

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re:) Chapter 11
)
ie Corp.,¹) Case No. 10-11061 (PJW)
)
Debtor.)
)
)

DISCLOSURE STATEMENT FOR DEBTOR'S PLAN OF LIQUIDATION

Dated: ~~August 18,~~[September 13,](#) 2010

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PLEASE REVIEW THIS DOCUMENT FOR IMPORTANT INFORMATION REGARDING:

- * Description of the Debtor
- * Classification and Treatment of Claims and Interests
- * Distribution to Holders of Allowed General Unsecured Claims
- * Implementation and Execution of the Plan
- * Releases and Injunctions

AND IMPORTANT DATES:

- * Date to Determine Record Holders of Claims and Interests
- * Deadline to Submit Ballots
- * Deadline to Object to Plan Confirmation

YOUR BALLOT IS ATTACHED TO THE END OF THIS DOCUMENT. PLEASE REVIEW THIS DOCUMENT AND COMPLETE AND RETURN THE BALLOT PER THE INSTRUCTIONS CONTAINED HEREIN.

1. INTRODUCTION.

1.1 PURPOSE OF THE DISCLOSURE STATEMENT.

Notice of this disclosure statement (as amended, modified or supplemented, the "**Disclosure Statement**") is being provided by ie Corp. f/k/a Eigen, Inc., a Delaware corporation, f/k/a Eigen, LLC, a California limited

¹ The Debtor in this chapter 11 case was formerly known as Eigen, Inc. The last four digits of Eigen, Inc.'s federal tax identification number are (1907). The location of Eigen, Inc.'s corporate headquarters was 13366 Grass Valley Avenue, Suite A, Grass Valley, CA 95945.

liability company (the “**Debtor**,” or, alternatively, the “**Proponent**”) to the Office of the United States Trustee, the Securities and Exchange Commission, and to all of the Debtor’s known Creditors and stockholders pursuant to section 1125(b) of Title 11 of the United States Code (as amended, the “**Bankruptcy Code**”) for the purpose of soliciting acceptances of the Debtor’s Plan of Liquidation (the “**Plan**”). The Plan has been filed with the United States Bankruptcy Court for the District of Delaware (the “**Bankruptcy Court**”), and the summaries of the Plan contained herein shall not be relied upon for any purpose other than to make a judgment with respect to, and determine how to vote on, the Plan. A copy of the Plan is attached hereto as **Exhibit A**. All capitalized terms used within this Disclosure Statement that are not defined herein or in section 1.2 of the Disclosure Statement have the meanings set forth in the attached Plan. By Order dated September ~~15~~**16**, the Disclosure Statement was approved by the Bankruptcy Court as containing “adequate information” under section 1125 of the Bankruptcy Code (the “**Disclosure Statement Order**”). ~~[THE DEBTOR IS SEEKING APPROVAL OF THE DISCLOSURE STATEMENT WITH THE BANKRUPTCY COURT. PLEASE NOTE THAT THE BANKRUPTCY COURT HAS NOT YET APPROVED THIS DISCLOSURE STATEMENT, AND THE DEBTOR IS NOT SOLICITING ACCEPTANCES OF THE PLAN AT THIS TIME.]~~

PLEASE NOTE THAT MUCH OF THE INFORMATION CONTAINED HEREIN HAS BEEN TAKEN, IN WHOLE OR IN PART, FROM INFORMATION CONTAINED IN THE DEBTOR’S BOOKS AND RECORDS AND PLEADINGS FILED BY THE DEBTOR. STATEMENTS MADE IN THE DISCLOSURE STATEMENT ARE QUALIFIED IN THEIR ENTIRETY BY REFERENCE TO THE PLAN, ALTHOUGH THE PROPONENT HAS ATTEMPTED TO BE ACCURATE IN ALL MATERIAL RESPECTS, THE PROPONENT IS UNABLE TO WARRANT OR REPRESENT THAT ALL OF THE INFORMATION CONTAINED IN THIS DISCLOSURE STATEMENT IS WITHOUT ERROR. THE STATEMENTS CONTAINED IN THIS DISCLOSURE STATEMENT ARE MADE ONLY AS OF THE DATE HEREOF, AND THERE CAN BE NO ASSURANCE THAT THE STATEMENTS CONTAINED HEREIN WILL BE CORRECT AT ANY TIME AFTER THE DATE HEREOF.

THIS DISCLOSURE STATEMENT HAS BEEN PREPARED IN ACCORDANCE WITH SECTION 1125 OF THE BANKRUPTCY CODE AND RULE 3016(c) OF THE FEDERAL RULES OF BANKRUPTCY PROCEDURE AND NOT IN ACCORDANCE WITH FEDERAL OR STATE SECURITIES LAWS OR OTHER RULES GOVERNING DISCLOSURE OUTSIDE THE CONTEXT OF CHAPTER 11. THIS DISCLOSURE STATEMENT HAS NEITHER BEEN APPROVED NOR DISAPPROVED BY THE SECURITIES AND EXCHANGE COMMISSION, NOR HAS THE SECURITIES AND EXCHANGE COMMISSION PASSED UPON ITS ACCURACY.

NO REPRESENTATION CONCERNING THE DEBTOR OR THE VALUE OF THE DEBTOR’S ASSETS HAS BEEN AUTHORIZED BY THE BANKRUPTCY COURT OTHER THAN AS SET FORTH IN THIS DISCLOSURE STATEMENT OR ANY OTHER DISCLOSURE STATEMENT APPROVED BY THE BANKRUPTCY COURT. THE PROPONENT IS NOT RESPONSIBLE FOR ANY INFORMATION, REPRESENTATION OR INDUCEMENT MADE TO OBTAIN YOUR ACCEPTANCE, WHICH IS OTHER THAN, OR INCONSISTENT WITH, THE INFORMATION CONTAINED HEREIN AND IN THE PLAN.

YOU ARE STRONGLY URGED TO CONSULT WITH YOUR FINANCIAL, LEGAL, AND TAX ADVISORS TO FULLY UNDERSTAND THE PLAN AND DISCLOSURE STATEMENT. THIS DISCLOSURE STATEMENT IS INTENDED, AMONG OTHER THINGS, TO SUMMARIZE THE PLAN AND MUST BE READ IN CONJUNCTION WITH THE PLAN AND ITS EXHIBITS, IF ANY. IF ANY CONFLICTS EXIST BETWEEN THE PLAN AND DISCLOSURE STATEMENT, THE TERMS OF THE PLAN SHALL CONTROL.

IF A HOLDER OF A CLAIM WISHES TO CHALLENGE THE ALLOWANCE OR DISALLOWANCE OF A CLAIM FOR VOTING PURPOSES UNDER THE TABULATION RULES SET FORTH IN THE DISCLOSURE STATEMENT ORDER, SUCH ENTITY MUST FILE A MOTION, PURSUANT TO BANKRUPTCY RULE 3018(a), FOR AN ORDER TEMPORARILY ALLOWING SUCH CLAIM IN A DIFFERENT AMOUNT OR CLASSIFICATION FOR PURPOSES OF VOTING TO ACCEPT OR REJECT THE PLAN, AND SERVE SUCH MOTION ON THE UNDERSIGNED COUNSEL TO THE DEBTOR SO THAT IT IS RECEIVED NO LATER THAN **4:00 P.M., PREVAILING EASTERN TIME, ON OCTOBER ~~16~~**6**, 2010**. UNLESS THE COURT ORDERS OTHERWISE, SUCH CLAIM WILL NOT BE COUNTED FOR VOTING

PURPOSES IN EXCESS OF THE AMOUNT DETERMINED IN ACCORDANCE WITH THE TABULATION RULES.

1.2 DEFINITIONS OF TERMS UTILIZED IN THE PLAN.

Unless the context otherwise requires or a term is defined within the Plan itself, the following terms shall have the respective meanings set forth below, except as expressly provided otherwise.

1.2.1. **Administrative Expense Claim:** Any cost or expense of administration of the Case allowed by the Bankruptcy Court pursuant to section 503(b) of the Bankruptcy Code, excluding Professional Fee Claims.

