ Committee in the Case.....24

39 C. SMIC Operations24

40 D. Use of Cash During Chapter 11 Proceedings25

41 E. Bankruptcy Schedules and Statements of Financial Affairs.....26

42 F. Representation of the Debtors and the Committee26

43 G. Claims Deadlines27

44 H. Stay Relief and Deficiency Waivers27

45 I. Real Property Sales29

46 J. Assignment and Preservation of All Claims Against Insiders.....30

47 K. Foreclosure Modification Order31

48 L. Nondischargeability Complaint31

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

M. Committee’s Complaint Regarding Shiloh Property32

V. ESTATE ASSETS AND LIABILITIES.....33

 A. Assets:.....33

 B. Liabilities:33

VI. CONFIRMATION AND CONSUMMATION PROCEDURE34

 A. Solicitation of Votes34

 B. The Confirmation Hearing.....35

 C. Confirmation35

 D. Consummation38

 E. Effect of Confirmation of the Plan.....38

VII. CERTAIN RISK FACTORS TO BE CONSIDERED38

 A. Certain Bankruptcy Law Considerations39

 B. Certain Practical Considerations.....48

VIII. CONCLUSION AND RECOMMENDATION.....50

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

CLEMENT C. CARINALLI and ANN MARIE CARINALLI, the debtors-in-possession herein (the “Debtors”), and the OFFICIAL COMMITTEE OF UNSECURED CREDITORS appointed in the Debtors’ chapter 11 case (the “Committee”), hereby present this disclosure statement (the “Disclosure Statement”) for the purpose of providing parties in interest with information pertinent to the Debtors’ And Committee’s Amended Joint Plan of Reorganization (as it may be amended or modified hereafter, the “Plan”) filed on August 17, 2010 by the Debtors and the Committee.

ALL CREDITORS AND HOLDERS OF CLAIMS AGAINST THE DEBTORS ARE ENCOURAGED TO READ THIS DISCLOSURE STATEMENT AND THE PLAN IN THEIR ENTIRETIES. PLAN SUMMARIES AND STATEMENTS MADE IN THIS DISCLOSURE STATEMENT ARE QUALIFIED IN THEIR ENTIRETIES BY REFERENCE TO THE PLAN, OTHER EXHIBITS ANNEXED HERETO, EXHIBITS TO THE PLAN AND OTHER DOCUMENTS REFERENCED AS FILED WITH THE BANKRUPTCY COURT PRIOR TO OR CONCURRENT WITH THE FILING OF THIS DISCLOSURE STATEMENT. ALL CREDITORS AND HOLDERS OF CLAIMS IN THE DEBTORS’ CASES SHOULD READ CAREFULLY AND CONSIDER FULLY THE “RISK FACTORS” SECTION HEREOF BEFORE VOTING FOR OR AGAINST THE PLAN.

THE DEBTORS AND THE COMMITTEE BELIEVE THAT CONFIRMATION OF THE PLAN IS IN THE BEST INTERESTS OF THE ESTATE HEREIN AND ALL OF THEIR CREDITORS. THE PLAN IS THE PRODUCT OF EXTENSIVE AND COMPREHENSIVE NEGOTIATIONS BETWEEN THE DEBTORS AND THE COMMITTEE, AND THE COMMITTEE HAS THEREFORE RECOMMENDED THAT ALL CREDITORS VOTE TO ACCEPT THE PLAN.

THE BANKRUPTCY COURT HAS APPROVED THIS DISCLOSURE STATEMENT, WHICH APPROVAL DOES NOT CONSTITUTE A DETERMINATION OF THE MERITS OF THE PLAN DESCRIBED IN THIS DISCLOSURE STATEMENT. THE APPROVAL OF THIS DISCLOSURE STATEMENT MEANS THAT THE BANKRUPTCY COURT HAS FOUND THAT THIS DISCLOSURE STATEMENT CONTAINS ADEQUATE INFORMATION TO PERMIT CREDITORS AND HOLDERS OF CLAIMS IN THE DEBTORS’ ESTATES TO MAKE A REASONABLY INFORMED DECISION IN EXERCISING THEIR RIGHT TO VOTE UPON THE PLAN.

THIS DISCLOSURE STATEMENT HAS NEITHER BEEN APPROVED NOR DISAPPROVED BY THE SECURITIES AND EXCHANGE COMMISSION (THE “SEC”), ANY STATE SECURITIES COMMISSION OR ANY OTHER REGULATORY AUTHORITY, NOR HAS THE SEC OR SUCH OTHER COMMISSION OR AUTHORITY PASSED UPON THE ACCURACY OR ADEQUACY OF THE STATEMENTS CONTAINED HEREIN.

THE DEBTORS AND THE COMMITTEE ARE UNABLE TO WARRANT OR

1 REPRESENT THAT ALL INFORMATION CONTAINED IN THIS DISCLOSURE
2 STATEMENT OR IN EXHIBITS ATTACHED HERETO IS WITHOUT ERROR,
3 ALTHOUGH ALL REASONABLE EFFORTS UNDER THE CIRCUMSTANCES HAVE
4 BEEN MADE TO BE ACCURATE. IN PARTICULAR, WITHOUT LIMITING THE
5 GENERALITY OF THE FOREGOING, THE DEBTORS AND THE COMMITTEE NOTE
6 THAT THE ASSUMPTIONS AND PROJECTIONS REFERENCED HEREIN REGARDING
7 FUTURE RESULTS, REVENUES AND INCOME OF THE CREDITORS' TRUST, AND
8 THE TIMING AND FEASIBILITY OF DISTRIBUTIONS TO CREDITORS, ARE ONLY
9 PREDICTIONS OF FUTURE EVENTS, AND THEREFORE THERE CAN BE NO
10 ASSURANCES THAT THE ASSUMPTIONS WILL IN FACT MATERIALIZE OR THAT
11 THE PROJECTED EVENTS WILL IN FACT OCCUR AS PREDICTED.

12 INTRODUCTION

13 A. Filing of the Plan

14 The Debtors and the Committee (collectively, the "Plan Proponents") have filed the Plan and
15 this Disclosure Statement with the Bankruptcy Court pursuant to the provisions of Section 1125 of
16 the Bankruptcy Code, for distribution to holders of Claims¹ against, and Interests in, the assets of the
17 Debtors, in connection with (i) the solicitation of acceptances of the Plan, and (ii) a hearing to
18 consider confirmation of the Plan (the "Confirmation Hearing") to be scheduled by the Bankruptcy
19 Court.

20 Attached as exhibits to this Disclosure Statement are copies of the following:

- 21 • The Plan (**Exhibit "A"**);
- 22 • The Order of the Bankruptcy Court approving this Disclosure Statement and
23 establishing voting and tabulation procedures (**Exhibit "B"**);
- 24 • The Debtors' Projections (conservative and moderate cases) (**Exhibit "C"**);
- 25 • The Debtors' Liquidation Analysis (**Exhibit "D"**);
- 26 • The most recent monthly operating report filed by the Debtors (**Exhibit "E"**);
- 27 • The proposed creditors' trust agreement that will create a creditors' trust to administer
28 assets on behalf of creditors (**Exhibit "F"**); and
- The index of secured claimants, collateral properties and Plan classifications (**Exhibit
"G"**).

¹ All capitalized terms not otherwise defined herein are intended to have the meanings ascribed to them in the Plan.

1 In addition, accompanying this Disclosure Statement in the same package of materials are the
2 following:

- 3 • A ballot (the “Ballot”) for the acceptance or rejection of the Plan for use by those
4 holders of Claims that are entitled to vote to accept or reject the Plan. As set forth
5 below, the Ballot is also the instrument by which certain secured creditors must make
6 an election among several proposed treatments of their collateral and claims, and by
7 which unsecured creditors may choose between payment options.
- 8 • A letter from the Debtors assisting specific classes of creditors in identifying their
9 classification, identification and proposed treatment; and
- 10 • A letter from the Committee containing the Committee’s recommendation that
11 unsecured creditors vote to accept the Plan, and explaining the reasons therefor.

12 After notice and a hearing, the Bankruptcy Court has approved this Disclosure Statement as
13 containing adequate information of a kind and in sufficient detail to enable hypothetical, reasonable
14 investors typical of the Debtors’ creditors and interest holders to make an informed judgment whether
15 to accept or reject the Plan. Each creditor and holder of a Claim herein is entitled to vote to accept or
16 reject the Plan should read this Disclosure Statement and the Plan in their entirety before voting on
17 the Plan.

18 **B. Right to Vote on the Plan**

19 Pursuant to the provisions of the Bankruptcy Code, only holders of allowed claims in classes
20 of claims that are impaired under the terms and provisions of a chapter 11 plan are entitled to vote to
21 accept or reject that plan. Holders of Allowed Claims in classes of claims that are unimpaired under
22 the terms and provisions of a chapter 11 plan are conclusively presumed to have accepted the Plan
23 and therefore are not entitled to vote with respect to that plan. Holders of Claims within Classes A
24 and F of the Plan are unimpaired, are conclusively presumed to have accepted the Plan, and therefore
25 do not have the right to vote on the Plan. Holders of Claims in Classes B, C, D, E, G and H, and all
26 subclasses designated therein, are impaired and therefore are entitled to vote to accept or reject the
27 Plan.

28

1 The Bankruptcy Code defines “acceptance” of a plan by a class of claims as acceptance by
2 creditors in that class that hold at least two-thirds in dollar amount, and more than one-half in
3 number, of claims within that class that cast ballots for acceptance or rejection of the plan. For a
4 more complete description of the requirements for confirmation of the Plan, see Section VI,
5 “Confirmation and Consummation Procedure.”

6 If a Class of Claims rejects the Plan or is deemed to reject the Plan, the Plan Proponents have
7 the right, and intend, to request confirmation of the Plan pursuant to the “cram-down” provisions of
8 Section 1129(b) of the Bankruptcy Code. Section 1129(b) permits the confirmation of a plan
9 notwithstanding the non-acceptance of such plan by one or more impaired classes of claims or equity
10 interests if the proponent thereof complies with the provisions of that section. Under that section, a
11 plan may be confirmed by a bankruptcy court if it does not “discriminate unfairly” and is “fair and
12 equitable” with respect to each non-accepting class. For a more detailed description of the
13 requirements for confirmation of a nonconsensual plan, see Section VI(C), “Confirmation and
14 Consummation Procedure -- Unfair Discrimination and Fair and Equitable Tests.”

15 The Plan Proponents believe that through the Plan, creditors will obtain a greater recovery
16 upon their claims than the recovery that would be available if the assets of the Debtors were
17 liquidated under chapter 7 of the Bankruptcy Code. Therefore, the Plan Proponents believe that after
18 carefully reviewing the Plan and this Disclosure Statement, including the Exhibits, each holder of an
19 Allowed Claim that is entitled to vote with respect to the Plan should vote to accept the Plan. As
20 noted above, the Committee appointed in this case to represent the interests of unsecured creditors,
21 having had full input and authorship in the drafting of the Plan, supports the confirmation of the Plan.

22 **C. Voting Instructions**

23 If you are entitled to vote to accept or reject the Plan, the Ballot is enclosed for the purpose of
24 voting on the Plan. If you hold a Claim in more than one Class and you are entitled to vote Claims in
25 more than one Class, you may submit separate ballots that must be used for each separate Class of
26 Claims. In any event, please vote and return your ballot(s) to:

CARINALI PLAN OF REORGANIZATION
c/o Meyers Law Group, P.C.
Attn: Edie Walters, Esq.
44 Montgomery Street, Suite 1010

1
2 DO NOT RETURN YOUR NOTES OR SECURITIES WITH YOUR BALLOT. TO BE
3 COUNTED, YOUR BALLOT INDICATING ACCEPTANCE OR REJECTION OF THE PLAN
4 MUST BE RECEIVED NO LATER THAN THE TIME AND DATE STATED ON THE BALLOT.

5 If you are a creditor or interest holder entitled to vote on the Plan and did not receive a Ballot,
6 received a damaged Ballot or lost your Ballot, or if you have any questions concerning the Disclosure
7 Statement, the Plan or the procedures for voting on the Plan, please call Edie Walters, Esq., one of the
8 Debtors' counsel, at (415) 362-7500, ext. 225.

9 **D. Confirmation Hearing**

10 Pursuant to Section 1128 of the Bankruptcy Code, the Confirmation Hearing will be
11 commenced on the date set forth in documents provided with this Disclosure Statement before the
12 Honorable Alan Jaroslovsky, United States Bankruptcy Judge, at the United States Bankruptcy Court
13 located at 99 South "E" Street, Santa Rosa, California. The Bankruptcy Court has directed that
14 objections, if any, to confirmation of the Plan be served and filed so that they are received on or
15 before the deadline stated in such documents, in the manner described below in Section VI(B),
16 "Confirmation and Consummation Procedure -- The Confirmation Hearing." The Confirmation
17 Hearing may be adjourned from time to time by the Bankruptcy Court without further notice except
18 for the announcement of the adjournment date made at the Confirmation Hearing or at any
19 subsequent adjourned Confirmation Hearing.

20 **II. DESCRIPTION OF THE PLAN**

21 **A. Introduction**

22 The Plan is the product of extensive efforts by the Debtors and the Committee to formulate a
23 plan that maximizes recoveries for creditors and provides for distributions to creditors to be made as
24 early as possible. Under the Plan, the Plan Proponents expect that the Trustee will pay 10% of all
25 Allowed General Unsecured Claims within Class G (for creditors who have chosen early payment,
26 within approximately eighteen months or earlier) and between approximately 26.7% and 55.7% of all
27 Allowed General Unsecured Claims within Class H (for creditors who have chosen to receive
28 payments over a more extended time period spanning approximately five years), using the cash

1 generated by the sale of most or all of the Debtors' non-exempt assets that have equity value, as
2 explained in more detail below.