1.2.2. **Allowed Claim:** Any Claim (i)(a) for which a proof of claim was timely Filed with the Bankruptcy Court by the Bar Date, or (b) that is listed in the Schedules and not listed as disputed, contingent or unliquidated as to amount; and, in either case, as to which no objection to the allowance thereof has been Filed by the Effective Date; or (ii) which has otherwise been allowed by a Final Order. Unless otherwise specified in the Plan, an "Allowed Claim" shall not include: (a) untimely Filed Claims or requests for Administrative Expenses; (b) interest on the principal amount of the Allowed Claim from and after the Petition Date; (c) any punitive damages; or (d) Claims that are Assumed Liabilities.

1.2.3. **Allowed Class [. . .] Claim:** An Allowed Claim in the designated Class.

1.2.4. **Assets:** Any and all right, title, and interest of the Debtor in and to property of whatever type or nature.

1.2.5. **Assumed Liabilities:** Certain liabilities of the Debtor assumed by Kazi pursuant to the Order (A) Authorizing the Sale of Substantially All of the Debtor's Assets Free and Clear of Liens, Claims, Encumbrances, and Other Interests; (B) Authorizing and Approving Purchase Agreement Thereto; (C) Approving the Assumption and Assignment of Certain of the Debtor's Executory Contracts and Unexpired Leases Related Thereto; and (D) Granting Related Relief [Docket No. 134] (the "**Sale Order**"), entered by the Bankruptcy Court on June 28, 2010.

1.2.6. **Avoidance Actions:** Any and all actions, proceedings, accounts, controversies, agreements, promises, claims, and rights of the Debtor and its estate (the "**Causes of Action**") to avoid or recover a transfer of property of the Debtor's estate or an interest of the Debtor in property, including, without limitation, actions arising under Sections 506, 510, 541, 542, 544, 545, 547, 548, 549, 550 and 553 of the Bankruptcy Code and any other applicable federal or common law, including fraudulent transfers, whether or not litigation has been commenced with respect to such Causes of Action as of the Effective Date, except those Avoidance Actions previously waived by the Debtor pursuant to any Final Order.

1.2.7. **Balloting Agent:** Reliable Copy Service, Inc., or such other entity determined by the Debtor in consultation with the Creditors' Committee.

1.2.8. **Bankruptcy Code:** Title 11 of the United States Code, as in effect on the Petition Date and as thereafter amended, if such amendments are made applicable to the Case.

1.2.9. **Bankruptcy Court:** The United States Bankruptcy Court for the District of Delaware.

1.2.10. **Bankruptcy Rules:** The Federal Rules of Bankruptcy Procedure pursuant to Title 28 of the United States Code, 28 U.S.C. § 2075, as they have been or may hereafter be amended.

1.2.11. **Bar Date:** August 27, 2010 at 4:00 (Eastern Time), pursuant to the Order Pursuant to Bankruptcy Rules 2002 and 3003 (I) Establishing a Bar Date for Filing Certain Proofs of Claim; (II) Establishing

Ramifications for Failure to Comply Therewith; (III) Approving Notice of Bar Date; and (IV) Approving Publication Notice and Publication Procedures [Docket No. 154].

1.2.12. **Business Day:** Any day except a Saturday, Sunday or any day on which commercial banks in the State of Delaware are authorized or required by applicable law to close.

1.2.13. **Case:** The chapter 11 case initiated by the Debtor's Filing on the Petition Date of a voluntary petition for relief in the Bankruptcy Court under chapter 11 of the Bankruptcy Code. The Case is being administered in the Bankruptcy Court as Bankruptcy Case No. 10-11061 (PJW).

1.2.14. **Cash:** Legal tender of the United States of America and any equivalent thereof.

1.2.15. **Charity:** Guiding Eyes for the Blind, who shall receive the Returned Distribution(s), if any.

1.2.16. **Claim:** A claim, as defined in section 101(5) of the Bankruptcy Code, against the Debtor whether or not asserted or Allowed.

1.2.17. **Class:** A category of Claims or Interests designated pursuant to the Plan.

1.2.18. **Class [. . .] Claim/Interest:** The specific Class into which Allowed Claims or Allowed Interests are classified pursuant to the Plan.

1.2.19. **Closing Date:** June 30, 2010, the date on which the Debtor closed on the Sale of substantially all of its Assets pursuant to the Sale Order.

1.2.20. **Committee Adversary Proceeding:** Adversary Proceeding No. 10-51289 filed by the Creditors' Committee on June 21, 2010.

1.2.21. **Committee Settlement:** That certain settlement reached between the Debtor, the Creditors' Committee and Kazi, the pertinent terms of which are:

A. Kazi will fund \$300,000 for the sole benefit of unsecured creditors holding Allowed Claims, payable as follows: \$150,000 in cash on August 13, 2010, and \$50,000 in cash on each of September 17, 2010, October 15, 2010, and November 12, 2010, all as more fully set forth in the DIP budget.

B. Kazi, its affiliates, and related entities waive all Claims against the Debtor.

C. The Creditors' Committee supports the Sale.

D. The Creditors' Committee supports the release of claims against Kazi and its affiliates, employees, agents, officers, directors, and owners by the Debtor, as well as all claims that are deemed to be property of the Debtor's Estate under the Bankruptcy Code, but such support is conditioned upon Kazi's performance under the Committee Settlement.

E. The Plan includes full releases of Debtor causes of action against Kazi, which will include the Committee Adversary Proceeding. Third party releases may be included in the Plan to the extent of applicable Third Circuit law.

F. Kazi agrees to fund an additional \$100,000 for administrative costs needed to confirm the Plan, which shall be paid as such expenses are required to be funded under the DIP budget, but no later than the Effective Date.

1.2.22. **Confirmation:** Entry by the Bankruptcy Court of the Confirmation Order.

1.2.23. **Confirmation Date:** The date upon which the Bankruptcy Court enters the Confirmation Order.

1.2.24. **Confirmation Hearing:** Collectively, the hearing or hearings held by the Bankruptcy Court on Confirmation of the Plan, as such hearing or hearings may be continued from time to time.

1.2.25. **Confirmation Order:** The Order of the Bankruptcy Court confirming the Plan.

1.2.26. **Creditor:** Holder of a Claim.

1.2.27. **Creditors' Committee:** The official committee of unsecured creditors appointed by the United States Trustee in this Case pursuant to section 1102 of the Bankruptcy Code as its composition may be changed from time to time by addition, resignation, or removal of its members.

1.2.28. **Debtor:** ie Corp., formerly known as Eigen, Inc., a Delaware corporation, formerly known as Eigen, LLC, a California limited liability company.

1.2.29. **Disallowed:** A Claim or any portion thereof that is not Allowed.

1.2.30. **Disputed Claim:** Any Claim, (i) proof of which has been timely Filed prior to the Bar Date, to which an objection to the allowance thereof has been Filed prior to the Effective Date and such objection has not been either (a) determined by a Final Order or (b) settled by the parties under a settlement approved by Final Order of the Bankruptcy Court pursuant to Bankruptcy Rule 9019; (ii) which was listed as disputed, contingent or unliquidated in the Debtor's Schedules and for which no Proof of Claim was filed before the Bar Date; or (iii) which has not been otherwise Allowed by the Bankruptcy Court.

1.2.31. **Distribution:** The Debtor's distribution of the proceeds of the Committee Settlement to the Record Holders of Allowed Claims in Class III, as set forth in sections 2.2, 2.3, and 2.8 of the Plan.

1.2.32. **File, Filed or Filing:** File, filed or filing with the Bankruptcy Court or its authorized designee in the Case.

1.2.33. **Final Decree:** The Order entered pursuant to section 350 of the Bankruptcy Code, Bankruptcy Rule 3022, and Local Rule 5009-1 closing the Case.

1.2.34. **Final Order:** An order or judgment of the Bankruptcy Court, or other court of competent jurisdiction, as entered on the docket in this Case or the docket of any other court of competent jurisdiction, that has not been reversed, stayed, modified or amended, and as to which the time to appeal or seek certiorari or move for a new trial, reargument or rehearing has expired, and no appeal or petition for certiorari or other proceedings for a new trial, reargument or rehearing has been timely taken, or as to which any appeal that has been taken or any petition for certiorari that has been timely Filed has been withdrawn or resolved by the highest court to which the order or judgment was appealed or from which certiorari was sought, or the new trial, reargument or rehearing has been denied or resulted in no modification of such order; provided, however, that the possibility that a motion under Rule 59 or Rule 60 of the Federal Rules of Civil Procedure, or any analogous rule under the Bankruptcy Rules or applicable state court rules of civil procedure, may be Filed with respect to such order, shall not cause such order not to be a Final Order.