3 The means by which sales of assets and distributions to creditors will occur is a creditors'
4 trust, the Creditors' Trust, created as of the Effective Date of the Plan. The principal purpose of the
5 Creditors' Trust will be to maximize returns to unsecured creditors. The Creditors' Trust will be
6 administered by a Trustee selected solely by the Committee, as identified below, and will receive by
7 transfer on the Effective Date, most or all of the non-exempt assets of the Estate that are anticipated
8 to have value for the Creditors' Trust over and above any liens encumbering them. As explained
9 below, any property that is considered by the Plan Proponents to be overencumbered by liens in
10 excess of the property's realizable value will not be transferred into the Creditors' Trust unless the
11 lienholders with respect to that property agree to protocols that allow for the Creditors' Trust's
12 management of the property and a sharing of value upon sale.

13 The Debtors shall have no control or decision-making power over the Creditors' Trust.
14 Instead, the Creditors' Trust and its assets will be managed entirely by the Trustee and an oversight
15 committee, the Plan Committee, comprised of unsecured creditors selected by the Committee in the
16 Chapter 11 Case. Nonetheless, Mr. Carinalli has agreed to devote his full time and efforts on a
17 reasonable basis for at least one year, to assist the Trustee in her efforts. Mr. Carinalli will be
18 compensated out of the assets of the Creditors' Trust in the amount of \$15,000 per month over a one-
19 year period following the Effective Date, with future compensation, if any, to be agreed upon at a
20 later time. In addition, Mr. Carinalli will be entitled to post-confirmation incentive compensation to
21 be paid pursuant to a formula approved by the Committee and described further below. The Plan
22 Proponents believe that the value of the Estate will be maximized through the cooperation and efforts
23 of the Debtors that have been made during the course of the case and will continue to be made
24 throughout the remainder of the case.

25 **B. Classification and Treatment of Claims**

26 The Plan designates almost 200 Classes and subclasses of Claims, most of which are Classes
27 of Allowed Secured Claims. Those Classes take into account the differing nature and priority of the
28 various kinds of classified Claims under the Bankruptcy Code. All of those many subclasses,

1 however, fall within 10 overall Classes. The letter accompanying this Disclosure Statement from the
 2 Debtors’ counsel describes the particular Class and, where applicable, subclass, in which your Claim
 3 has been designated.

4 The following table briefly summarizes the classification and treatment of all overall Classes
 5 of Claims under the Plan and the general treatment provided on account of those Classes and Claims
 6 under the Plan. If you hold a Secured Claim, your Secured Claim is designated in a subclass of either
 7 Class B, C, D, E or F. The information set forth in the following table is a summary only for
 8 convenience of reference, and each holder of a Claim should refer to the Plan for a full understanding
 9 of the classification and treatment of Claims provided for under the Plan. Holders of Secured Claims
 10 may also review **Exhibit “G”** attached hereto in order to find the classification of such Claims and
 11 identification of the collateral property related thereto. The terms of the Plan (and not this Disclosure
 12 Statement) shall govern the treatment of Claims asserted against the Debtors.

13 Claims will receive designated treatment within a Class only to the extent Allowed within that
 14 class. The Claim allowance procedure is an ongoing process and the actual amount of Allowed
 15 Claims may vary from the estimates. For a complete description of the risks associated with the
 16 recoveries provided under the Plan, see Section VII, “Certain Risk Factors To Be Considered.”

<u>CLASS</u>	<u>CLAIMS</u>	<u>SUMMARY OF TREATMENT</u>
Nonclassified	Administrative Expenses	Paid in full by Trustee on latest of (a) Effective Date; (b) when due; or (c) when allowed by Final Order.
Nonclassified	Priority Tax Claims	Paid in full by Trustee in up to four equal, annual payments, with interest at applicable nonbankruptcy rate
Class A	Priority Claims	Paid in full by Trustee on latest of (a) Effective Date; (b) when due; or (c) when allowed by Final Order.
Class B	Secured Claims – Equity and Senior Liens	Subject to various terms and conditions, the Trustee will market the collateral property for sale over a designated period of time, pay interest at a rate specified in the Plan (generally, 4.0% per annum) and upon sale, pay the Allowed Secured Claim in full

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

<u>CLASS</u>	<u>CLAIMS</u>	<u>SUMMARY OF TREATMENT</u>
Class C	Secured Claims – Junior Liens -	Secured creditors holding junior liens will make an election to either foreclose immediately upon their liens, or release those liens and rely on unsecured claims only. Failure to timely make an election will be deemed to be an election of the Foreclosure Option, which shall have the effect of releasing any deficiency claims.
Class D	Secured Claims – Overencumbered	Subject to various terms and conditions, secured creditors within Class D will make an election among the following alternative treatments, as described below: the Transfer Option, the Release Option, the Foreclosure Option and the Protocols Option. Failure to timely make an election will be deemed to be an election of the Transfer Option, which shall have the effect of releasing any deficiency claims.
Class E	Luther Burbank Secured Claims	Luther Burbank Savings (“LBS”) will be required to timely foreclose upon its liens in Classes E1 through E19. Secured Claims held by LBS within Classes E20 through E22 will be treated similarly to Secured Claims within Class B. Secured Claims held by LBS within Classes E23 through E31 will be treated similarly to Secured Claims within Class D, with particularized exceptions.
Class F	All Other Secured Claims	Secured Claims within Class F will be unimpaired. Holders of those Claims will either be cured and reinstated, or satisfied in full, or allowed to reclaim and foreclose upon their collateral.
Class G	Early Option Unsecured Claims	Holders of General Unsecured Claims, up to \$30 million in the aggregate, that elect early payment pursuant to Class G will receive 10% of their claims in full satisfaction within approximately eighteen months following the Effective Date. Subscriptions above \$30 million will be ratably transferred to Class H.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

<u>CLASS</u>	<u>CLAIMS</u>	<u>SUMMARY OF TREATMENT</u>
Class H	General Unsecured Claims	Holders of General Unsecured Claims that do not elect treatment under Class G will be treated under Class H and will receive payments from the Trustee from time to time on a <i>pro rata</i> basis as funds in the Creditors' Trust become available, after taking into account the costs and expenses of the Creditors' Trust and the obligations of the Trustee under the Plan. Estimated recoveries to be between approximately 26.7% and 55.7% of allowed amounts in the aggregate, over a five-year period.
Class I	Equity Interests	The Debtors will receive the Excluded Assets as of the Effective Date.

C. Material Elements of the Plan

The following is a brief summary of certain of the material provisions of the Plan that allow for the distributions and treatments contemplated by the Plan. This overview is qualified in its entirety by reference to the provisions of the Plan itself, a copy of which is annexed hereto as **Exhibit "A,"** as well as financial and other information contained elsewhere in this document and in the exhibits attached hereto.

1. Formation of Creditors' Trust. Pursuant to Article 7.3 of the Plan, a Creditors' Trust will be formed as of the Effective Date, and all of the Transfer Assets of the Estate (meaning, all assets other than the Excluded Assets and certain assets determined to be of no realizable value to the Creditors' Trust), shall be deemed sold, transferred and conveyed into the Creditors' Trust. In exchange for such transfer to the Creditors' Trust, the Creditors' Trust's shall assume all liabilities of the Estate, to the extent provided by the Plan. The sole beneficiaries of the Creditors' Trust shall be the holders of Allowed Claims within Class G and Class H of the Plan. For federal income tax purposes, the beneficiaries of the Creditors' Trust shall be treated as the grantors of the Creditors' Trust and shall be deemed to be the owners of the assets of the Creditors' Trust, and the Debtors shall treat the transfer of the Transfer Assets to the Creditors' Trust as a deemed transfer to such beneficiaries followed by a deemed transfer by such beneficiaries to the Creditors' Trust. As of the Effective Date, the value of the Transfer Assets deemed transferred and conveyed into the Creditors'

1 Trust shall be fixed at the amount of the Transfer Price. The Transfer Price shall be deemed paid and
2 satisfied by the Creditors' Trust's assumption of liabilities of the Estate in accordance with, and to
3 the extent set forth in, the provisions of this Plan. All assets transferred to the Creditors' Trust shall
4 be free and clear of any and all claims, interests, liens, security interests and obligations other than
5 those that are expressly created or preserved by the provisions of this Plan or the Confirmation Order.
6 The Creditors' Trust shall be governed by the terms of the creditors' trust agreement substantially in
7 the form of **Exhibit "F"** attached hereto.

8 2. **Appointment of Trustee.** Pursuant to the Plan, Andrea Wirum, an individual
9 selected solely by the Committee, will become the Trustee, with the mandate of liquidating in an
10 orderly manner the assets of the Creditors' Trust and distributing the proceeds thereof to creditors in
11 the manner provided by the terms of the Plan.

12 Ms. Wirum has acted as a trustee appointed by the United States Trustee in numerous
13 bankruptcy cases, both in chapter 7 cases and in chapter 11 cases, in Santa Rosa, San Francisco and
14 San Jose. Ms. Wirum has also acted as a receiver, liquidating agent and disbursing agent in
15 bankruptcy cases, and was formerly a partner in the law firm of Pillsbury Winthrop Shaw Pittman
16 LLP, where she managed a broad-based business and insolvency practice. She was admitted to
17 practice as a lawyer in California in 1980, and has regularly appeared in annual editions of *Best*
18 *Lawyers in America*.

19 Ms. Wirum is presently serving as a plan consultant to the Committee, preparatory to serving
20 as the Trustee of the Creditors' Trust. Ms. Wirum will charge the Estate for her services as a plan
21 consultant, and will charge the Creditors' Trust as the Trustee, on an hourly rate basis, plus
22 reimbursement of expenses. Ms. Wirum's regular hourly rate is \$495. However, she has agreed to
23 charge a reduced hourly rate of \$450 for the period from May 26, 2010 until six months following the
24 Effective Date, and her hourly rate thereafter will be \$495. Ms. Wirum may also charge for the time
25 of her accounting staff, at the hourly rate of \$80.00. Ms. Wirum's rates are subject to reasonable
26 adjustment from time to time in accordance with her practice with other clients and cases.

27 The Trustee will formally commence services as of the Effective Date, and will continue to
28 perform her duties until completion of the final distribution to be made in implementation of the Plan,

1 or until she is replaced pursuant to the terms of the Plan. Subject to the oversight of the Plan
2 Committee, the Trustee will be responsible for the implementation of the Plan to the extent expressly
3 provided in the Plan, and will have certain duties, powers and authorities in order to do so, including
4 the ability to monitor and direct, in defined respects, the assistance efforts of the Debtors, full access
5 to the books and records of the Debtors, the ability to negotiate settlements and to sell assets on
6 behalf of the estate, the power to file and prosecute estate avoidance claims and objections to Claims,
7 in accordance with the terms of the Plan, and the responsibility to make distributions to creditors
8 from time to time and to manage the estate's funds in the interim. The Trustee will also be
9 responsible for making expenditures on behalf of the estate, including maintaining insurance
10 coverage and paying the approved administrative expenses of Plan implementation. The Trustee's
11 rights and duties will include the following:

- 12 • The Trustee will monitor and direct the efforts of Mr. Carinalli, who will, to the extent
13 reasonably requested by the Trustee and consistent with the terms of the Plan, assist
14 the Trustee in implementation of the Plan.
- 15 • The Trustee will take any and all actions reasonably necessary or appropriate in order
16 to implement and administer the Creditors' Trust, including without limitation
17 negotiating for and entering into settlements, forbearance agreements and
18 compromises, negotiating and closing asset sales, and generally taking actions
19 consistent with the terms of the Plan, all in accordance with the terms of the Plan.
- 20 • The Trustee may file, prosecute and settle estate avoidance claims and objections to
21 Claims, and requested estimations of Claims, in accordance with the terms of the Plan.
- 22 • The Trustee will make distributions to creditors from time to time in accordance with
23 the terms of the Plan.
- 24 • The Trustee will manage all funds of the Creditors' Trust and shall use such funds, as
25 appropriate, to obtain and pay for appropriate insurance coverages and indemnification
26 of the Trustee, the Plan Committee, and their respective professionals, and to pay
27 administrative costs of Plan implementation, all in accordance with the terms of the
28 Plan.
- The Trustee will collect, receive, manage and dispose of all assets of the Creditors'
Trust, *provided* that the Trustee may compromise, sell, lease or otherwise dispose of
(but not abandon to the Debtors or Reorganized Debtors) assets of the Creditors' Trust
above certain monetary thresholds set forth in the Plan only with the consent of the
Plan Committee or with the approval of the Bankruptcy Court.
- The Trustee may sell both the interests of the Creditors' Trust and the interests of co-
owners, of assets in which the Creditors' Trust holds a partial interest, in accordance
with the requirements and provisions of Section 363(h) of the Bankruptcy Code or
with the consent of all co-owners.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

- The Trustee will open and maintain bank accounts for the benefit of the Creditors' Trust in accordance with the terms of the Plan.
- The Trustee may retain counsel and other professionals for the purpose of advising the Trustee and representing the Trustee with respect to the implementation of the Plan.

3. **Appointment of Plan Committee.** A Plan Committee, comprised of up to seven unsecured creditors selected by the Committee and approved by the Bankruptcy Court, will be formed as of the Effective Date in order to monitor the activities of the Trustee, and to provide or withhold consents to certain actions in the administration of the Creditors' Trust. Members shall not be entitled to any compensation for their services as Plan Committee members, but will be reimbursed by the Creditors' Trust for their expenses incurred as such members. The Plan Committee's rights and duties will include the following:

- Approving any sale or other disposition of an asset of the Creditors' Trust if the sale price exceeds \$250,000;
- Approving any compromise or settlement of litigation or controverted matter proposed by the Trustee involving claims in excess of \$500,000; and
- Approving the retention by the Trustee of professionals who formerly represented the Debtors, presently represent the Reorganized Debtors or formerly represented the Committee.

4. **Treatment of Secured Claims.** Treatment of Secured Claims under the Plan varies by Class, and in some cases includes options that must be chosen by the holders of Secured Claims. Secured Claimants may identify their Secured Claims and Plan classification by review of Exhibit "G" attached hereto. In summary form only (each creditor is urged to review the details of treatment of its claim, as set forth in the Plan itself), the various broad categories of treatments by Class (subject to various exceptions and modifications contained in the Plan as to particular subclasses), are as follows:

(a) **Class B (Equity Properties and Senior Liens).** Generally, Secured Claims within Class B will be treated in accordance with the Class B Protocols, as defined in Exhibit "A" to the Plan. Under the Class B Protocols, the Trustee will pay interest to a holder of a Secured Claim at an interest rate designated for each subclass, until the underlying collateral property is sold or surrendered by the Trustee, or until the end of the Selling Period designated for that property. The holder of the Secured Claim will retain its lien, and in the

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

event of a sale of the collateral property, the Secured Claim will be paid in full. With respect to a Secured Claim encumbering property also affected by one or more junior liens, unless such junior lienholders elect the Release Option, as described below, the property will either be foreclosed upon by the holders of such junior liens or quitclaimed by the Estate to such junior lienholders, in each case subject to any senior liens thereon.

(b) **Class C (Junior Liens)**. Holders of Secured Claims within Class C, holding junior liens against overencumbered properties, will be required to elect one of two options for treatment, on timely submitted Ballots (the “Election Notice”): the Release Option or the Foreclosure Option, each as described below. If no Election Notice is timely and effectively made by a subclass within Class C, then that subclass will be deemed to have elected the Transfer Option, which shall have the effect of releasing any deficiency claims.

(c) **Class D (Overencumbered Properties)**. Holders of Secured Claims within Class D, holding liens against overencumbered properties, will be required to elect one of four options for treatment in their Election Notices: the Release Option, the Foreclosure Option, the Transfer Option or the Protocols Option, all as described below. If no Election Notice is timely and effectively made by a subclass within Class D, then that subclass will be deemed to have elected the Transfer Option, which shall have the effect of releasing any deficiency claims.

(d) **Class E (Luther Burbank Savings)**. LBS holds 31 Secured Claims, which will be treated as follows: Prior to the Effective Date, LBS shall foreclose upon those collateral properties underlying the Secured Claims in subclasses E1 through E19, all of which are considered to be overencumbered properties. Secured Claims within subclasses E20 through E22 will be treated in accordance with Class B Protocols, with some modifications. Secured Claims within subclasses E23 through E31 will be treated in accordance with the Class E Protocols, as defined in Exhibit “A” to the Plan.

(e) **Class F (Other Secured Claims)**. Secured Claims within Class F will be unimpaired: At the Trustee’s election, holders of those Claims, to the extent that there are any, will be either (a) cured and reinstated in accordance with the provisions of Section

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

1124(2) of the Bankruptcy Code; (b) paid in full; or (c) allowed to remove and foreclose upon their collateral properties.

(f) **Class G (Early Option Unsecured Claims)**. By making a timely written election on a Ballot, the holder of an Unsecured Claim, otherwise within Class H, may choose to be classified within Class G, for an earlier, but reduced, distribution. Earlier distributions will be made on the following basis:

- Subject to the over-subscription rules below, each holder of an Allowed Unsecured Claim within Class G will receive, on or before the end of the eighteenth (18th) full calendar month occurring after the Effective Date, or as soon thereafter as is practicable, a cash payment from the Creditors' Trust equal to ten percent (10%) of the full amount of such Allowed Claim. Such payment shall be made in full satisfaction of such Allowed Claim, and such holder shall not be entitled to payment of interest or any additional disbursement on account of such Allowed Claim, except that to the extent that Allowed Claims in Class H receive full payment, including interest that accrues as set forth in the Plan, any excess funds will be distributed to holders of Allowed Claims in Class G until such claims have been paid in full, together with interest accruing after the Petition Date at the rate of five percent (5%) per annum.
- In the event that timely elections to be included within Class G are made for qualifying Unsecured Claims in an aggregate amount in excess of \$30,000,000, then each such Claim will be reduced ratably so that the total amount of Claims within Class G is \$30,000,000, and all amounts in excess of that amount will be classified within Class H. For example, if holders of Unsecured Claims in an aggregate amount of \$40,000,000 elect Class G treatment, then 75% (\$30,000,000 divided by \$40,000,000) of each electing Claim will be classified within Class G and the other 25% of each such Claim will be classified within Class H. In such an example, a \$100,000 Unsecured Claim would be treated as follows: \$75,000 of the Claim would be classified within Class G, producing a distribution of \$7,500, and \$25,000 of the Claim would be classified within Class H, producing distributions pursuant to Class H treatment as described below.

(g) **Class H (General Unsecured Claims)**. General Unsecured Claims that are not classified in Class G by timely election for early payment, will be classified within Class H. Allowed Unsecured Claims within Class H will be treated as follows:

- From and after the date when the holders of Allowed Class G Claims have received their full 10% distributions, each holder of an Allowed Claim within Class H will receive *pro-rata* payments from funds of the Creditors' Trust from time to time as the Trustee shall determine appropriate, based on available funds, anticipated expenses and other obligations of the Creditors' Trust.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

- Those payments will end when either all Class H Allowed Claims have been paid in full, with interest accruing after the Petition Date at the rate of five percent (5%) per annum; or no funds or other assets of material value remain within the Creditors' Trust.
- Based on the projections attached hereto as **Exhibit "C,"** the Debtors and the Committee anticipate that the likely distributions on account of Class H Allowed Claims will be between approximately 26.7% and 55.7% over a five-year period, subject to many variables as to market direction, sales results, expenses and the like.

5. **Secured Creditor Treatment Options.** As noted above, holders of Secured Claims within Class D will be required to elect one of four optional treatments of their Claims, and holders of Secured Claims within Class C will be required to elect one of two of those optional treatments. In summary form only, the four options are as follows:

(a) **Foreclosure Option.** Under the Foreclosure Option, the electing holder of a Secured Claim in Classes C or D will be required to complete a non-judicial foreclosure upon its collateral property prior to the Effective Date. This will be accomplished by such holder through the accelerated foreclosure provisions of the Foreclosure Modification Order, as described below. If such foreclosure has not been completed prior to the Effective Date, then the Estate shall quitclaim such property to such holder as of the Effective Date, without representation or warranty, the holder shall not hold any claim for deficiency or guarantee with respect to such Claim, regardless of whether applicable bankruptcy or nonbankruptcy law would otherwise permit or recognize such claim.

(b) **Transfer Option.** Under the Transfer Option, the electing holder of an Allowed Secured Claim in Class D will receive a quitclaim deed from the Estate as of the Effective Date, such holder shall not hold or assert an Unsecured Claim against the Creditors' Trust or the Estate for any deficiency or guarantee claim related to such Allowed Secured Claim, regardless of whether applicable bankruptcy or non-bankruptcy law would otherwise permit or recognize such claim.

(c) **Release Option.** Under the Release Option, the electing holder of a Secured Claim in Classes C or D shall be deemed to have released and discharged all liens and security interests supporting such Secured Claim as of the Effective Date, and shall be

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

permitted to assert an Unsecured Claim in Class H in the full amount of such holder's Claim, if timely filed. The collateral property will then be sold by the Trustee free and clear of all such liens and security interests, for the benefit of general unsecured creditors. In order to be timely, such Unsecured Claim must be filed on or before the Deficiency Claim Deadline, which means the thirtieth (30th) calendar day following the Effective Date, or, in the case of Allowed Claims within Class B, the thirtieth (30th) calendar day following notification of surrender of the collateral property pursuant to the Class B Protocols.

(d) **Protocols Option.** Under the Protocols Option, the electing holder of a Secured Claim within Class D will receive the following treatment, in summary form only:

- The Trustee will not make interest payments on account of such Claims, but will maintain, insure and preserve the collateral property encumbered by such Allowed Secured Claim until the date of sale or surrender of such collateral property.
- At any time on or after the first anniversary of the Effective Date, if the Trustee determines that the collateral property is overly burdensome or of inconsequential value to the Creditors' Trust, the Trustee may surrender such property by written notification to such holder. As soon as practicable following such notification, the Trustee shall transfer such collateral property to the holder of the Allowed Secured Claim within Class D, by way of a quitclaim deed executed by the Trustee, subject to all existing exceptions, encumbrances and liens affecting the Debtors' title to such collateral property and without representation or warranty of any kind.
- Such holder shall not hold or assert an Unsecured Claim against the Creditors' Trust or the estate herein for any deficiency or guarantee claim related to such Allowed Secured Claim, regardless of whether applicable bankruptcy or non-bankruptcy law would otherwise permit or recognize such claim, and said holder shall not make the election otherwise permitted by the provisions of Section 1111(b) of the Bankruptcy Code.
- Such holder shall retain its lien encumbering the collateral property to secure the Allowed Secured Claim, *provided, however,* that at any time during the Selling Period, the Trustee may sell such collateral property free and clear of such lien for any sale price that equals or exceeds the Release Price designated for such property, and in such event, such holder shall reconvey and release its lien encumbering such property upon the request of the Trustee, and *provided, further,* that there shall be no restrictions upon the Trustee's use of rents, profits or proceeds of collateral property prior to a default hereunder or a sale of the collateral property.
- In the event of a sale by the Trustee of such collateral property, all proceeds, to the extent available, shall be disbursed as follows:

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

- a. first, to payment of any senior liens, including liens for accrued property taxes;
- b. second, to payment of the costs of sale, including without limitation transfer taxes, commissions, escrow fees, title insurance and reasonable attorneys' fees incurred by the Trustee;
- c. third, to payment to the Trustee to reimburse all interest payments made to the holder of any senior lien on or after the Effective Date in accordance with the terms of the Plan, and all expenditures made by the Trustee on or after the Effective Date in order to preserve, maintain, insure, repair or enhance the collateral property, including without limitation reasonable management fees and payments, if any, of property taxes, and also including without limitation costs of consultants, experts or other third parties retained in an effort to improve the collateral property or to obtain additional permits or entitlements with respect to the collateral property;
- d. fourth, to payment of the Allowed Secured Claim up to the Release Price designated for such claim after reduction by each of the payments described in subparts (a) through (c) above; and
- e. fifth, payment on a 50/50 shared basis to the Trustee and such holder of any remaining proceeds, until such holder's claim secured by such collateral property has been paid in full, with interest accruing after the Effective Date at the rate of 4.0% per annum, after which all remaining net proceeds of sale shall belong to the Creditors' Trust.

6. **Order Regarding Modification of Foreclosure Procedures.** In August 2010, upon the motion of the Debtors, entered an order (the "Foreclosure Modification Order") modifying the procedures pursuant to which holders of most or all Allowed Secured Claims within Classes C, D and E1 through E19 may foreclose upon their collateral properties. In particular, in order to accelerate the process by which those holders may foreclose upon collateral, and in order to facilitate the timing and terms of the Plan, the Bankruptcy Court ordered that as to all holders of specified Allowed Secured Claims, the Debtors' shall be deemed to have waived or limited the applicability, necessity and protections of certain provisions of California law that otherwise require extended notice periods before default notices can become fully effective, and before a foreclosure sale can be completed.

The provisions of the Foreclosure Modification Order will allow holders of designated Allowed Secured Claims within Classes C, D and E1 through E19 to foreclose upon their collateral as soon as possible, and well before the Effective Date. Those holders that intend to elect the Foreclosure Option should complete such foreclosures prior to the Effective Date. Those holders intending to elect the Release Option or, where eligible, the Transfer Option or the Protocols Option,

1 should not proceed with foreclosure at this time.

2 **7. Calculation of Elections and Voting by Multi-Lender Subclasses.** Many
3 subclasses within Classes C and D are comprised of multiple holders of undivided interests in the
4 subject Secured Claim. For example, a Secured Claim may be based on a note and deed of trust
5 encumbering property within the Estate, with the note and deed of trust held by two or more holders
6 in varying percentages of the overall amount owed. In such circumstances, the acceptance or
7 rejection of the Plan, and the Election Notices determining treatment of the Secured Claims, must be
8 determined on a subclass-wide basis, even though multiple holders may cast Ballots impacting those
9 particular Claims. In order to calculate such acceptance, rejection and Election Notices, the
10 following rules will apply, pursuant to Section 1.4 of the Plan and the provisions of Section 1126(c)
11 of the Bankruptcy Code:

- 12 • For purposes of determining acceptance or rejection of the Plan, a subclass will be
13 deemed to have accepted the Plan only if holders of at least two-thirds in dollar
14 amount of Ballots timely cast, and more than one-half in number of Ballots timely
15 cast, vote to accept the Plan. For example, if seven holders of a Secured Claim within
16 a particular subclass of Class D, constituting a total of 60% of the total undivided
17 interests of that subclass, timely cast Ballots, then in order for that subclass to be
18 deemed to have accepted the Plan, at least four such Ballots (more than one-half of the
19 seven Ballots), comprising at least 40% (at least two-thirds of 60%) of the total
20 interests in the Secured Claim, must have voted in favor of the Plan.
- 21 • For purposes of determining the Election Notice, an effective election will be deemed
22 to have been made only if more than half of the total interests in the Secured Claim
23 (whether or not voted) have made the same election. For example, if a Secured Claim
24 is held by seven holders of undivided interests, and if one such holder owns a 40%
25 undivided interest and all other holders each hold a 10% undivided interest, then an
26 Election Notice by such holders shall be effective only if made in favor of the same
27 option by all six holders of 10% interests, or by the holder of the 40% interest and two
28 holders of 10% interests. As stated above, in the absence of an effective and timely
Election Notice, a subclass will be deemed to have elected the Foreclosure Option.