1.2.35. **General Unsecured Claim:** Any Claim against the Debtor that is not a Secured Claim, an Administrative Expense Claim, a Priority Claim, a Priority Tax Claim, or an Interest.

1.2.36. **Holder:** The Person that is the owner of record of a Claim or Interest, as applicable.

1.2.37. **Impaired:** With respect to any Class of Claims or Interests, the Claims or Interests in such Class that are impaired within the meaning of section 1124 of the Bankruptcy Code.

1.2.38. **Interest:** Either (i) the legal, equitable, contractual or other rights of any Person with respect to the preferred or common stock, or any other equity interest in the Debtor, including any other interest in

or right to convert into such equity interest or (ii) the legal, equitable, contractual or other right of any Person to acquire or receive any of the foregoing.

1.2.39. **Kazi:** Kazi Management VI, LLC.

1.2.40. **Local Rules:** The Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware, as amended from time to time.

1.2.41. **Order:** An order or judgment of the Bankruptcy Court, or other court of competent jurisdiction, as entered on the docket in this Case or the docket of any other court of competent jurisdiction.

1.2.42. **Person:** An individual, limited liability company, corporation, partnership, association, trust or unincorporated organization, joint venture, or a government or any agency or political subdivision thereof.

1.2.43. **Petition Date:** March 30, 2010, the date on which the Debtor Filed its petition for relief in the Bankruptcy Court.

1.2.44. **Plan:** The Debtor's Plan of Liquidation dated ~~August 18,~~[September 13,](#) 2010, as the same may hereafter be amended or modified.

1.2.45. **Priority Claim:** A Claim that is entitled to priority under section 507(a) of the Bankruptcy Code, other than an Administrative Expense Claim and a Priority Tax Claim.

1.2.46. **Priority Tax Claim:** A Claim that is entitled to priority under section 507(a)(8) of the Bankruptcy Code.

1.2.47. **Professional:** Any professional employed in the Case pursuant to sections 327, 328 or 1103 of the Bankruptcy Code, or any Professional or other Person seeking compensation or reimbursement of expenses in connection with the Case pursuant to section 503(b)(4) of the Bankruptcy Code.

1.2.48. **Professional Fee Claim:** A Claim of a Professional for compensation or reimbursement of costs and expenses relating to services rendered and expenses incurred during the period from the Petition Date to the Effective Date.

1.2.49. **Professional Fee Claim Bar Date:** The date that is twenty-one (21) days after the Effective Date.

1.2.50. **Record Date:** The Record Date shall be September 16, 2010.

1.2.51. **Record Holder:** The Holder of an Interest or Claim as of the Record Date.

1.2.52. **Returned Distribution:** Any portion of the Distribution subsequently returned to the Debtor.

1.2.53. **Sale:** The transfer of substantially all of the assets of Eigen, Inc. to Kazi that closed pursuant to the Sale Order on or about June 30, 2010.

1.2.54. **Scheduled Claim:** Any Claim set forth on the Schedules.

1.2.55. **Schedules:** The Schedules of Assets and Liabilities Filed by the Debtor, as such Schedules may be amended from time-to-time in accordance with Bankruptcy Rule 1009.

1.2.56. **Secured Claim:** A Claim that is secured by a lien on property in which the Debtor has an interest, which lien is valid, perfected and enforceable under applicable law or pursuant to a Final Order, or

that is subject to setoff under section 553 of the Bankruptcy Code, to the extent of the value of the Creditor's interest in such property or to the extent of the amount subject to setoff, as applicable, all as determined pursuant to section 506(a) of the Bankruptcy Code.

1.2.57. **State Court Actions:** Collective reference to the underlying state court lawsuits involving the Debtor. Specifically, such actions include, but may not be limited to, the Giardina Case, Elven Case, Trobaugh Case, GE Case, George Case, and Kazanjian Case as are more fully described in Section 2.6 herein.

1.2.58. **Unclassified Claims:** Claims which, pursuant to section 1123(a)(1) of the Bankruptcy Code, shall not be placed into a Class. Unclassified Claims include Administrative Expense Claims and Priority Tax Claims.

1.2.59. **Unimpaired:** With respect to a Class of Claims or Interests, any Class that is unimpaired within the meaning of section 1124 of the Bankruptcy Code.

1.2.60. **United States Trustee:** The Office of the United States Trustee for the District of Delaware.

1.2.61. **Voting Classes:** Classes I, III, and IV (each a "Voting Class"), which are Impaired and entitled to vote on the Plan.

1.3 DEBTOR'S PROPOSED TIMELINE FOR CONFIRMATION OF THE PLAN.

The Debtor has proposed the following timeline for confirmation of the Plan. The Creditors' Committee and Kazi support the proposed timeline and confirmation of the Plan.

<u>DATE</u>	<u>EVENT</u>
September 9, 2010 at 4:00 p.m. (ET)	Objections to Disclosure Statement and Solicitation Motion
September 13, 2010 at 4:00 p.m. (ET)	Debtor and Committee Reply to Objections
September 16, 2010	Record Date
September 16, 2010 at 9:30 a.m. (ET)	Disclosure Statement Hearing
September 17 , 17, 2010	Serve Notice of Confirmation Hearing and Solicitation Packages
September 29 , 29, 2010	Deadline to File Objections to Claims that Affect Voting and/or Motions to Estimate Claims
October 6 , 6, 2010	Deadline to File 3018(a) Motion
October 8 , 8, 2010	Voting Deadline
October 12 , 12, 2010	Voting Tabulation Report Filed
October 12 , 12, 2010	All Plan Supplements and Other Schedules to the Plan Filed (if any)
October 13 , 13, 2010 at 4:00 p.m. (ET)	Creditors' Deadline to Object to the Plan and/or Vote Tabulation
October 13 , 13, 2010 at 4:00 p.m. (ET)	Debtor's, Creditors' Committee's and Kazi's Deadline to Reply to any Objections to any 3018(a) Motion
October 15 , 15, 2010	Debtor's, Creditors' Committee's and Kazi's Deadline to Reply to any Objections to the Plan and/or Vote Tabulation
October 20 , 20, 2010 at 2:00 p.m. (ET)	Confirmation Hearing

As a Creditor, your acceptance of the Plan is important. In order for the Plan to be accepted by an Impaired Class of Claims, a majority in number and two-thirds in dollar amount of the Claims voting (of each Impaired Class of Claims) must vote to accept the Plan, or the Plan must qualify for cramdown of any non-accepting Class of Claims pursuant to section 1129(b) of the Bankruptcy Code. In any case, at least one impaired Class of Creditors, excluding the votes of insiders, must actually vote to accept the Plan.

1.4 CONFIRMATION OF THE PLAN

1.4.1. **Requirements.** The requirements for Confirmation of the Plan are set forth in section 1129 of the Bankruptcy Code. The following is a summary of certain of the requirements:

(a) **Acceptance by Impaired Classes.** Except to the extent that the “cramdown” provisions of section 1129(b) of the Bankruptcy Code may be invoked, each Class of Claims must either vote to accept the Plan or be deemed to accept the Plan because the Claims of such Class are not Impaired.

(b) **Feasibility.** The Bankruptcy Court is required to find that the Plan is likely to be implemented and that Persons required to perform or pay monies under the Plan will be able to do so.

(c) **“Best Interest” Test.** The Bankruptcy Court must find that the Plan is in the “best interest” of all Creditors and Interest Holders. To satisfy this requirement, the Bankruptcy Court must determine that each Holder of a Claim against, or Interest in, the Debtor: (i) has accepted the Plan; or (ii) will receive or retain under the Plan money or other property which, as of the Effective Date, has a value not less than the amount such Holder would receive if the Debtor’s property was liquidated under chapter 7 of the Bankruptcy Code on such date.

(d) **“Cramdown” Provisions.** Under the circumstances which are set forth in detail in section 1129(b) of the Bankruptcy Code, the Bankruptcy Court may confirm the Plan even though a Class of Claims or Interests has not accepted the Plan, so long as one Impaired Class of Claims has accepted the Plan, excluding the votes of insiders, and if the Plan is fair and equitable and does not discriminate unfairly against such non-accepting Classes.