23 **8. Excluded Assets.** As of the Effective Date, all assets of the Estate will be transferred
24 either to the Creditors' Trust or to over-encumbering lienholders, except for certain personal assets
25 (the "Excluded Assets") that will be revert in the Reorganized Debtors. Those Excluded Assets, in
26 general, are either exempt from creditors' claims as a matter of law or considered to have limited or
27 no net equity or recovery value. The Excluded Assets are as follows:

- 28 (a) All of the Debtors' household goods and furnishings located at the 3990
Wallace Property or the 1745 West Lake Property, including without limitation all furniture,

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

televisions, computers, peripheral equipment, other household equipment, kitchenware, artwork, linens, radios, and the like;

- (b) All of the Debtors' clothing, furs and jewelry;
- (c) All of the Debtors' firearms (two non-operative rifles), sports equipment, and photographic and recording equipment;
- (d) All of the Debtors' life insurance policies, subject to existing security interests;
- (e) The following vehicles: 2004 GMC Sierra, 2007 GMC Denali, 2003 Mercedes, 2004 Honda ATV, and 2004 Yamaha ATV;
- (f) Funds of approximately \$12,325 maintained in account no. 1015049370 at the Exchange Bank, constituting proceeds of Social Security payments; and
- (g) A John Deere tractor.

9. **Continuing Role and Compensation of Debtors.** During the Assistance Period

(meaning, the first twelve months following the Effective Date and such extended period thereafter upon which the Trustee and Mr. Carinalli may agree, each in their sole discretion), Clement C. Carinalli will make reasonable efforts to provide assistance to the Trustee primarily in her efforts to (a) administer and sell assets of the Creditors' Trust, (b) prosecute claims transferred to the Creditors' Trust, and (c) review and resolve Claims asserted against the Creditors' Trust. In consideration of those efforts, Mr. Carinalli will be compensated as follows:

(a) During the initial twelve (12) months of the Assistance Period, at a flat monthly rate of \$15,000, during which Mr. Carinalli shall commit his full time and efforts on a reasonable basis to the Assistance Efforts and shall not (except with the written approval of the Trustee and the Plan Committee in their sole discretions) obtain employment in any other capacity or become involved in any real estate investments outside of the Assistance Efforts or otherwise compete with the tasks of the Trustee or the Creditors' Trust under the Plan;

(b) For any period after the initial twelve months of the Assistance Period, at such monthly or hourly rate and such other terms as may be agreed upon in writing between the Trustee and Carinalli, each in their sole discretion; and

(c) Provided that Carinalli has fulfilled his obligations to provide the Assistance Efforts, an incentive-based fee equal to the following: (a) for every \$100.00 distributed by the Trustee on account of Allowed Claims within Class H between 40.00% and 75.00% of the allowed amounts of such claims, Carinalli shall receive \$2.00; and (b) for every \$100.00 distributed by the Trustee on account of Allowed Claims within Class H in excess of 75.00% of the allowed amounts of such claims, Carinalli shall receive \$5.00.

In the collective view of the Debtors, the Committee and the prospective Trustee (Ms. Wirum), Mr. Carinalli's continued services as a consultant to the Creditors' Trust are an important and valuable element of maximizing recoveries for unsecured creditors in this case. Mr. Carinalli's knowledge regarding estate properties arises from his many years of real estate transactions in

1 Sonoma County and other nearby areas, as well as his personal involvement in the acquisition and
2 operation of each of the estate properties intended for management and sale by the Trustee. It is
3 anticipated that the Trustee will seek Mr. Carinalli's input with regard to marketing strategies and
4 evaluation of sale opportunities, including indentifying and coordinating with potential buyers in the
5 sale process. In addition, to the extent requested by the Trustee, Mr. Carinalli will assist the Trustee
6 in working with lenders and creditors in effectuating the terms of the Plan, and Mr. Carinalli will
7 make himself generally available to the Trustee with regard to any number of miscellaneous issues
8 that may arise with respect to estate assets or ongoing operations.

9 Mr. Carinalli may be of particular value to the Trustee in connection with those properties
10 with special issues such as wetlands, vineyards, pending entitlements and the like. He may also assist
11 the Trustee in leasing commercial properties in the event of vacancies. Mr. Carinalli will also be
12 available to provide assistance to the Trustee and her counsel in connection with the claims review
13 and reconciliation process, as well as research and factual analysis of any avoidance claims that the
14 Trustee and her counsel choose to initiate, particularly in developing and providing historical facts
15 with regard to numerous prepetition transactions.

16 Without Mr. Carinalli's assistance, not only would a substantial and important resource of
17 information become less accessible to the Trustee, but the cost of replacing Mr. Carinalli's assistance
18 would substantially exceed the consideration proposed to be paid to him under the Plan. The Trustee
19 would instead need to retain outside professionals to support the gathering of relevant documents and
20 facts, at much greater cost, and without the benefit of Mr. Carinalli's ready to information, which
21 could have the effect of delaying the administration of the Creditors' Trust.

22 Mr. Carinalli will act as a consultant, not as an employee of either the Trustee or the
23 Creditors' Trust. The Creditors' Trust will maintain an office in Santa Rosa, California (at least for
24 some time, the Debtors' present business office), and Mr. Carinalli will initially provide his services
25 primarily in that office. Mr. Carinalli will not employ any staff, but the Creditors' Trust will likely
26 retain some of the Debtors' present employees and contractors at least on an interim basis for
27 purposes of assistance and continuity, including Carco Investments, a California corporation owned
28 by one of the Debtors' children, Kevin Carinalli, that has provided property repair, development and

1 management services to the Debtors in the past. Subject to the terms of the Plan, the Trustee will
2 retain Mr. Carinalli and others affiliated with him only as long as it is beneficial and economically
3 prudent to do so, after which their respective consulting arrangements will be terminated.

4 **10. Debtors' Discharge and Asset Ownership.** Notwithstanding any other provision of
5 the Plan or of the Bankruptcy Code and except as to valid and enforceable liens specifically
6 encumbering the Excluded Assets as of the Effective Date, each of the Reorganized Debtors shall be
7 discharged of (a) all Claims, liens, obligations and charges of any kind existing or arising prior to the
8 Effective Date (other than Allowed Unsecured Claims) as of the Effective Date, and (b) all Allowed
9 Unsecured Claims as of the date when any and all rights, claims or causes of action of the Estate, the
10 Trustee and the Creditors' Trust against or involving an insider (as that term is defined by Section
11 101 of the Bankruptcy Code, but specifically including for purposes herein, the Debtors' children,
12 Dennis Hunter, James Ratto and any affiliates thereof) are closed, settled or otherwise resolved
13 (whether consensually or otherwise) by the entry of Final Orders or consummation of settlements and
14 in no event later than any period under applicable nonbankruptcy law or this Plan, Sections 108 or
15 546 of the Bankruptcy Code, or by agreement of the applicable parties, within which the Estate, the
16 Trustee or the Creditors' Trust may commence an action or an objection to Claim against or
17 involving an insider. The Debtors may obtain an order of the Court establishing the passing of that
18 date upon request, upon notice to the Trustee. There shall be no right of any party in interest to seek
19 to delay such discharge beyond the timing contemplated hereby. Without limiting the generality of
20 the foregoing, neither of the Reorganized Debtors shall be liable for any claims or obligations of the
21 Estate or the Creditors' Trust arising after the Effective Date to any extent.

22 **11. Preservation of Causes of Action.** Under the Plan, each and every claim, right, cause
23 of action, claim for relief and other entitlement held by the Estate as of the Effective Date, whether
24 arising under Sections 502, 506, 510, 541, 542, 543, 544, 545, 550, 551, 552 or 553 of the
25 Bankruptcy Code or arising otherwise (including without limitation claims arising prior to the
26 Petition Date), other than those waived or released by the express terms of the Plan or the
27 Confirmation Order, shall be deemed fully preserved and transferred to the Creditors' Trust, and such
28 claims and causes of action shall be administered by the Trustee. As of the Effective Date, the

1 Trustee shall be deemed to have been appointed as the representative of the Estate by the Bankruptcy
2 Court, pursuant to Section 1123(b)(3)(B) of the Bankruptcy Code, for purposes of any and all of the
3 foregoing claims, rights, causes of actions, claims for relief and any other entitlement held by the
4 Estate.

5 The Committee has begun the process of reviewing available information regarding potential
6 claims and causes of actions that the Estate may have against third parties, including Dennis Hunter,
7 James Ratto, the Debtors' children and their respective affiliates, which review has not been
8 completed and will be continued by the Trustee. Such potential claims and causes of action expressly
9 include any transfers or payments identified or disclosed in the Debtors' Schedules of Financial
10 Affairs, as amended. The Plan Proponents do not intend, and it should not be assumed, that because
11 any existing or potential claim or cause of action has not yet been pursued or may not be described
12 herein or in the Plan, that any such claims or cause of action will not be pursued by the Trustee or has
13 been waived. Unless otherwise set forth in the Plan, any and all available claims and causes of
14 actions against third parties are preserved by the Plan and will be transferred to the Creditors' Trust
15 under the Plan.

16 The potential net proceeds from claims and causes of actions against third parties identified
17 herein or which may subsequently arise or be pursued are speculative and uncertain and therefore no
18 value can be assigned to such recoveries. However, the Committee believes that such claims and
19 causes of action constitute substantial and valuable assets of the Estate and may result in additional
20 distributions to holders of Allowed General Unsecured Claims out of the Creditors' Trust.

21 **D. Recommendation as to Plan**

22 THE DEBTORS AND THE COMMITTEE BELIEVE THAT THE PLAN PROVIDES THE
23 GREATEST AND EARLIEST POSSIBLE RECOVERIES TO HOLDERS OF ALL CLAIMS, AND
24 THAT ACCEPTANCE OF THE PLAN IS IN THE BEST INTERESTS OF ALL HOLDERS OF
25 CLAIMS. THE DEBTORS AND THE COMMITTEE THEREFORE RECOMMEND
26 ACCEPTANCE OF THE PLAN BY ALL PARTIES IN INTEREST.

27 **III. INFORMATION REGARDING THE CHAPTER 11 ESTATE**

28 The following information is provided in summary form with respect to the Debtors, their

1 chapter 11 estate, and related topics:

2 **A. Events Leading to Commencement of Chapter 11 Case**

3 Because the Debtors' business and investments were heavily focused on real estate, real estate
4 development and real estate lending, the dramatic downturn of the real estate industry generally, and
5 of real estate values in Sonoma, Lake and Mendocino Counties in particular, led to significant cash
6 flow difficulties and operational insolvency for the Debtors. Recognizing the need to restructure their
7 obligations in mid-2009, the Debtors sought to negotiate an out-of-court arrangement with their
8 secured and unsecured creditors. However, on September 14, 2009, three unsecured creditors
9 (collectively, the "Petitioners") filed an involuntary petition (the "Petition") against the Mr. Carinalli,
10 seeking commencement of a case under chapter 7 of the Bankruptcy Code.

11 Immediately upon receipt of the Petition, the Debtors, through counsel, contacted the
12 Petitioners and proposed to stipulate to entry of an order for relief under chapter 11 of the Bankruptcy
13 Code, and accordingly, pursuant to stipulation, on September 29, 2009, the Bankruptcy Court entered
14 the Order for Relief. The Order for Relief provided that both of the Debtors became joint debtors in
15 possession under chapter 11 of the Bankruptcy Code.

16 **B. The Debtors and Their Business Interests**

17 The Debtors remain in possession of their estate and continue to operate and manage their
18 business affairs. The Debtors' estate contains numerous real property assets, interests in operating
19 and real estate entities and other assets with substantial value. Throughout the pendency of the
20 chapter 11 case, the Debtors and their professional advisors have worked closely with the Committee
21 in order to ensure a cooperative approach to the administration of the Estate and the formulation of
22 the Plan.

23 **IV. SIGNIFICANT EVENTS DURING THE CHAPTER 11 CASE**

24 The following is a brief description of some of the major events that have occurred during the
25 Chapter 11 Cases.

26 **A. Operation of Business by Debtors-in-Possession**

27 Since the commencement of the Chapter 11 Case, the Debtors have operated and managed
28 their assets as debtors-in-possession under the protection of the Bankruptcy Court, pursuant to

1 Sections 1107 and 1108 of the Bankruptcy Code. An immediate effect of the commencement of the
 2 chapter 11 cases was the imposition of the automatic stay under Section 362(a) of the Bankruptcy
 3 Code, which, with limited exceptions, enjoins the commencement or continuation of all prepetition
 4 litigation against, and efforts to collect funds from, the Debtors or their property, including threatened
 5 actions by banks to foreclose upon assets of the Debtors. This injunction remains in effect unless and
 6 until modified or lifted by order of the Bankruptcy Court.

7 The Debtors have used this respite from debt collection to restructure their obligations and
 8 business operations, through negotiations with their lenders and with the Committee. In that regard,
 9 the Debtors have negotiated with secured creditors to reach compromises under which associated
 10 deficiency claims would be waived, as explained in more detail in Section H below, which discusses
 11 stay relief matters.

12 **B. Appointment of Official Unsecured Creditors' Committee in the Case**

13 On October 20, 2009, the United States Trustee appointed the Committee pursuant to the
 14 provisions of Sections 1102(a)(1) and 1102(b)(1) of the Bankruptcy Code, to represent the interests
 15 of general unsecured creditors of the Debtors. The Committee currently consists of seven members,
 16 as follows:

17 18 19	Five Star Bank c/o Eric Woodstrom 358 Hartnell Ave., #B Redding, CA 96002	Jon Ledyard PO Box 131 Sebastopol, CA 95473
20 21	Robert and Rachel Sinai 6485 Timber Springs Dr. Santa Rosa, CA 95409	George T. DeLong 6064 Torrington Drive Reno, NV 89571
22 23	Charles and Norma Cooper c/o Michael Thomsen 7748 Hwy 128 Healdsburg, CA 95448	Robert M. O'Brien c/o Margo O'Brien, Trustee 8152 Stacey Hills Drive Citrus Heights, CA 95610
24 25 26	Stephen Opperman c/o Mark Opperman 425 Greens Drive Healdsburg, CA 95448	

27 **C. SMIC Operations**

28 One of the entities wholly owned by the Debtors as of the Petition Date was K4 Corporation,

1 doing business as Sonoma Mortgage and Investment Corporation (“SMIC”). As of the Petition Date,
2 SMIC was engaged in the business of arranging and servicing secured loans for its clients, with a
3 servicing portfolio of approximately \$60,000,000 in loans, including nonperforming loans that
4 constitute Claims against the Estate and including other nonperforming loans. Since the Petition
5 Date, the Debtors have prepared for a transfer of serviced loans to other qualified servicers, and the
6 gradual wind-down of the business. The Plan Proponents anticipate that by the Effective Date, SMIC
7 will no longer have any active operations and any assets of SMIC with equity to the Estate will be
8 transferred to the Creditors’ Trust.

9 In order to initiate the wind-down of SMIC’s operations, the Debtors retained special counsel,
10 Stein & Lubin LLP, to advise the Debtors as to the transfer of SMIC’s loan portfolio in a manner
11 compliant with applicable California law. Based on that advice, in August 2010, SMIC sent letters to
12 each lender whose loans were then being serviced by SMIC to advise those lenders of SMIC’s
13 impending shutdown of operations and the need to transfer loan servicing to other qualified and
14 licensed loan servicers. In those letters, SMIC alerted lenders to the need to choose a substitute loan
15 servicer, by majority votes within each lender group, and SMIC identified three qualified individuals
16 that might be willing to act as substitute loan servicers. SMIC advised lenders in those letters that
17 within seven days of lenders’ notifications to SMIC of their substitute loan servicers, SMIC would
18 transfer all appropriate files and undisbursed funds to the identified substitute loan servicer, and that
19 in the event that a lender group failed to timely notify SMIC of the group’s choice of a substitute loan
20 servicer, SMIC would turn over those files to the majority holder within that group, and would
21 distribute any undisbursed funds on a *pro rata* basis. Based upon advice of their special counsel, the
22 Debtors believe that the wind-down of SMIC’s operations and loan servicing can be completed
23 without incurring any claims from its lender/clients.

24 **D. Use of Cash During Chapter 11 Proceedings**

25 The Debtors had approximately \$366,944 in cash on hand as of the Petition Date. Since that
26 date, those funds have been used for operating purposes, including costs of operations and
27 management of more than 200 properties, advances and reimbursements made to SMIC, and
28 payments of approved interim compensation payable to the Debtors’ and the Committee’s

1 professionals (with the approval of the Bankruptcy Court where required). In addition, those funds
2 have been increased substantially by the Debtors' sales of certain of the Estate's property assets, as
3 further described below. As a result, as of June 30, 2010, anticipated cash on hand will be
4 approximately \$4,100,000.

5 **E. Bankruptcy Schedules and Statements of Financial Affairs**

6 On October 29, 2009, the Debtors filed their Schedules of Assets and Liabilities and
7 Statement of Financial Affairs, identifying all assets and liabilities of the estate as of the Petition Date
8 and other information regarding the Debtors' financial condition and affairs. Those schedules were
9 amended on November 6, 2009 and again on June 29, 2010, in order to provide certain corrections
10 and additions.

11 **F. Representation of the Debtors and the Committee**

12 Under applicable provisions of the Bankruptcy Code, the Debtors and the Committee are
13 entitled to retain needed professionals, subject to approval by the Bankruptcy Court. Those
14 professionals' compensation and reimbursement of costs must be paid from funds of the Debtors'
15 estate and are treated as administrative expenses, unless other arrangements are made with
16 Bankruptcy Court approval. In the Chapter 11 Case to date, the following professionals have been
17 retained:

18 • **Debtors' Professionals**

19 The Debtors have retained various professionals, including the following: (a) the law firm of
20 Meyers Law Group, P.C. of San Francisco, California, as their general bankruptcy counsel; (b)
21 Arthur S Ito LLC of Sacramento, California, as their financial advisor; and Bachecki Crom & Co.,
22 LLP of San Francisco, as their tax advisor. The Debtors have also retained various attorneys, brokers
23 and other professionals in the ordinary course of their business, with approval of the Bankruptcy
24 Court.

25 • **Committee's Professionals**

26 The Committee has retained the following: (a) the law firm of Pachulski, Stang Ziehl & Jones
27 LLP of San Francisco, California, as its general bankruptcy counsel; and (b) the accounting firm of
28 Kibel Green, Inc. as its financial advisor.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

- **Professional Fees**

On May 3, 2010, the Bankruptcy Court entered an order approving interim payment of fees and costs earned by the Debtors' and the Committee's bankruptcy professionals, for services rendered through February 28, 2010, and those approved fees and costs were subsequently paid by the Debtors. Those approved fees and costs are as follows:

PROFESSIONAL FIRM	APPROVED FEES	APPROVED COSTS
Meyers Law Group, P.C.	\$598,818.00	\$13,235.98
Pachulski Stang Ziehl & Jones, LLP	\$161,064.50	\$4,136.04
Arthur S. Ito & Associates, LLC	\$221,466.00	\$869.54
Kibel Green Inc.	\$294,311.50	\$15,891.60
Bachecki, Crom & Co., LLP	\$13,535.00	\$8.52

In addition, members of the Committee have been reimbursed expenses incurred by them in serving as members, in an aggregate amount of \$4,860.04 as of June 30, 2010.

G. Claims Deadlines

The Bankruptcy Court established February 4, 2010 (the "Claims Bar Date") as the last date for filing claims in this case. At the Debtors' request, the Bankruptcy Court also set a special deadline for certain claims for possible warranty and construction defect claims, as to those claimants who did not have timely actual or constructive notice of the Claims Bar Date. That special bar date is August 16, 2010.

H. Stay Relief and Deficiency Waivers

The Debtors have negotiated numerous stipulations with individual secured lenders in order to relieve the estate of properties that have no equity value after accounting for secured debt, and to avoid deficiency claims under related guarantees. Typically, the stipulations have permitted foreclosure by the secured lender, or have provided to the lender a deed in lieu of foreclosure, in exchange for which the lender has released or limited any claims for deficiency amounts, whether under guarantees or otherwise. Because several of those properties were severely overencumbered and subject to guarantees signed by the Debtors prior to their acquisition of the properties (by way of

1 foreclosure upon junior positions), the potential deficiency claims avoided through such stipulations
 2 are substantial. The Debtors and the Committee estimate that secured loans of more than
 3 \$30,000,000, and deficiency claims of several millions of dollars, have been, or will be, avoided
 4 through such stay relief stipulations.

5 A partial list of those stipulations is as follows:

LENDER	PROPERTY	LOAN AMOUNT
Robert S. Oliver and Susan P. Oliver 2006 Trust; and Robert S. Oliver Profit Sharing Trust	15815 23 rd Avenue, Clearlake, California	\$165,000
Robert S. Oliver and Susan P. Oliver 2006 Trust;	15883 27 th Avenue, Clearlake, California	\$100,000
American AgCredit, FLCA, a Federal Land Credit Association	6215/6229 Gold Dust Drive, Kelseyville, California.	\$449,750
Freeman W. Born, M.D. Profit Sharing Plan	15817 24 th Avenue, Clearlake, California	\$175,300
Lawrence C. Alper and Judith M. Alper Trust	15993 36 th Avenue, Clearlake, California	\$120,000
Gloria J. Opperman, Trustee of the Gloria J. Opperman 2003 Revocable Trust	6178 Vallejo Avenue, Clearlake, California	\$145,000
Feeney Russian River Ranches Limited Partnership	15795 23 rd Avenue, Clearlake, California.	\$165,000
Feeney Russian River Ranches Limited Partnership	6198 Vallejo Avenue, Clearlake, California.	\$165,000
Lawrence C. Henig, D.D.S., Inc. Aged-based Profit Sharing Plan	3615 Vista Street, Clearlake, California	\$185,000
Arnold P. Barbosa and Maria E. Barbosa, Trustee of the Barbosa Family Living Trust executed on September 14, 1995	13019 Crest Street, Clearlake, California.	\$185,000
Arnold P. Barbosa and Maria E. Barbosa, Trustees of the Barbosa Family Living Trust executed on September 14, 1995.	16234 33 rd Avenue, Clearlake, California	\$185,000
North Coast Bank	2074/2076 Armory Drive, Santa Rosa, California	\$747,000

LAW OFFICES
MEYERS LAW GROUP, P.C.
 44 MONTGOMERY STREET, SUITE 1010
 SAN FRANCISCO, CALIFORNIA 94104

1	Sonoma State University Academic Foundation	115 Arata Lane, Windsor, California.	\$860,000
2	Alan S. Johnson, trustee for the Alan S. Johnson dated December 13, 1993.	15825 23 rd Avenue, Clearlake, California	\$165,000
3	Alan S. Johnson, as trustee, et al.	0 Todd Road, Santa Rosa, California.	\$1,500,000
4	Westamerica Bank	1064 Santa Rosa Avenue, Santa Rosa, California	\$852,000
5	North Valley Bank	2727 Dutton Meadow Road, Santa Rosa, California	\$3,096,500
6	Napa Community Bank	1) 707 Bellevue Avenue, Santa Rosa, California	\$3,102,500
7		2) 2960 Stony Point Road, Santa Rosa, California	
8	North Valley Bank	2729 Stony Point Road, Santa Rosa, California	\$2,924,250
9	Savings Bank of Mendocino County	3422 Santa Rosa Avenue, Santa Rosa, California	\$2,000,000
10	North Valley Bank	2601 Francisco Avenue, Santa Rosa, California	\$3,600,000
11	North Valley Bank	2866, 2872, 2882 and 2894 Stony Point Road, Santa Rosa, California	\$7,524,900
12	Mead Clark 401K Profit Sharing Plan, et al.	One parcel of Sage Creek Ranch, Napa, California	\$1,750,000
13	Westamerica Bank	Tomales #1, Tomales, California	\$622,300
14	Westamerica Bank	Tomales #2, Tomales, California	\$185,500
15	Westamerica Bank	Tomales #3, Tomales, California	\$185,500
16	North Valley Bank	5146 Old Redwood Highway, Santa Rosa, California	\$1,156,875

25 **I. Real Property Sales**

26 During the pendency of the Chapter 11 Case, the Debtors have actively marketed certain of
 27 the assets of the Estate, and have sold them with the assistance of professional brokers and the
 28 approval of the Committee and the Bankruptcy Court. Those sales (including sales not yet approved

1 by the Court) have raised, or will raise, more than \$5,000,000 in net proceeds for the benefit of the
 2 Estate.

3 Those property sales have included the following:

PROPERTY	BUYER	PURCHASE PRICE
2425 Mendocino Avenue, Santa Rosa, California	Gil Robello	\$2,750,000
Winery property, consisting of real property and improvements located at 999 Forman Lane, Healdsburg, California (50% interest)	Dennis and Tina De La Montanya	\$990,000
1320 Lemmon Street, Vallejo, California	Maher Family Trust of 1998	\$1,500,000 (Debtors' 1/3 interest)
444 10th Street, Santa Rosa, California (50% interest)	Lee Anne Wentze	\$775,000 (Debtors' interest)
925 Yuba Drive, Santa Rosa, California (sale pending)	Hay S. Tan and Caren C. Tan	\$420,000
Balletto Vineyard properties, on Guerneville, Piner and Olivet Roads, Santa Rosa, California	Cinque Terre Vineyards, LLC, partially owned by John Balletto	\$1,350,000 (including sale and option)
1899 Mendocino Avenue, Santa Rosa, California (sale pending)	The Provost Group, Inc.	\$3,000,000
851 3 rd Street, Santa Rosa, California (sale pending)	Linda Nobles	\$250,000

26 **J. Assignment and Preservation of All Claims Against Insiders**

27 Prior to the Petition Date, the Debtors transacted business with their children and various
 28 business partners, among many other persons, in the ordinary course of business. Those transactions

1 included loans, purchases, sales, partnerships and other forms of business transfers. Under the
2 Bankruptcy Code, some of those transactions, constituting transfers to “insiders” (as that term is
3 defined by Section 101 of the Bankruptcy Code), may be avoidable and returnable to the Estate under
4 certain circumstances not yet determined. Most or all of the transferees believes that, for multiple
5 reasons, the transfers are not avoidable.

6 Given the potential for conflict in the Debtors themselves investigating and pursuing any
7 claims for avoidance of transfers to their present or former insiders, including their children, the
8 Debtors and the Committee stipulated to a transfer of any claims for avoidance of transfers to insiders
9 to the Committee, and the Bankruptcy Court approved that stipulation. As a result, the Committee
10 has undertaken full responsibility for the investigation and, if appropriate, prosecution of any such
11 claims. Any such claims, if they exist, will be preserved and assigned to the Creditors’ Trust as of
12 the Effective Date.

13 **K. Foreclosure Modification Order**

14 As discussed above, upon the motion of the Debtors, in August 2010, the Bankruptcy Court
15 entered the Foreclosure Modification Order, intended to facilitate and accelerate foreclosures by
16 lenders on over-encumbering liens against Estate properties. This will allow such lenders, if they do
17 not elect the Transfer Option, the Release Option or the Protocols Option under the Plan, to
18 immediately foreclose upon their collateral and ensure that such collateral is transferred out of the
19 Estate prior to the Effective Date.

20 **L. Nondischargeability Complaint**

21 The Bankruptcy Court established January 5, 2010 as the deadline for any creditor to file a
22 complaint to determine its debt nondischargeable under Section 523 of the Bankruptcy Code. Only
23 one creditor chose to file such a complaint: On April 30, 2010 (by way of an extension of the
24 deadline stipulated to by the Debtors), North Coast Bank (“NCB”) filed a complaint against Mr.
25 Carinalli in the Bankruptcy Court seeking a determination by the Court that its unsecured claim
26 against Mr. Carinalli, in the asserted amount of \$1,980,000 plus interest, is nondischargeable under
27 the provisions of Sections 523(a)(2)(A) and (B) of the Bankruptcy Code. Essentially, NCB contends
28 that Mr. Carinalli obtained loan increases and extensions based upon NCB’s alleged reliance upon

1 purportedly false and misleading financial statements and representations to NCB, and that the stated
2 debt is therefore nondischargeable.