1.4.2. **Confirmation Hearing.** To confirm the Plan, the Bankruptcy Court must hold the Confirmation Hearing to determine whether the Plan meets the requirements of section 1129 of the Bankruptcy Code. The Bankruptcy Court has set **October ~~12~~, 2010, at 2:00 p.m. (Eastern Time)** for the Confirmation Hearing.

1.4.3. **Deadline to Object to Confirmation of the Plan.** Any party-in-interest may object to the Confirmation of the Plan and appear at the Confirmation Hearing to pursue such objection. The Court has set **October ~~13~~, 2010 at 4:00 p.m. (Eastern Time)**, as the deadline for filing and serving objections to Confirmation of the Plan. Objections to Confirmation must be electronically filed with the Bankruptcy Court and served on counsel to the Debtor, the U.S. Trustee, counsel to the Creditors’ Committee, and counsel to Kazi.

1.4.4. **Effect of Confirmation.** Except as otherwise provided in the Plan or in the Confirmation Order, Confirmation will result in the Distribution of the Debtor’s remaining assets and the dissolution of the Debtor. Confirmation serves to make the Plan binding upon the Debtor, all Creditors, Interest Holders and other parties-in-interest, regardless of whether they cast a Ballot to accept or reject the Plan.

1.4.5. **Effect of Failure to Confirm the Plan.** If the Plan is not confirmed by the requisite majorities in number and amount required by section 1126 of the Bankruptcy Code (the “**Failure to Accept**”), or cramdown is not effectuated, the Debtor’s Case shall immediately be converted to a case under chapter 7 of the Bankruptcy Code without further action of the Debtor, and the Bankruptcy Court shall enter an Order, which shall be submitted to the Bankruptcy Court under certification of counsel. Section 1112(a) of the Bankruptcy Code governs the voluntary conversion from chapter 11 to chapter 7. Section 1112(a) provides that a debtor may convert a chapter 11 case to a case under chapter 7 at any time as of right. Specifically, section 1112(a) states that a debtor may convert a case under this chapter to one under chapter 7 of this title unless (i) the debtor is not a debtor in possession; (ii) the case originally was commenced as an involuntary case under this chapter; or (iii) the case was converted to a case under this chapter other than on the debtor’s request. 11 U.S.C. § 1112(a).

1.5 VOTING ON THE PLAN.

1.5.1. **Impaired Claims or Interests.** Pursuant to section 1126 of the Bankruptcy Code, only the Holders of Claims in Classes “Impaired” by the Plan and receiving a payment or distribution under the Plan may vote on the Plan. Pursuant to section 1124 of the Bankruptcy Code, a Class of Claims may be “Impaired” if the Plan alters the legal, equitable or contractual rights of the Holders of such Claims or Interests treated in such Class. The Holders of Claims not Impaired by the Plan (Class II – Allowed Priority Claims and Unclassified Claims) are deemed to accept the Plan and do not have the right to vote on the Plan. The Holders of Claims or Interests in any Class that will not receive any payment or distribution or retain any property pursuant to the Plan (Class V – Interests) are deemed to reject the Plan and do not have the right to vote on the Plan.

1.5.2. **Eligibility to Vote on the Plan.** Only Record Holders of Class I Claims, Class III Claims, and Class IV Claims may vote on the Plan.

1.5.3. **Voting Procedure and Ballot Deadline.** To ensure your vote is counted you must (i) complete the Ballot, (ii) indicate your decision either to accept or reject the Plan in the boxes provided in Item 2 of the Ballot, and (iii) sign and return the Ballot to the address set forth on the Ballot (please note that envelopes and prepaid postage have not been included with the Ballot) in accordance with the balloting instructions that you have been provided with. **BALLOTS SENT BY FACSIMILE TRANSMISSION ARE NOT ALLOWED AND WILL NOT BE COUNTED.**

Pursuant to Bankruptcy Rule 3017, the Bankruptcy Court has ordered that original Ballots for the acceptance or rejection of the Plan must be received by the Balloting Agent on or before **October 18, 2010, at 4:00 p.m. (Eastern Time)**. Whenever a Record Holder casts more than one Ballot voting the same Claim prior to the ballot deadline, only the last timely Ballot received will be deemed to reflect the voter’s intent and will thus supersede any prior Ballots. If a Ballot is received after the ballot deadline, it will not be counted.

If the Claim is held by a partnership, a general partner should execute the ballot in the name of the partnership. If a corporation holds the Claim, a duly authorized officer must execute the Ballot. If you are signing in a representative capacity, also indicate your title after your signature.

The Ballot **does not** constitute and shall not be deemed to constitute a proof of Claim or Interest or an assertion of a Claim or Interest. To comply with the Bar Date Order, a separate proof of claim must be filed.

1.6 ACCEPTANCE OF THE PLAN.

As a Creditor, your acceptance of the Plan is important. In order for the Plan to be accepted by an Impaired Class of Claims, a majority in number and two-thirds in dollar amount of the Claims voting (in each Impaired Class of Claims) must vote to accept the Plan, or the Plan must qualify for cramdown of any non-accepting Class of Claims pursuant to section 1129(b) of the Bankruptcy Code. In any case, at least one impaired Class of Creditors, excluding the votes of insiders, must actually vote to accept the Plan. **YOU ARE URGED TO COMPLETE, DATE, SIGN, AND PROMPTLY MAIL THE ATTACHED BALLOT IN ACCORDANCE WITH THE INSTRUCTIONS PROVIDED. PLEASE BE SURE TO COMPLETE THE BALLOT PROPERLY AND LEGIBLY IDENTIFY THE EXACT AMOUNT OF YOUR CLAIM AND THE NAME OF THE CREDITOR.**

THE DEBTOR, CREDITORS’ COMMITTEE AND KAZI ALL SUPPORT CONFIRMATION OF THE PLAN.

2. **THE DEBTOR.**

2.1 **Description of Debtor, Debtor's History, and Debtor's Business.**

A description of the Debtor's corporate history and its business can be found in the *Declaration of Richard Edick in Support of First Day Motions and Applications* [Docket No. 3], which was filed on the Petition Date.

2.2 **Debtor's Pre-Petition Sale Efforts.**

Prior to the Petition Date, the Debtor engaged in a marketing process that targeted potential strategic buyers and financial investors believed to have an interest in some or all of the Debtor's business. Representatives of the Debtor also began negotiations with representatives of Kazi about a potential transaction to assist the Debtor in deleveraging its balance sheet.

2.3 **Debtor's Financing.**

On the Petition Date, the Debtor filed a motion seeking approval of post-petition debtor in possession financing [Docket No. 8]. As of the Petition Date, the Debtor owed Kazi approximately \$20,188,546.78, exclusive of attorneys' fees, costs, expenses, and other charges owing to Kazi under the Pre-Petition Loan Documents (as that term is defined in the Final DIP Order). Since the Debtor was unable to obtain alternative financing, Kazi agreed to advance up to an additional \$3,700,000 as debtor in possession financing to enable the Debtor to operate through chapter 11. On May 7, 2010, the Bankruptcy Court entered a Final Order (the "**Final DIP Order**") [Docket No. 79] approving the post-petition financing. On July 23, 2010, the Debtor filed a stipulation extending the terms of the post-petition financing facility for the period of July 23, 2010 through October 31, 2010 pursuant to an agreed upon budget annexed to the stipulation [Docket No. 165].

2.4 **Debtor's Post-Petition Sale and Marketing Efforts.**

On April 13, 2010, the Debtor filed a motion seeking approval of (i) certain bid procedures and (ii) the sale of substantially all of the Debtor's Assets [Docket No. 41] (the "**Sale Motion**") to a Successful Bidder (as defined in the Sale Motion) following an auction. On April 22, 2010, the Court entered the Bid Procedures Order [Docket No. 62]. Pursuant to the Bid Procedures Order, (i) the bid deadline for qualifying bids was June 22, 2010, (ii) the auction, if necessary, was scheduled for June 23, 2010, and (iii) the sale hearing was scheduled for June 28, 2010. Despite its marketing efforts and those of the investment banking firm retained by the Committee to market the Debtor's assets, the Debtor only received the credit bid of Kazi for \$1,000,000.00. Prior to the hearing on the Sale Motion, the Committee Settlement was negotiated. On June 28, 2010, the Court entered the Sale Order [Docket No. 134] approving (i) the sale of substantially all of the Debtor's Assets to Kazi, and (ii) the Asset Purchase Agreement (as amended, the "**Agreement**"). The sale closed on the Closing Date. [Other than the proceeds of the Committee Settlement, there are no other assets in the Debtor's estate.](#)

2.5 **The Committee Settlement.**

The Debtor is seeking approval of the Committee Settlement in the Plan pursuant to section 1123(b)(3) of the Bankruptcy Code and Bankruptcy Rule 9019. Subject to the occurrence of the Effective Date, entry of the Confirmation Order shall (i) constitute approval of a compromise and settlement of Kazi's claims and the Committee Adversary Proceeding, (ii) authorize payment under the Plan of the Committee Settlement to the holders of Allowed Class III Claims in accordance with the Plan, and (iii) authorize all parties to take all actions that are necessary or appropriate to implement and give effect to the Committee Settlement.

The Committee Settlement is an agreement and compromise reached between the Debtor, the Creditors' Committee and Kazi, the pertinent terms of which are: (A) Kazi will fund \$300,000 for the sole benefit of unsecured creditors, payable as \$150,000 in cash on or before August 13, 2010, and three cash payments of \$50,000 on or before September 17, 2010, October 15, 2010, and November 12, 2010, all as more fully set forth in the DIP budget, all of which payments that are made prior to the Effective Date shall be held in escrow with Debtor's counsel for the benefit of Class III Claimants and shall be released solely for the benefit of Class III Claimants; (B)

Kazi, its affiliates, and related entities waive all Claims against the Debtor; (C) the Creditors' Committee supports the Sale; (D) the Creditors' Committee supports the release of claims against Kazi and its affiliates, employees, agents, officers, directors, and owners, but such support is conditioned upon Kazi's performance under the Committee Settlement; (E) the Plan includes full releases of Debtor causes of action against the defendants in the Committee Adversary Proceeding, which will include dismissal of the Committee Adversary Proceeding with prejudice, and third party releases may be included in the Plan to the extent of applicable Third Circuit law; and (F) Kazi agrees to fund an additional \$100,000 for administrative costs needed to confirm the Plan.

The Disclosure Statement together with the Plan shall serve as a motion pursuant to Bankruptcy Rule 9019 to approve the compromise and settlement under Section 5.2 of the Plan. The Debtor believes that representatives of the stakeholders (including the Debtor, the Creditors' Committee, and Kazi) have arrived at a good faith, arm's length compromise and settlement of the complex issues and certain claims in this Case. The Debtor also believes that the Committee Settlement is fair and reasonable to all parties-in-interest in this Case. The compromise and settlement described herein is the product of extensive negotiations in connection with the chapter 11 plan process.

Courts may approve compromises or settlements pursuant to Bankruptcy Rule 9019. Settlements are favored in bankruptcy because they minimize the costs of litigation and expedite the administration of the bankruptcy proceedings. The duty of the court is to determine whether the proposed compromise is fair, reasonable, and in the best interests of a debtor's estate. There are four primary factors that a court will consider in making its decision: (1) the probability of success in the litigation; (2) the difficulty in collecting after obtaining a judgment in the litigation; (3) the complexity of the litigation involved, and the expense, inconvenience and delay necessarily attending it; and (4) the interest of creditors and stockholders and a proper deference to their reasonable views of the proposed settlement.

The Committee Settlement provides a number of benefits that otherwise would not exist absent such agreement. It provides for an early emergence from chapter 11 for the Debtor, and it provides for an approximate 22% recovery to holders of Allowed General Unsecured Claims, where there otherwise would not be a distribution on account of such Claims. In addition, while the Creditors' Committee asserts that valid claims against Kazi exist, the Committee Settlement represents a fair compromise of these claims, taking into account: (1) the costs of litigation; (2) the uncertain outcome of the litigation; (3) the value of Kazi's claims waiver; and (4) Kazi's agreement to fund the DIP financing needed to confirm the Plan, which will result in an orderly distribution of the settlement proceeds.

2.6 Pending Litigation Involving the Debtor.

A. Giardina Case

On or about February 26, 2008, Steven Giardina ("**Giardina**") commenced a civil action in the Superior Court of California in the County of Nevada (the "**Nevada County State Court**") as Case No. 73314 (the "**Giardina Action**") against the following parties: the Debtor; its predecessor-in-interest, Eigen, LLC; Kazi; Zubair Kazi dba Kazi Management, Inc. ("**Kazi Management**"); and the managing member of Eigen, Michael Castorino (collectively, the "**Non-Debtor Defendants**"). Giardina alleges that he entered into certain agreements with the Debtor, including an employment agreement and a membership interest purchase agreement (collectively, the "**Giardina Agreements**"). Giardina further alleges that he was wrongfully terminated as the Debtor's chief operating officer. Giardina's complaint, as amended, asserts the following nine counts, eight of which are asserted only against the Debtor: (1) Violation of FEHA- Retaliation, (2) Tortious Termination in Violation of Public Policy- FEHA Retaliation, (3) Tortious Termination in Violation of Public Policy- Whistle blowing, (4) Unfair Business Practices- B&P Code § § 17200 *et seq.*, (5) Breach of Employment Agreement, (6) Specific Enforcement of Employment Agreement, (7) Breach of Fiduciary Duty, (8) Declaratory Relief to Invalidate Conversion of Eigen, LLC to Eigen, Inc., and (9) Declaratory Relief regarding Membership Interest. Giardina claims that as controlling members of the Debtor, certain of the Non-Debtor Defendants breached their fiduciary duties under the Giardina Agreements. In addition to seeking declaratory and injunctive relief, the lawsuit seeks affirmative relief to recover Giardina's alleged undilutable membership interest in Eigen, his equity bonus, and various royalties allegedly owed to him on account of his work to increase Eigen's market value. Furthermore, Giardina alleges that each Non-Debtor Defendant is the alter ego of the Debtor.

On or about August 21, 2009, Michael Castorino (“**Castorino**”) filed an initial cross-complaint in the lawsuit, amended numerous times but most recently on April 30, 2010. Castorino’s amended cross-complaint asserts various causes of action against the Debtor, the Non-Debtor Defendants, and additional third party defendants, Brian Burr, Mike Cook, and Steve Poludniak, including (1) Shareholder’s Derivative Action, (2) Breach of Fiduciary Duties/Oppression of Minority Shareholders, (3) Abuse of Control, (4) Declaratory Relief, (5) Injunctive Relief, (6) Wrongful Termination, (7) Breach of Contract, (8) Breach of Implied Covenant of Good Faith and Fair Dealing, (9) Intentional Infliction of Emotional Distress, (10) Nonpayment of Wages and Violation of Labor Codes, (11) Unfair Business Practices and Unfair Competition, (12) Trespass to Chattels, and (13) Accounting. In addition to these claims, Castorino also challenges the validity of the security interest of Kazi in the Debtor’s assets; however, Giardina did not take any action in the Bankruptcy Court to challenge such liens in accordance with the Final DIP Order. Finally, similar to Giardina’s complaint, Castorino alleges that Kazi and Eigen are the alter egos of Kazi Management and were mere shells, instrumentalities and conduits through which Kazi Management carried on its business.

In response, on or about September 9, 2009, Kazi filed a cross-complaint asserting new causes of action against Giardina, Castorino, a third party defendant, Daniel Elven, and joined the Debtor as an indispensable party to the action. In its cross-complaint, Kazi asserts the following nine counts: (1) Fraudulent Concealment against Giardina and Castorino, (2) Breach of Fiduciary Duty against Giardina and Castorino, (3) Breach of Duty against Giardina and Castorino, (4) Conversion against Castorino, (5) Common Counts against Castorino, (6) Unjust Enrichment against Castorino, (7) Declaratory Relief against all Cross-Defendants, (8) Quiet Title against all Cross-Defendants, and (9) Rescission against all Cross-Defendants.

On or about May 6, 2010, pursuant to 28 U.S.C. § 1452(a), the Debtor removed the Giardina Action from the Nevada County State Court to the United States Bankruptcy Court for the Eastern District of California. On or about July 7, 2010, pursuant to 28 U.S.C. § 1412, the United States Bankruptcy Court for the Eastern District of California granted the Debtor’s motion to transfer venue of the Giardina Action to the district court for the District of Delaware for referral to the United States Bankruptcy Court for the District of Delaware. Transfer of the Giardina Action is still pending.