3 Mr. Carinalli has not yet answered or otherwise responded to NCB's complaint, and by
4 stipulation, the time in which to do so has not yet passed. Mr. Carinalli disputes each of the material
5 allegations of the NCB's complaint and expects to vigorously defend himself against the complaint t
6 the appropriate time. The outcome of the complaint, in any event, will not affect the outcome of the
7 Plan or estimated recoveries by, and distributions to, creditors under the Plan, because those
8 recoveries and distributions will be made from the Creditors' Trust and are not at all dependent on
9 Mr. Carinalli's financial capabilities from and after the Effective Date.

10 **M. Committee's Complaint Regarding Shiloh Property**

11 On July 30, 2010, the Committee, as estate representative, commenced an adversary
12 proceeding in the Bankruptcy Court against the Debtors' children, their affiliates and North Coast
13 Bank, through the filing of the Committee's *Complaint for: (1) Avoidance of Fraudulent Transfers;*
14 *(2) Avoidance of Preferential Transfers; (3) Determination of the Nature and Extent of Interests in*
15 *Proceeds of Shiloh Sale; (4) Turnover of Such Proceeds; and (5) Disallowance of Insider*
16 *Defendants' Claims Against the Estate* (the "Committee Complaint"). By way of the Committee
17 Complaint, the Committee generally seeks (a) to recover for the benefit of the estate approximately
18 \$1,917,823 in proceeds segregated from the sale of property located at 7383 Shiloh Road, Santa
19 Rosa, California, and (b) to disallow the various claims asserted against the estate by the Debtors'
20 children or their affiliates. The proceeds of the Shiloh sale are subject to conflicting claims of the
21 Debtors' children, who in certain instances have pledged their interests in favor of North Coast
22 Bank. The Debtors' children, through counsel, are expected to dispute material allegations contained
23 in the Committee Complaint.

24 Upon the Effective Date of the Plan, all rights of the Committee and the estate in connection
25 with the Committee Complaint will pass to the Creditors' Trust and will be pursued by the Trustee.
26 The Committee continues to investigate other potential claims and causes of action against the
27 Debtors' children, their affiliates and others (specifically including without limitation Dennis Hunter,
28 James Ratto and their respective affiliates) and may bring additional causes of action prior to the

1 Effective Date, all of which also will pass to the Creditors' Trust under the Plan and will be pursued
2 by the Trustee.

3 **V. ESTATE ASSETS AND LIABILITIES**

4 The following is a summary description of the assets and liabilities of the Debtors as of
5 June 30, 2010, unless otherwise stated. In most or all cases, stated values are estimated market values
6 that have not been confirmed by any formal appraisals, and are based solely upon the Plan
7 Proponents' best estimates.

8 **A. Assets:**

- 9 • Debtors' Cash. The Debtors hold total cash of approximately \$4,100,000, of which
10 approximately \$300,000 constitutes rental deposits received from tenants, and
11 \$630,000 constitutes cash collateral in which lenders hold security interests.
- 12 • Debtors' Real Property. The Debtors own, either partially or wholly, and directly or
13 through partnerships or other entities, approximately 221 parcels of real property, most
14 of which are encumbered by liens. A list of each parcel of property, the name of the
15 secured lender/s (if applicable), the related subclass under the Plan, and the
16 approximate, outstanding amount owed, is attached hereto as **Exhibit "G"**. The Plan
17 Proponents believe that the total estimated value of such properties is approximately
18 \$130,000,000, and that the Estate's equity in those properties, net of liens, is
19 approximately \$21,000,000.
- 20 • Debtors Tangible Personal Property. The Debtors own household goods, vehicles,
21 jewelry, clothing and other personal items of the estate, with a total approximate value
22 of an estimated \$107,395.

23 **B. Liabilities:**

- 24 • Administrative Claims. The Debtors estimate that allowed and unpaid administrative
25 expenses to be incurred through the Effective Date will total approximately
26 \$1,200,000 in the aggregate, including fees earned by the Debtors' and the
27 Committee's professionals after February 28, 2010. For purposes herein, the Effective
28 Date is assumed to be October 31, 2010.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

- Secured Claims. Secured claims consist of those described in relation to the estate assets identified on the attached **Exhibit “G,”** in an approximate, aggregate amount of \$109,000,000.
- Priority Claims. The Debtors estimate that there are approximately \$30,000 in priority claims.
- Unsecured Claims. General unsecured claims held against the Estate include substantial contingent obligations arising from guarantees of secured notes, as well as direct liability for unsecured loans and other obligations. The Debtors estimate that the aggregate amount of allowable general unsecured claims under the Plan, within Classes G and H, will be in the approximate amount of \$55,000,000, but may be a larger amount in the event that guarantee and deficiency claims are allowed in greater amounts than anticipated. All Claims are subject to review, reconciliation and possible objection at a later date.

VI. CONFIRMATION AND CONSUMMATION PROCEDURE

A. Solicitation of Votes

In accordance with the provisions of Sections 1126 and 1129 of the Bankruptcy Code, the Claims in Classes B, C, D, E, G and H are impaired and the holders of Claims in such Classes are entitled to vote to accept or reject the Plan. The holders of Allowed Claims in Classes A and F are unimpaired, and are conclusively presumed to have accepted the Plan and therefore are not entitled to vote, under Section 1126(f) of the Bankruptcy Code.

As to those classes of Claims entitled to vote to accept or reject the Plan, the Bankruptcy Code defines acceptance of a plan by a class of creditors as acceptance by holders of at least two-thirds in dollar amount, and one-half in number, of the claims of that class that have timely voted to accept or reject a plan. A vote may be disregarded if the Bankruptcy Court determines, after notice and a hearing, that such acceptance or rejection was not solicited or procured in good faith or in accordance with the provisions of the Bankruptcy Code.

Any creditor of an impaired Class (i) whose Claim has been listed by the Debtors in their schedules filed with the Bankruptcy Court (provided that such Claim has not been scheduled as

1 disputed, contingent or unliquidated) or (ii) who filed a proof of claim within any applicable period of
2 limitations, or with leave of the Bankruptcy Court, which Claim is not the subject of an objection, is
3 entitled to vote to accept or reject the Plan.

4 **B. The Confirmation Hearing**

5 Section 1128(a) of the Bankruptcy Code requires the Bankruptcy Court, after notice, to hold a
6 hearing on confirmation of the Plan. The Confirmation Hearing with respect to the Plan will be
7 conducted before the Honorable Alan Jaroslovsky, United States Bankruptcy Judge, at the United
8 States Bankruptcy Court located at 99 South “E” Street, Santa Rosa, California., on a date and time
9 set forth in documents accompanying this Disclosure Statement. The Confirmation Hearing may be
10 continued from time to time by the Bankruptcy Court without further notice except for an
11 announcement of the continued date made at the Confirmation Hearing.

12 Section 1128(b) provides that any party in interest may object to confirmation of a plan. Any
13 objection to confirmation must be made in writing and filed with the Bankruptcy Court and served
14 upon those parties identified for such service in other documents accompanying this Disclosure
15 Statement. Objections to confirmation of the Plan are governed by Bankruptcy Rules 3017 and 9014.

16 **UNLESS AN OBJECTION TO CONFIRMATION IS TIMELY SERVED AND FILED, IT**
17 **MAY NOT BE CONSIDERED BY THE BANKRUPTCY COURT.**

18 **C. Confirmation**

19 At the Confirmation Hearing, the Bankruptcy Court will confirm the Plan only if all of the
20 requirements of Section 1129 of the Bankruptcy Code are met. Among the requirements for
21 confirmation of a plan are that the plan is (i) accepted by all impaired classes of claims or, if rejected
22 by an impaired class, that the plan “does not discriminate unfairly” and is “fair and equitable” as to
23 such class, (ii) feasible, and (iii) in the “best interests” of creditors which are impaired under the plan.

24 • **Acceptance:**

25 As stated, Claims within Classes B, C, D, E, G and H of the Plan are impaired under the Plan
26 and are entitled to vote to accept or reject the Plan. The Plan Proponents reserve the right to seek
27 nonconsensual confirmation of the Plan under Section 1129(b) of the Bankruptcy Code with respect
28 to any Class of Claims that rejects or is deemed to reject the Plan.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

- **Unfair Discrimination and Fair and Equitable Tests**

To obtain nonconsensual confirmation of the Plan, it must be demonstrated to the Bankruptcy Court that the Plan “does not discriminate unfairly” and is “fair and equitable” with respect to each impaired, non-accepting Class. The Bankruptcy Code provides a non-exclusive definition of the phrase “fair and equitable.” The Bankruptcy Code establishes “cram down” tests for secured creditors and unsecured creditors as follows:

- a. **Secured Creditors.** Either (i) each impaired secured creditor retains its liens securing its secured claim and receives on account of its secured claim deferred cash payments having a present value equal to the amount of its allowed secured claim, (ii) each impaired secured creditor realizes the “indubitable equivalent” of its allowed secured claim, or (iii) the property securing the claim is sold free and clear of liens with such liens to attach to the proceeds of the sale and the treatment of such liens on proceeds is provided in clause (i) or (ii) of this subparagraph.

- b. **Unsecured Creditors.** Either (i) each impaired unsecured creditor receives or retains under the plan property of value equal to the amount of its allowed claim or (ii) the holders of claims that are junior to the claims of the dissenting class will not receive or retain any property under the plan.

The Debtors and the Committee believe that the Plan and the treatment of all Classes of Claims under the Plan satisfy the foregoing requirements for nonconsensual confirmation of the Plan.

- **Feasibility**

The Bankruptcy Code requires that confirmation of a plan is not likely to be followed by liquidation or the need for further financial reorganization. Because the Plan provides for an orderly liquidation of Estate assets and there is adequate cash on hand to fund the obligations under the Plan, the Plan Proponents submit that there is no material issue as to feasibility.

- **Best Interests of Creditors**

With respect to each impaired Class of Claims, confirmation of the Plan requires that each holder of a Claim either (i) accept the Plan or (ii) receive or retain under the Plan property of a value, as of the Effective Date, that is not less than the amount such holder would receive or retain if the

1 debtors' assets were liquidated under chapter 7 of the Bankruptcy Code. To determine what holders
2 of Claims of each impaired Class would receive if the Debtors' assets were liquidated under chapter
3 7, the Bankruptcy Court must determine the dollar amount that would be generated from that
4 liquidation in the context of a chapter 7 liquidation case. The cash amount which would be available
5 for satisfaction of unsecured claims would consist of the proceeds resulting from the disposition of
6 the unencumbered assets of the estate, augmented by the unencumbered cash held by the chapter 7
7 trustee at the time of the commencement of the liquidation case. Such cash amount would be reduced
8 by the amount of the costs and expenses of the liquidation and by such additional administrative and
9 priority claims that may result from the use of chapter 7 for the purposes of liquidation.

10 The Debtors and the Committee believe that the Plan is likely to produce a greater and
11 prompter recovery for general unsecured creditors than a chapter 7 liquidation of the two Estates.
12 Attached hereto as **Exhibit "D"** is the Plan Proponents' analysis of the probable outcome of a chapter
13 7 liquidation. As can be seen from a review of that analysis, it is the Plan Proponents' belief that
14 general unsecured creditors would receive distributions of approximately 9.6% in a chapter 7
15 liquidation. This is contrasted with between approximately 26.7% and 55.7% expected in
16 distributions to general unsecured creditors under the terms of the Plan. By those estimations,
17 recoveries will be greater under the Plan and the best interests test is satisfied.

18 One reason for the difference in outcomes in chapter 7 and under the Plan is the level of
19 cooperation and assistance to which Mr. Carinalli has committed under the Plan, which assistance
20 efforts would not be required of him in a chapter 7 liquidation. In addition, the assistance of the
21 Trustee will benefit creditors as compared to the likely outcome in a chapter 7 liquidation, as Ms.
22 Wirum is an experienced chapter 11 trustee with background in matters involving real estate.

23 Mr. Carinalli's assistance efforts are expected to benefit the Creditors' Trust under the Plan in
24 several respects, including the following: Mr. Carinalli has agreed to assist in the marketing and sale
25 of the Creditors' Trust's assets, consisting primarily of numerous parcels of real property. Mr.
26 Carinalli is most familiar with those properties and their sales features, and it is anticipated that Mr.
27 Carinalli's input and assistance to the Trustee will result in prompter and better recoveries for general
28 unsecured creditors. In a liquidation, the Debtors and the Committee believe that the Estate assets

1 would be sold for less, and because most of the Debtors’ assets are encumbered by liens, sales of
2 collateral at distressed prices would likely leave little surplus after secured debt, and therefore, less
3 funds would be available to distribute to holders of general unsecured claims.

4 Mr. Carinalli’s assistance to the Trustee will be compensated by consulting fees and
5 incentive-based payments, according to a formula that has been negotiated among the Debtors and
6 the Committee. The Committee believes that the agreed-upon compensation is fair and reasonable,
7 and that even after taking into account that compensation, the Estate will be materially benefited from
8 the Debtors’ promised efforts, resulting in a better outcome under the Plan than in a chapter 7
9 liquidation.

10 For these reasons, the Debtors and the Committee believe that the Plan will produce a better
11 and quicker recovery for creditors than a chapter 7 liquidation, and that the “best interests” test
12 described above is therefore satisfied by the terms of the Plan.

13 **D. Consummation**

14 The Plan will be consummated following the Effective Date, which will be a date shortly
15 following entry of the Confirmation Order, absent a stay of implementation.

16 **E. Effect of Confirmation of the Plan**

17 Confirmation and effectuation of the Plan will bind the Debtors, all creditors and all other
18 parties in interest to the provisions of the confirmed Plan, whether or not the claim of such creditor is
19 impaired under the Plan and whether or not such creditor has accepted the Plan. Nothing contained
20 in the Plan will limit the effect of Confirmation as described in Section 1141 of the Bankruptcy Code.

21 **VII. CERTAIN RISK FACTORS TO BE CONSIDERED**

22 **HOLDERS OF CLAIMS AGAINST THE DEBTORS SHOULD READ AND**
23 **CONSIDER CAREFULLY THE FACTORS SET FORTH BELOW, AS WELL AS THE**
24 **OTHER INFORMATION SET FORTH IN THIS DISCLOSURE STATEMENT (AND THE**
25 **DOCUMENTS DELIVERED TOGETHER HERewith AND/OR INCORPORATED BY**
26 **REFERENCE HEREIN), PRIOR TO VOTING TO ACCEPT OR REJECT THE PLAN.**
27 **THESE RISK FACTORS SHOULD NOT, HOWEVER, BE REGARDED AS**
28

1 **CONSTITUTING THE ONLY RISKS INVOLVED IN CONNECTION WITH THE PLAN**
2 **AND ITS IMPLEMENTATION.**

3 **A. Certain Bankruptcy Law Considerations**

4 • **Risk of Non-Confirmation of the Plan**

5 Although the Plan Proponents believe that the Plan will satisfy all requirements necessary for
6 confirmation by the Bankruptcy Court, there can be no assurance that the Bankruptcy Court will
7 reach the same conclusion. Moreover, there can be no assurance that modifications to the Plan will
8 not be required for confirmation, or that such modifications would not necessitate the resolicitation of
9 votes.

10 • **Non-Consensual Confirmation**

11 In the event one or more impaired Classes of Claims does not accept the Plan, the Bankruptcy
12 Court may nevertheless confirm the Plan at the Plan Proponents' request, if all other conditions for
13 confirmation have been met and at least one impaired Class has accepted the Plan (such acceptance
14 being determined without including the vote of any "insider" in such Class) and, as to each impaired
15 Class that has not accepted the Plan, if the Bankruptcy Court determines that the Plan "does not
16 discriminate unfairly" and is "fair and equitable" with respect to the rejecting impaired classes. The
17 Plan Proponents believe that the Plan satisfies those requirements.

18 • **Tax Attributes of the Plan and Creditors' Trust**

19 The Debtors will not seek a ruling from the Internal Revenue Service prior to the Effective
20 Date with respect to any of the tax aspects of the Plan. EACH HOLDER OF A CLAIM IS
21 STRONGLY URGED TO CONSULT WITH HIS TAX ADVISOR REGARDING THE FEDERAL,
22 STATE, LOCAL AND FOREIGN TAX CONSEQUENCES OF THE PLAN. With that
23 qualification, certain significant Federal income tax consequences of the Plan under the Internal
24 Revenue Code of 1986, as amended (the "Tax Code"), are described below.

25 Under the terms of the Plan, substantially all of the Debtors' remaining assets will be
26 transferred to the Creditor's Trust or to lienholders in taxable dispositions. It is anticipated that the
27 existing tax attributes, including tax basis and net operating losses, are sufficient to avoid incurring
28 any material Federal or State income taxes to the Debtors upon disposition. As a result of the Plan,

1 discharge of indebtedness will arise and will reduce certain tax attributes of the Debtors. The tax
2 consequences of the Plan are subject to many uncertainties due to the complexity of the Plan and the
3 lack of interpretative authority regarding certain changes in the tax law, including changes made to
4 the applicable sections of the Tax Code by the Bankruptcy Tax Act of 1980. Uncertainties with
5 regard to federal income tax consequences of the Plan also arise due to the inherent nature of
6 estimates of value that will impact tax liability determinations.

7 As of the Effective Date, the Creditors' Trust shall be established for the benefit of all holders
8 of Allowed Claims. Pursuant to the Plan, the Trustee will make a good faith valuation of the Creditor's
9 Trust's assets. All parties (including, without limitation, the Debtors, the Trustee and the holders of
10 Claims) must consistently use such valuation for all Federal income tax purposes. The valuation will
11 be made available to the parties, from time to time, as relevant for tax reporting purposes

12 Allocations of taxable income of the Creditor's Trust (other than taxable income allocable to the
13 Creditor's Trust's Claims Reserve) among holders of Claims shall be determined by reference to the
14 manner in which an amount of cash equal to such taxable income would be distributed (were such cash
15 permitted to be distributed at such time) if, immediately prior to such deemed distribution, the
16 Creditor's Trust had distributed all of its assets (valued at their tax book value, and other than assets
17 allocable to the Creditors' Trust's claims reserve) to the holders of the beneficial interests in the
18 Creditors' Trust, adjusted for prior taxable income and loss and taking into account all prior and
19 concurrent distributions from the Creditors' Trust. Similarly, taxable loss of the Creditors' Trust shall
20 be allocated by reference to the manner in which an economic loss would be borne immediately after a
21 liquidating distribution of the remaining Creditors' Trust assets.

22 The tax book value as of the Effective Date of the Creditors' Trust assets for this purpose shall
23 equal their fair market value as determined by the Trustee in good faith on the Effective Date.
24 Subsequent to the Effective Date, the tax book value of the Creditors' Trust assets for this purpose shall
25 equal such fair market value, adjusted in accordance with tax accounting principles prescribed by the
26 Tax Code, applicable Treasury Regulations, and other applicable administrative and judicial authorities
27 and pronouncements.

28 Subject to definitive guidance from the IRS or a final determination of a court of competent

1 jurisdiction to the contrary (including the receipt by the Trustee of an IRS private letter ruling if the
2 Trustee so requests one, or the receipt of an adverse determination by the IRS upon audit if not
3 contested by the Trustee), the Trustee will (a) elect to treat any Creditors' Trust assets allocable to, or
4 retained on account of, Disputed Claims (the "Creditors' Trust Claims Reserve") as a "disputed
5 ownership fund" governed by Treasury Regulation Section 1.468B-9, and (b) to the extent permitted by
6 applicable law, report consistently with the foregoing for state and local income tax purposes. For
7 Federal income tax purposes, the Creditors' Trust Claims Reserve shall be treated as the owner of all
8 assets that it holds. The Creditors' Trust Claims Reserve is treated as a C corporation for purposes of
9 subtitle F of the Internal Revenue Code relating to procedure and administration, and the administrator
10 of the fund must obtain an employer identification number for the fund, make all required income tax
11 and information returns and deposit all tax payments. Accordingly, the Creditors' Trust Claims
12 Reserve will be subject to tax annually as a separate entity on any net income earned with respect to the
13 Creditors' Trust assets in such reserves, and all distributions from such reserves will be treated as
14 received by holders in respect of their Claims as if distributed by the Debtors. All parties (including,
15 without limitation, the Debtors, the Trustee and Claimants) will be required to report for tax purposes
16 consistently with the foregoing.

17 Other than the Creditors' Trust Claims Reserve (which is separately taxed), the Creditors'
18 Trust is intended to qualify as a liquidating trust for federal income tax purposes. In general, a
19 liquidating trust is not a separate taxable entity but rather is treated for federal income tax purposes as
20 a "grantor" trust (i.e., a pass-through entity). The IRS, in Revenue Procedure 94-45, 1994-2 CB 684,
21 set forth the general criteria for obtaining an IRS ruling as to the grantor trust status of a liquidating
22 trust under a chapter 11 plan. The Creditors' Trust has been structured with the intention of
23 complying with such general criteria. Pursuant to the Plan, and in conformity with Revenue
24 Procedure 94-45, *supra*, all parties (including the Debtor, the Trustee, and the holders of beneficial
25 interests in the Creditors' Trust) are required to treat for federal income tax purposes, the Creditors'
26 Trust as a grantor trust of which the holders of Allowed Claims are the owners and grantors. While
27 the following discussion assumes that the Trust would be so treated for federal income tax purposes,
28 no ruling has been requested from the IRS concerning the tax status of the Creditors' Trust as a

1 grantor trust. Accordingly, there can be no assurance that the IRS would not take a contrary position
2 to the classification of the Creditors' Trust as a grantor trust. If the IRS were to challenge
3 successfully such classification, the federal income tax consequences to the Creditors' Trust and the
4 holders of Claims could vary from those discussed herein.

5 Gain or Loss: In general, each holder of an Allowed Claim will recognize gain or loss in an
6 amount equal to the difference between (i) the "amount realized" by such holder in satisfaction of its
7 Claim, and (ii) such holder's adjusted tax basis in such Claim. The "amount realized" by a holder
8 will equal the sum of cash and the aggregate fair market value of the property received by such
9 holder pursuant to the Plan (such as a holder's undivided beneficial interest in the assets transferred
10 to the Creditors' Trust. Where gain or loss is recognized by a holder in respect of its Allowed Claim,
11 the character of such gain or loss (i.e. long-term or short-term capital, or ordinary income) will be
12 determined by a number of factors including the tax status of the holder, whether the Claim
13 constituted a capital asset in the hands of the holder and how long it had been held, whether the
14 Claim was originally issued at a discount or acquired at a market discount and whether and to what
15 extent the holder had previously claimed a bad debt deduction in respect of the Claim.

16 After the Effective Date, any amount a holder receives as a distribution from the Creditors'
17 Trust in respect of its beneficial interest in the Creditors' Trust should not be included, for federal
18 income tax purposes, in the holder's amount realized in respect of its Allowed Claim but should be
19 separately treated as a distribution received in respect of such holder's beneficial interest in the Trust.

20 In general, a holder's aggregate tax basis in its undivided beneficial interest in the assets
21 transferred to the Creditors' Trust will equal the fair market value of such undivided beneficial
22 interest as of the Effective Date and the holder's holding period in such assets will begin the day
23 following the Effective Date. Distributions to any holder of an Allowed Claim will be allocated first
24 to the original principal portion of such Claim as determined for federal tax purposes, and then, to the
25 extent the consideration exceeds such amount, to the remainder of such Claim. However, there is no
26 assurance that the IRS will respect such allocation for federal income tax purposes.

27 For all federal income tax purposes, all parties (including the Debtors, the Trustee and holders
28 of beneficial interests in the Creditors' Trust) shall treat the transfer of the Transfer Assets to the

1 Creditors' Trust, in accordance with the terms of the Plan, as a transfer of those assets directly to the
2 holders of Allowed Claims (and with respect to the Disputed Claims to the reserve for Disputed
3 Claims) followed by the transfer of the Transfer Assets by such holders to the Creditors' Trust.
4 Consistent therewith, all parties shall treat the Creditors' Trust as a grantor trust of which such
5 holders are to be owners and grantors. Thus, such holders (and any subsequent holders of interests in
6 the Creditors' Trust) shall be treated as the direct owners of an undivided beneficial interest in the
7 assets of the Creditors' Trust for all federal income tax purposes. Accordingly, each holder of a
8 beneficial interest in the Creditors' Trust will be required to report on its federal income tax return(s)
9 the holder's allocable share of all income, gain, loss, deduction or credit recognized or incurred by the
10 Creditors' Trust.

11 The Creditors' Trust taxable income will be allocated on a *pro rata* basis among Allowed
12 General Unsecured Claims within Class H. The character of items of income, deduction and credit to
13 any holder and the ability of such holder to benefit from any deductions or losses may depend on the
14 particular situation of such holder.

15 The federal income tax reporting obligation of a holder of a beneficial interest in the
16 Creditors' Trust is not dependent upon the Creditors' Trust distributing any cash or other proceeds.
17 Therefore, a holder of a beneficial interest in the Creditors' Trust may incur a federal income tax
18 liability regardless of the fact that the Creditors' Trust has not made, or will not make, any concurrent
19 or subsequent distributions to the holder. If a holder incurs a federal tax liability but does not receive
20 distributions commensurate with the taxable income allocated to it in respect of its beneficial interests
21 in the Creditors' Trust it holds, the holder may be allowed to a subsequent or offsetting loss.

22 The Trustee will file with the IRS returns for the Creditors' Trust as a grantor trust pursuant to
23 Treasury Regulations section 1.671-4(a). The Trustee will also send to each holder of a beneficial
24 interest in the Creditors' Trust a separate statement setting forth the holder's share of items of
25 income, gain, loss, deduction or credit and will instruct the holder to report such items on its federal
26 income tax return. The Trustee is not obligated to supply information regarding the Creditors' Trust
27 assets or any values with respect to such assets to the holders of beneficial interests in the Creditors'
28

1 Trust before the time for supplying information required for the Trustee to report the items of income,
2 deduction and credit or other information to any holder of a beneficial interest in the Creditors' Trust.

3 All payments to creditors and interest holders are subject to any applicable withholding
4 (including employment tax withholding). Under the Tax Code, interest, dividends and other
5 reportable payments may, under certain circumstances, be subject to "backup withholding" then in
6 effect (currently at 30%). Backup withholding generally applies if the holder (a) fails to furnish his
7 or her social security number or other taxpayer identification number ("TIN"), (b) furnishes an
8 incorrect TIN, (c) fails properly to report interest or dividends, or (d) under certain circumstances,
9 fails to provide a certified statement, signed under penalty of perjury, that the TIN provided is his
10 correct number and that he is not subject to backup withholding. Backup withholding is not an
11 additional tax but merely an advance payment, which may be refunded to the extent it results in an
12 overpayment of tax. Certain persons are exempt from backup withholding, including, in certain
13 circumstances, corporations and financial institutions.

14 The tax treatment of a holder of a beneficial interest in the Creditors' Trust as to the Plan will
15 differ depending on the type of creditor and the classification of the debt obligation held by the
16 creditor. In addition, it may depend on whether the creditor was the original lender or a purchaser of
17 the credit instrument. This discussion assumes that a creditor is receiving less than the amount of the
18 principal debt obligation. A debt that is created or acquired in connection with a creditor's trade or
19 business or incurred during the operation of the creditor's trade or business is a business bad debt.
20 Debts not created or acquired in connection with a creditor's trade or business and not incurred during
21 the operation of the creditor's trade or business are treated as non-business bad debts.