B. Elven Case

On or about March 20, 2009, Daniel Elven (“**Elven**”) commenced a civil action in the Nevada County State Court as Case No. 74559 (the “**Elven Action**”) against the Debtor and the same Non-Debtor Defendants as those in the Giardina case discussed above. Elven alleges that, as consideration for his continued service with the Debtor, he received a five percent membership interest in the Debtor and entered into a discretionary equity bonus arrangement with the Debtor (collectively, the “**Elven Agreements**”). The complaint, as amended, asserts the following six counts, five of which are asserted only against the Debtor: (1) Breach of Good Faith Covenant, (2) Unfair Business Practices- B&P Code §§ 17200 *et seq.*, (3) Breach of Fiduciary Violations of Corps Code Sections 17000 *et seq.* by Controlling Members, (4) Declaratory Relief to Invalidate Purported Conversion, (5) Declaratory Relief regarding Membership Interest, and (6) Declaratory Relief regarding Equity Bonus. Elven claims that as controlling members of the Debtor, the Non-Debtor Defendants breached their fiduciary duties under the Elven Agreements. In addition to seeking declaratory relief, the lawsuit seeks affirmative relief to recover Elven’s alleged membership interest in the Debtor and the alleged equity bonus owed to him on account of the Elven Agreements.

On or about May 6, 2010, pursuant to 28 U.S.C. § 1452(a), the Debtor removed the Elven Action from the Nevada County State Court to the United States Bankruptcy Court for the Eastern District of California. On or about July 7, 2010, pursuant to 28 U.S.C. § 1412, the United States Bankruptcy Court for the Eastern District of California granted the Debtor’s motion to transfer venue of the Elven Action to the district court for the District of Delaware for referral to the United States Bankruptcy Court for the District of Delaware. Transfer of the Elven Action is still pending.

C. Trobaugh Case

On or about February 20, 2008, Thomas Trobaugh (“**Trobaugh**”) commenced a civil action in the Nevada County State Court as Case No. 73313 (the “**Trobaugh Action**”) against the Debtor and the same Non-Debtor Defendants as those in the Giardina and Elven cases discussed above. Trobaugh alleges that he entered into certain agreements with the Debtor, including an employment agreement with a guaranteed sales commission component and a discretionary equity bonus arrangement (collectively, the “**Trobaugh Agreements**”). Trobaugh further alleges that he was wrongfully terminated as the Debtor’s vice president of global sales and marketing. The complaint, as amended, asserts the following six counts: (1) Violation of FEHA-Retaliation, (2) Tortious Termination in Violation of Public Policy, (3) Unfair Business Practices CB&P Code 17200 *et seq.*, (4) Intentional

Interference with Contractual Relationship, (5) Injunctive Relief, and (6) Declaratory Relief. Trobaugh claims that as controlling members of the Debtor, the Non-Debtor Defendants intentionally interfered with the contractual relationship under the Trobaugh Agreements. In addition to seeking declaratory relief, the lawsuit seeks affirmative relief to recover the Trobaugh's alleged commission payments and the equity bonus owed to him on account of the Trobaugh Agreements. In addition to these claims, Trobaugh also challenges the validity of the security interest of Kazi in the Debtor's assets; however, Trobaugh did not take any action in the bankruptcy Case to challenge these liens, pursuant to the Final DIP Order.

On or about May 6, 2010, pursuant to 28 U.S.C. § 1452(a), the Debtor removed the Trobaugh Action from the Nevada County State Court to the United States Bankruptcy Court for the Eastern District of California. On or about July 7, 2010, pursuant to 28 U.S.C. § 1412, the United States Bankruptcy Court for the Eastern District of California granted the Debtor's motion to transfer venue of the Trobaugh Action to the district court for the District of Delaware for referral to the United States Bankruptcy Court for the District of Delaware. The Trobaugh Action has been transferred to the United States Bankruptcy Court for the District of Delaware, styled as Case No. 10-51623 (PJW).

D. GE Case

GE Medical Systems Ultrasound & Primary Care Diagnostics, LLC ("**GE**") commenced a civil action in the Supreme Court of the State of New York, County of New York under index number 602302/09 (the "**GE Action**"), *GE Medical Systems Ultrasound & Primary Care Diagnostics, LLC v. Eigen, LLC and Kazi Management VI, LLC and Zubair Kazi*, by filing a Notice of Motion for Summary Judgment in Lieu of Complaint and sought summary judgment in the amount of \$500,000.00, together with accrued interest thereon, with respect to a certain agreement between GE and the Debtor in which GE advanced \$500,000.00 in anticipation of a distribution arrangement with the Debtor (the "**GE Action**"). GE's Motion for Summary Judgment in Lieu of Complaint was denied and subsequently, GE filed a Notice of Discontinuance against Kazi.

E. George Case

Jennifer George ("**George**") commenced a civil action in the Superior Court of California in the County of Sacramento as Case No. 2009-00054259 (the "**George Action**") against the Debtor. George alleges that she entered into a certain employment agreement with the Debtor that Debtor has purportedly breached. She is seeking vacation and other wages, amounting to more than \$150,000. The George Action is currently stayed on account of the Debtor's bankruptcy.

F. Kazanjian Case

After the Petition Date, on or about May 21, 2010, the Debtor's former law firm, and current member of the Creditors' Committee, Palmer Kazanjian Wohl Perkins LLP ("**Kazanjian**"), commenced a civil action in the Nevada County State Court as Case No. 76150 (the "**Kazanjian Action**") against the Debtor, Kazi and Kazi Management. The complaint asserts two counts: (1) Breach of Contract and (2) Common Counts. The Kazanjian Action is stayed on account of the Debtor's bankruptcy.

3. SUMMARY OF THE PLAN.

3.1 Purpose of the Plan.

The Debtor proposed the Plan, in consultation with the Creditors' Committee and Kazi, over the alternative of converting the Debtor's bankruptcy Case to chapter 7 of the Bankruptcy Code because the Debtor believes that: (i) the Plan ensures a timely distribution of the Debtor's remaining Assets; (ii) the Plan provides the Estate and the Debtor's creditors with the proceeds of the Committee Settlement, which would otherwise not be available in chapter 7; and (iii) the Plan avoids unnecessary costs to the Debtor's estate, which would accrue should the Debtor's bankruptcy Case be converted to chapter 7 of the Bankruptcy Code. **For these reasons, the Debtor, Kazi and the Creditors' Committee strongly support the Plan.**

3.2 Classification of Claims and Interests under the Plan.

All Allowed Claims and Interests, except the Allowed Unclassified Claims, are placed in the Classes set forth in Article I of the Plan. In accordance with section 1123(a)(1) of the Bankruptcy Code, Administrative Claims and Priority Tax Claims have not been classified. A Claim or Interest is classified in a particular Class only to the

extent that the Claim or Interest qualifies within the description of that Class and is classified in other Classes to the extent that any remainder of the Claim or Interest qualifies within the description of such other Classes.

3.3 Classification and Treatment of Allowed Class III General Unsecured Claims.

As set forth in Article I of the Plan, the Record Holders of Allowed Class III General Unsecured Claims shall share, pursuant to the Committee Settlement, on a pro-rata basis, in the proceeds of the Committee Settlement. The Debtor shall make the Distribution to this Class as soon as practicable after the Effective Date. The Debtor estimates that the aggregate amount of Allowed Class III Claims is approximately ~~\$(1,350,000.00)~~, 1,350,000.00, and that Holders of such Claims will receive an estimated recovery of ~~22~~% on account of their Allowed Claims.

3.4 Implementation and Execution of the Plan.

3.4.1. **Effective Date.** As set forth in Article II of the Plan, the Plan shall become effective on the date which is the first Business Day on which each condition set forth in Section 4.2 of the Plan has been satisfied or waived as set forth therein. Upon the occurrence of the Effective Date, the Debtor will file a notice of Confirmation and occurrence of the Effective Date. You will not receive further notice of the occurrence of the Effective Date and should monitor the Bankruptcy Court docket of the Case for such notice.

3.4.2. **Summary of Means of Implementation and Execution of the Plan.** Article II of the Plan sets forth the means by which the Plan shall be implemented and executed, including the Distribution, the donation of returned Distribution funds to Charity, the dissolution of the Debtor, and objections to and allowance of Claims for purposes of Distribution.