22 Corporate creditors and other creditors who suffer business bad debt losses may be able to
23 deduct a portion of the unpaid debt that is properly determined to be worthless. The timing of the
24 deduction does not require that the debt be charged off or released.

25 Creditors who are not C corporations or who did not suffer a loss from a business bad debt
26 must prove that the debt has become wholly worthless before these creditors can take any deduction
27 for a worthless debt. Generally, a deduction as a non-business bad debt is treated as a short-term
28 capital loss. Creditors who are S Corporations must separately state their non-business bad debt as a

1 short-term capital loss and deduct in the year the debt becomes wholly worthless. The creditor with a
2 non-business bad debt should determine with the creditor's tax advisor when the deduction is properly
3 reportable as a deduction. The creditor must ascertain that the debt is wholly worthless. This means
4 the creditor must prove that, based on the circumstances, it is futile to expect any hope of recovery
5 with respect to the non-business debt obligation such that the outstanding obligation is worthless. For
6 creditors classed as holding non-business bad debts, the timing of the deduction may be later than a
7 creditor entitled to a deduction as a business bad debt. The amount of the deduction for a bad debt
8 cannot exceed the creditor's basis in the obligation.

9 The receipt of the assets by the Creditors' Trust may be treated as the final payment by the
10 Debtors and, if approved by the tax advisor for the creditor, establish the amount of the deduction for
11 both the creditors holding a business bad debt and creditors holding a non-business bad debt.
12 However, to the extent that the creditors of a non-business bad debt have rights in the Creditors'
13 Trust Claims Reserve to contingent distributions, the amount of the worthlessness may be unresolved
14 until such time as the Creditors' Trust Claims Reserve is liquidated or there is a reasonable basis that
15 unsecured creditors will not receive further amounts from such fund. The amounts received from the
16 Creditors' Trust Claims Reserve are treated as received by the creditor from the Debtors.

17 The basis of the assets received by the Creditors' Trust from the creditor beneficiaries directly
18 or indirectly through the transfer by the Debtors, will equal the fair market value at the time of
19 acquisition. The Trustee will determine in good faith the fair market value.

20 The income or loss from the sale or exchange of any asset held in the Creditors' Trust is
21 determined by the difference between the sales price for the asset, adjusted for selling expenses, and
22 the tax book value of the asset. To the extent that the adjusted sales price is greater than the adjusted
23 basis of the asset, gain will result to the holders of the beneficial interests in the Creditors Trust. To
24 the extent that the adjusted sales price is less than the adjusted basis of the asset, loss will result to the
25 holders of the beneficial interests in the Creditors Trust. The character of the gain or loss depends
26 upon whether the property was held for investment or use in a business or whether it was held for sale
27 to customers in the ordinary course of business. If the property were held for investment, for
28 example, the character of the gain would be capital gain. If the property is held for sale to customers,

1 such as inventory property, the gain would be treated as ordinary income. The holding period of the
2 asset is important for capital assets. If the holding period of the asset before the sale is more than one
3 year, the gain or loss on the sale or exchange of the capital asset is long term gain or long term loss.
4 If the holding period of the asset before the sale is not more than one year, the gain or loss on the sale
5 or exchange of the capital asset is short term gain or short term loss. If the asset is neither a capital
6 asset nor held for sale to customers, it may be an asset described in section 1231 of the Tax Code as
7 property used in the trade or business. Property used in a trade or business is depreciable property
8 and real property, which is not inventory, each of which are held for more than one year. The gain on
9 the sale of an asset described in section 1231 of the Tax Code is capital gain to the extent such gain
10 does not exceed the holders' non-recaptured net section 1231 losses. The loss on an asset described
11 in section 1231 is an ordinary loss.

12 The income and deductions from the operations of the assets held in the Creditors' Trust
13 (excluding the Creditors' Trust Claims Reserve) such as the receipt of rent and the allocation of
14 depreciation will be income or deduction to the holders of the beneficial interests in the Creditors'
15 Trust. The Trustee will supply information for the holders of the beneficial interests in the Creditors'
16 Trust for each of them to use in reporting the income or deduction on their respective returns. There
17 is no assurance that if there is income from the Creditors' Trust allocated to any holder of a beneficial
18 interest, that there will be adequate cash distributed to the holder of a beneficial interest to pay the
19 resulting federal and state tax liability.

20 As noted above, to the extent that it does not reserve for disputed claims in the Creditors'
21 Trust Claims Reserve, the Creditors' Trust will be taxed as a grantor trust of which the creditor
22 beneficiaries will be treated as the owners and grantors. The Plan provides that because a grantor trust
23 is treated as a pass-through entity for federal income tax purposes, no federal income tax should be
24 imposed on the post-confirmation estate itself on the income earned or gain recognized by the post-
25 confirmation estate. Instead the beneficiaries will be taxed on their allocable shares of such net
26 income or gain in each taxable year (determined in accordance with the post-confirmation estate
27 agreement or described in the plan), whether or not the creditors receive any distributions from the
28 post-confirmation estate in such taxable year.

1 The Creditors' Trust Claims Reserve will be subject to tax annually as an entity separate from
2 the Creditors' Trust on any net income earned with respect to the Creditors' Trust Claims Reserve
3 assets, and all distributions from such reserves will be treated as received by holders in respect of
4 their Claims as if distributed by the Debtors. All parties (including, without limitation, the Debtors,
5 the Trustee and Claimants) will be required to report for tax purposes consistently with the foregoing.
6 The portion of the Creditors' Trust that is the Creditors' Trust Claims Reserve will be taxed as a C
7 Corporation. The Creditors' Trust Claims Reserve will report its income and loss and pay its own
8 taxes with respect to the assets in the Creditors' Trust Claims Reserve. Upon termination of the
9 Creditors' Trust Claims Reserve, if the Creditors' Trust Claims Reserve had unused net operating loss
10 carryover or an unused capital loss carryover or any unused tax credit carryover, or if the Creditors'
11 Trust Claims Reserve has deductions in excess of gross income for its last taxable year, the creditor-
12 claimants to which the Creditors' Trust Claims Reserve's net assets are distributable will succeed to
13 and take into account the Creditors' Trust Claims Reserve's unused tax attributes. The tax attributes
14 are allocated to the creditor-claimants in proportion to the assets values distributable to each creditor-
15 claimant in the Creditors' Trust Claims Reserve.

16 This is a general discussion relating to some of the effects of federal taxation on the creditors
17 arising from the Plan. It is not intended to constitute specific tax advice to any creditor and each
18 creditor is urged to contact the creditor's own tax advisor to address the tax consequences of this plan
19 to such creditor.

20 Events subsequent to the date of this Disclosure Statement, such as the enactment of
21 additional tax legislation, could also change the federal income tax consequences of the Plan and the
22 transactions contemplated thereunder.

23 CREDITORS ARE ADVISED TO CONSULT THEIR OWN TAX ADVISORS TO
24 REVIEW THIS MATERIAL AND TO CONSIDER THE TAX CONSEQUENCES OF THE PLAN
25 TO THEM, INCLUDING THE EFFECT OF FOREIGN, STATE AND LOCAL TAXES. THIS
26 DISCLOSURE STATEMENT IS NOT INTENDED TO BE AND SHOULD NOT BE
27 CONSTRUED AS LEGAL OR TAX ADVICE TO ANY CREDITOR. Please note:

28 IRS Circular 230 Notice: To ensure compliance with IRS Circular 230, holders of

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Claims are hereby notified that: (a) any discussion of federal tax issues contained or referred to in this Disclosure Statement is not intended or written to be used, and cannot be used, by holders of Claims for the purpose of avoiding penalties that may be imposed on them under the Tax Code; (b) such discussion is written in connection with the promotion or marketing by the Debtors of the transactions or matters addressed herein; and (c) holders of Claims should seek advice based on their particular circumstances from an independent tax advisor.

B. Certain Practical Considerations

- **Estimated Amounts**

The valuations and projections used herein are based on the estimates of the Debtors, the Committee and their respective advisors. Those estimates are a reflection of the Plan Proponents' best subjective valuations, but it should be noted that the bulk of the Debtors' real property assets are located in Sonoma County and Lake County, California, and experts vary widely in their predictions of the future of the real estate markets in those areas. Some experts expect real estate values to continue to decline, while others anticipate steady increases in values. With this wide range of possibilities, it is difficult to predict what the values will be at the time of the sale of Estate assets. Accordingly, creditors and parties in interest should be aware that the amounts received for the sale of the Debtors' real property assets could significantly vary from the values listed on the Debtors' schedules and the estimates provided in the Plan and this Disclosure Statement, and could have a material adverse effect on recoveries by holders of Allowed Claims within Class H (General Unsecured Claims).

- **Reserves for Deficiency Claims**

The Creditors' Trust likely will be required to establish potentially significant reserves to take into account possible deficiency claims that could be asserted by holders of Claims in Class B (Equity and Senior Liens) under the Plan. Although properties classified in Class B are currently expected to yield positive value for the Creditors' Trust for the benefit of unsecured creditors, this may not always turn out to be the case, given the vagaries of the real estate market and the particular circumstances surrounding each property. In such situations, secured creditors with liens against such properties would be entitled to assert unsecured deficiency claims against the Creditors' Trust and such claims would be included in Class H under the Plan. The Creditors' Trust will need to reserve for the possibility that such deficiency claims will be filed and such reserves could materially

1 and adversely impact or delay recoveries by creditors in Class H.

2 • **Contested Claims**

3 If the Trustee is unsuccessful in her anticipated objections to contested and contingent Claims
4 that have been filed against the estate, the total liabilities will be greater than expected. The Trustee
5 intends to oppose the allowance of all Claims that she believes are either entirely or in part without
6 merit. However, if the Trustee's objections are not upheld by the Bankruptcy Court, and those
7 Claims are allowed in amounts in excess of the amounts projected herein, the total liabilities of the
8 estate will be greater than expected, and the ultimate distributions to Class I creditors will be less than
9 expected.

10 • **Liquidation Analysis**

11 The Plan Proponents have prepared the hypothetical chapter 7 liquidation analysis attached as
12 **Exhibit "D"** to assist Claimants holding impaired claims to reach their determination as to whether to
13 accept or reject the Plan. Underlying the liquidation analysis are a number of estimates and
14 assumptions that, although developed and considered reasonable by the Plan Proponents and their
15 financial advisors, are inherently subject to economic uncertainties and contingencies beyond the
16 control and knowledge of the Plan Proponents. Accordingly, there can be no assurance that the
17 values assumed in the liquidation analysis would be realized if the estate were liquidated under
18 chapter 7. In addition, any liquidation that would be undertaken would necessarily take place in
19 future circumstances which cannot currently be predicted. Therefore, while the liquidation analysis is
20 necessarily presented with numerical specificity, if the estate were liquidated under chapter 7, the
21 actual liquidation proceeds could vary, perhaps substantially, from the amounts predicted herein. No
22 representation or warranty can be or is being made with respect to the actual proceeds that could be
23 received in a chapter 7 liquidation. Nothing contained in the liquidation analysis is intended or may
24 constitute a concession or admission of the Plan Proponents for any other purpose.

25 It is noted that both the liquidation analysis that is attached as Exhibit "D" and the Plan
26 Proponents' projections of recoveries under the Plan that are attached as Exhibit "C" are based in part
27 on significantly lower valuations of real property assets than are reflected in the Debtors' Schedules.
28 The difference is the result of several factors, including the following:

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

- First, the difference between the aggregate value in the Schedules and the Moderate Case projections (approximately \$97 million) is comprised of the following: roughly \$11 million in postpetition sales, consensual foreclosures and deeds in lieu of foreclosure; about \$46 million in anticipated surrenders and foreclosures of properties that have no equity, under the Plan; and approximately \$40 million of reductions in estimates of value of other properties, based on conservative, collaborative analyses by the Debtors, the Committee and their respective financial advisors and also based on a conservative view of further value declines occurring since the Petition Date.
- Second, the difference between the aggregate value in the Moderate Case projections and the Conservative Case projections (approximately \$12 million) results from an assumed 15% reduction in value in order to present a more conservative approach, as set forth in the notes to Exhibit “D”.
- Third, the difference between the aggregate value in the Conservative Case projections and the liquidation analysis (approximately \$14 million) results from an assumed 20% further reduction in value due to the impact of sales through a chapter 7 liquidation rather than based upon a deliberative and staged sales process under the Plan.

VIII. CONCLUSION AND RECOMMENDATION

Based upon the foregoing, the Debtors and the Committee believe that confirmation and implementation of the Plan is in the best interests of all creditors, and should therefore be accepted by all classes of creditors entitled to vote on the Plan.

DATED: August 17, 2010

/s/ Clement C. Carinalli
CLEMENT C. CARINALLI, Debtor

/s/ Ann Marie Carinalli
ANN MARIE CARINALLI, Debtor

OFFICIAL COMMITTEE OF UNSECURED CREDITORS

By: /s/ Robert W. Sinai
Robert W. Sinai, Co-Chairperson

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Approved and submitted by:

MEYERS LAW GROUP, P.C.
Merle C. Meyers, Esq., CA Bar #66849
Edie Walters, Esq., CA Bar #262730
D. Clarke Sugar, ESQ., CA Bar #251681

PACHULSKI, STANG ZIEHL & JONES LLP
John D. Fiero, Esq. CA Bar #136557
Maxim B. Litvak, ESQ. CA Bar #215852

By: /s/ Merle C. Meyers
Merle C. Meyers, Esq.
Attorneys for Clement C. and Ann
Marie Carinalli, Debtors

By: /s/ John D. Fiero
John D. Fiero, Esq.
Attorneys for Official Committee of
Unsecured Creditors

LAW OFFICES
MEYERS LAW GROUP, P.C.
44 MONTGOMERY STREET, SUITE 1010
SAN FRANCISCO, CALIFORNIA 94104