3.4.3. **The Debtor's Abandonment, Disposal and/or Destruction of the Records.** To the extent not assigned pursuant to the Sale, as set forth in Section 2.6 of the Plan, the Debtor shall be authorized to abandon all originals and/or copies of documents and business records pursuant to section 554 of the Bankruptcy Code. With the closing of the Debtor's Sale and the full wind down of all of the Debtor's operations, the Debtor has identified certain documents, books and records (the "**Records**") that are outdated, burdensome, and/or of inconsequential value to the Debtor's estate and that are not necessary or relevant to: (i) the Debtor's performance of its duties and obligations, (ii) any pending litigation, (iii) the filing of any tax returns, (iv) the resolution of Claims against the Debtor, and (v) any potential causes of action that the Debtor may have. To complete the Debtor's wind down, avoid the incurrence of unnecessary storage costs, and facilitate the consolidation and preservation of any pertinent documents, books and records, the Debtor wishes to proceed with the abandonment, disposal and/or destruction of the Records.

Section 554 of the Bankruptcy Code provides that, *inter alia*, "[a]fter notice and a hearing, the trustee may abandon any property of the estate that is burdensome to the estate or that is of inconsequential value and benefit to the estate." 11 U.S.C. § 554(a). Courts have held that a debtor in possession's decision to abandon property of the estate rests on the debtor's business judgment. *See, e.g., In re Cult Awareness Network, Inc.*, 205 B.R. 575, 579 (Bankr. N.D. Ill. 1997). The Debtor has concluded in its business judgment that it no longer needs to retain certain documents, *i.e.*, the Records, currently in its possession, custody or control.

3.5 Executory Contracts and Unexpired Leases.

As stated in Article III of the Plan, the Debtor believes that all executory contracts and unexpired leases of the Debtor were either assumed and assigned to Kazi or rejected during the Case. Accordingly, Article III of the Plan is included out of an abundance of caution and provides that all executory contracts and unexpired leases of the Debtor that are not assumed and assigned to Kazi were deemed rejected pursuant to Section 365 of the Bankruptcy Code as of July 28, 2010. The rejection of any contract or lease during the Case shall control with respect to the filing of any Claim for rejection damages. Article III of the Plan shall not, under any circumstances, be deemed to extend the time period for filing Claims for rejection damages with respect to any executory contract or unexpired lease that was rejected pursuant to an Order entered in the Case.

3.6 Conditions Precedent to Confirmation and Consummation of the Plan.

Article IV of the Plan sets forth the conditions that must occur prior to both Confirmation of the Plan and the occurrence of the Effective Date. This Article also describes the Debtor's ability to waive such conditions, as well as the effect of non-occurrence of the conditions to the Effective Date, including the vacation of the Confirmation Order. If the Confirmation Order is vacated pursuant to section 4.4 of the Plan, (i) the Plan shall be null and void in all respects, and (ii) nothing contained in the Plan shall (a) constitute a waiver or release of any Claims by or against, or any Interest in, the Debtor, or (b) prejudice in any manner the rights of the Debtor or any other party in interest.

3.7 Miscellaneous Provisions.

Article V of the Plan contains several miscellaneous provisions, including: (i) the waiver and release of all Avoidance Actions and all other claims of the Debtor, of every nature and kind, against Kazi, if any; (ii) the retention of jurisdiction by the Bankruptcy Court over certain matters following the Confirmation Date; (iii) the Debtor's payment of statutory fees pursuant to 28 U.S.C. § 1930; (iv) the dissolution of the Creditors' Committee; and (v) the termination of the Balloting Agent. Additionally, section 5.14 of the Plan governs the exculpation and limitation of liability of certain parties with respect to the Case. Please review this provision carefully.

Section 1123(b) of the Bankruptcy Code specifies certain permissive provisions that can be included in a Chapter 11 plan, including release provisions that are consistent with the Bankruptcy Code. It is well settled in this jurisdiction that a plan may provide for releases by a debtor of non-debtor third parties in certain circumstances. In *In re Zenith Elec. Corp.*, 241 B.R. 92 (Bankr. D. Del. 1999), Judge Walrath held that, notwithstanding section 524(e), a plan may provide for releases by a debtor of non-debtor third parties after consideration of the following five factors: (1) the identity of interest between the debtor and the third party, such that a suit against the non-debtor is, in essence, a suit against the debtor or will deplete assets of the estate; (2) substantial contribution by the non-debtor of assets to the reorganization; (3) the essential nature of the injunction of the reorganization to the extent that, without the injunction, there is little likelihood of success; (4) an agreement by a substantial majority of creditors to support the injunction, specifically if the impacted class of classes "overwhelmingly" votes to accept the plan; and (5) provision(s) in the plan for payment of all or substantially all of the claims of the class or classes affected by the injunction. *Zenith* at 110.

Furthermore, section ~~523~~524(e) of the Bankruptcy Code does not act to bar non-consensual non-debtor releases in appropriate circumstances if the releases are necessary to carry out the provisions of the Bankruptcy Code. In *Genesis Health Ventures*, 266 B.R. 591, 608 (Bankr. D. Del. 2001), the Court noted that "the Third Circuit, in addressing the issue of non-debtor releases, declined to establish a 'blanket rule' to permit or proscribe non-debtor releases." Instead, the Court merely noted that, "there are circumstances under which [it] might validate a non-consensual release that is both necessary and given in exchange for fair consideration." *Id.* (quoting *In re Continental Airlines*, 203 F.3d 203, 214, n.11 (3d Cir. 2000)). "If a sufficient factual basis for both necessity and fairness are provided, limited non-consensual releases may be approved." *Genesis* at 608 (citing *Continental Airlines* at 214). In addition to the *Zenith* factors being present, non-consensual releases may be approved where all of the following four factors are present: (1) the non-consensual release is necessary to the success of the reorganization; (2) the releasees have provided critical financial contribution to the debtor's plan; (3) the releasees' financial contribution is necessary to make the plan feasible; (4) the release is fair to the non-consenting creditors (non-consenting creditors received reasonable compensation in exchange for the release).

In *In re MetalForming Technologies*, Case No. 05-11697 (MFW) (Bankr. D. Del., April 11, 2006), Judge Walrath found the requisite necessity and fairness and confirmed a Plan that included broad non-consensual releases between non-debtor entities. In that case, the lenders paid substantial consideration with respect to funding a distribution to unsecured creditors and agreed to waive their deficiency claims for the assurances in the settlement agreement. The court found that the releases were justified, especially in light of the fact that, but for the contributions made by the releasees, there would be no distribution to general unsecured creditors.

3.8 **Final Fee Hearing and Final Decree.**

3.8.1. **The Professional Fee Claim Bar Date and the Final Fee Hearing.** Article VI of the Plan describes the Professional Fee Claim Bar Date and the Final Fee Hearing. The Debtor will file a notice of the Professional Fee Claim Bar Date and the Final Fee Hearing. You will not receive further notice of the Professional Fee Claim Bar Date, the Professional Fee Claims or the Final Fee Hearing and should monitor the Bankruptcy Court docket for such notice.

3.8.2. **Entry of the Final Decree and Closing of the Case.** As set forth in Article VI of the Plan, subsequent to the Effective Date, the Final Fee Hearing and the Debtor's fulfillment of the standards for the closing of the Case, Debtor's counsel shall File a proposed form of order under certification of counsel (the "**Final Decree Certification**") requesting the entry of a Final Decree pursuant to section 350(a) of the Bankruptcy Code. Such Final Decree shall close the Case. At that time, the Debtor believes that its estate will be fully administered as: (i) the Confirmation Order will be a Final Order; (ii) the Distribution will be substantially completed; and (iii) all motions, contested matters and adversary proceedings will be resolved.

Section 350(a) of the Bankruptcy Code provides that a case shall be closed "after an estate is fully administered and the court has discharged the trustee." 11 U.S.C. § 350(a). Likewise, Bankruptcy Rule 3022 provides that "after an estate is fully administered in a chapter 11 reorganization, the court . . . shall enter a final decree closing the case." Fed. R. Bankr. P. 3022. Further, Local Rule 5009-1 provides that, "upon written motion, a party in interest may seek the entry of a final decree at any time after the confirmed plan has been substantially consummated provided that all fees under 28 U.S.C. § 1930 have been paid." Del. Bankr. L.R. 5009-1(a). Based upon the foregoing, the Debtor believes that the Bankruptcy Court's entry of the Final Decree shall be appropriate and necessary subsequent to the Effective Date upon submission of the Final Decree Certification. *See In re SLI Inc.*, 2005 WL 1668396, at *2 (Bankr. D. Del. June 24, 2005) (citations omitted).

4. **FEASIBILITY.**

4.1 **Financial Feasibility Analysis.**

4.1.1. **Bankruptcy Code Standard.** The Bankruptcy Code requires that, in order to confirm a plan, the Bankruptcy Court must find that confirmation of such plan is not likely to be followed by the liquidation or the need for further financial reorganization of the debtor unless contemplated by the plan.

4.1.2. **No Need for Further Reorganization of Debtor.** The Plan provides for the liquidation and distribution of all of the Debtor's Assets, including the proceeds of the Committee Settlement. Accordingly, the Debtor believes that all Plan obligations will be satisfied without the need for further reorganization of the Debtor.

5. **BEST INTERESTS OF CREDITORS AND ALTERNATIVES TO PLAN.**

5.1 **Chapter 7 Liquidation.**

5.1.1. **Bankruptcy Code Standard.** Notwithstanding acceptance of a plan by the requisite number of creditors in an impaired class, the Bankruptcy Court must still independently determine that such plan provides each member of each impaired class of claims and interests a recovery that has a value at least equal to the value of the recovery that each such Person would receive if the Debtor was liquidated under chapter 7 of the Bankruptcy Code on the effective date of such plan. A copy of the Debtor's Liquidation Analysis is attached hereto as **Exhibit B.**

5.1.2. **Plan is in the Best Interests of Creditors.** Notwithstanding acceptance of the Plan by a voting Impaired Class, in order to confirm the Plan, the Bankruptcy Court must determine that the Plan is in the best interests of each holder of a Claim or Interest in any such Impaired Class that has not voted to accept the Plan. Accordingly, if an Impaired Class does not vote unanimously to accept the Plan, the best interests test requires the Bankruptcy Court to find that the Plan provides to each member of such Impaired Class a recovery on account of

the Class member's Claim or Interest that has a value, as of the Effective Date, at least equal to the value of the recovery that each such Class member would receive if the Debtor was liquidated under chapter 7.

The Debtor believes that the Plan satisfies the best interests test because, among other things, the recoveries expected to be available to Holders of Allowed Claims under the Plan will be greater than the recoveries expected to be available in a chapter 7 liquidation.

In a typical chapter 7 case, a trustee is elected or appointed to liquidate a debtor's assets for distribution to creditors in accordance with the priorities set forth in the Bankruptcy Code. Generally, secured creditors are paid first from the proceeds of sales of the properties securing their liens. If any assets are remaining in the bankruptcy estate after satisfaction of secured creditors' claims from their collateral, administrative expenses are next to receive payment. Unsecured creditors are paid from any remaining sale proceeds, according to their respective priorities. Unsecured creditors with the same priority share in proportion to the amount of their allowed claims in relationship to the total amount of allowed claims held by all unsecured creditors with the same priority. Finally, equity interest holders receive the balance that remains, if any, after all creditors are paid.

Substantially all of the Debtor's Assets have already been liquidated during the Case through the Sale. Although the Plan effects a liquidation of the Debtor's remaining Assets, including the proceeds of the Committee Settlement, and a chapter 7 liquidation would have the same goal, the Debtor believes that the Plan provides the best source of a timely recovery to holders of Allowed Unsecured Claims. Liquidating the Debtor's estate under chapter 7 would not provide a timely distribution to holders of Unsecured Claims and would likely provide a smaller distribution to Holders of Allowed Unsecured Claims because of the administrative fees and expenses that would be incurred during a chapter 7 liquidation. **Accordingly, the Debtor and the Creditors' Committee believe that the Plan is in the best interests of the Creditors in this Case.**

5.2 Continuation of the Bankruptcy Case.

The Debtor is not a going concern and, thus, there is no benefit to remaining in chapter 11.

5.3 Alternative Plan(s).

If the Plan is not confirmed, the Debtor could attempt to formulate and propose a different plan of liquidation; however, the Debtor believes that the Plan, as described herein, enables holders of Claims to realize the greatest possible value under the circumstances and that, compared to any alternative plan, the Plan has the greatest chance to be confirmed and consummated.

6. RISK FACTORS.

Holders of Claims who are entitled to vote on the Plan should read and carefully consider the following factors, as well as the other information set forth in this Disclosure Statement and the Plan, before deciding whether to vote to accept or reject the Plan.

6.1 CERTAIN BANKRUPTCY CONSIDERATIONS.

6.1.1. Even if an Impaired Voting Class votes to accept the Plan, and with respect to any Impaired Class deemed to have rejected the Plan, the requirements for "cramdown" are met; the Court may exercise substantial discretion and may choose not to confirm the Plan. Section 1129 of the Bankruptcy Code requires, among other things, that the value of distributions to dissenting holders of Claims or Interests may not be less than the value such Holders would receive if the Debtor was liquidated under chapter 7 of the Bankruptcy Code. Although the Debtor believes that the Plan will meet such requirement, there can be no assurance that the Court will reach the same conclusion.

6.2 Claims Estimation.

There can be no assurance that the estimated amount of Claims set forth in the Plan is correct, and the actual Allowed amounts of Claims may differ from the estimates. Any value given as to the Claims against and the Assets of the Debtor is based upon an estimation of such value.

7. TAX CONSEQUENCES OF THE PLAN.

EACH HOLDER OF A CLAIM OR EQUITY INTEREST IS URGED TO CONSULT ITS OWN TAX ADVISOR FOR THE FEDERAL, STATE, LOCAL AND OTHER TAX CONSEQUENCES OF THE PLAN.

8. CONCLUSION.

It is important that you exercise your right to vote on the Plan. It is the belief of the Debtor and the Creditors' Committee that the Plan fairly and equitably provides for the treatment of all Claims against and Interests in the Debtor.

IN WITNESS WHEREOF, the Debtor has executed this Disclosure Statement this ~~18~~¹³th day of ~~August~~^{September}, 2010.

ie Corp.

By: /s/ Brian Burr
Name: Brian Burr
Title: Chief Executive Officer

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re: _____) Chapter 11
)
ie Corp.,¹) Case No. 10-11061 (PJW)
)
Debtor.)

BALLOT FOR ACCEPTING OR REJECTING DEBTOR'S PLAN OF LIQUIDATION

You should review the Disclosure Statement and the Plan before you vote. You may wish to seek legal advice concerning the Plan and your classification and treatment under the Plan. Your claim has been placed in either Class I, Class III, or Class IV under the Plan. If your Ballot is not received by the Balloting Agent on or before 4:00 p.m., prevailing Eastern Time, on October 18, 2010, and such deadline is not extended, your vote will not count as either an acceptance or rejection of the Plan. If the Plan is confirmed by the Bankruptcy Court, it will be binding on you whether or not you vote.

PLEASE READ AND FOLLOW THE INSTRUCTIONS IN SECTION 1.5 OF THE DISCLOSURE STATEMENT CAREFULLY.

Cut Here and Return the Below Ballot to the Balloting Agent

Item 1. Amount of Claim. The undersigned is a holder of a Class ____ Claim in the unpaid principal amount of Dollars: (\$ _____).

Item 2. Vote. The owner of the Claim set forth in Item 1 votes (please check one):

- To Accept the Plan
- To Reject the Plan

Item 3. Certifications. By signing this Ballot, the undersigned certifies: (a) that no other Ballots have been cast with respect to the Claim identified in Item 1, and that to the extent any such Ballots have been cast, such earlier Ballots are hereby revoked; (b) that a copy of the Disclosure Statement relating to the Plan has been provided to and reviewed by

the undersigned; (c) *the undersigned has read the release provisions in the Plan*; (d) that as the Record Holder of the Claim set forth in Item 1, the undersigned has full power and authority to vote to accept or reject the Plan. The undersigned also acknowledges that this solicitation is subject to all the terms and conditions set forth in the Disclosure Statement relating to the Plan; and (e) that all authority conferred or agreed to be conferred pursuant to this Ballot, and every obligation of the undersigned hereunder shall be binding upon the transferees, successors, assigns, heirs, executors, administrators, trustees in bankruptcy and legal representatives of the undersigned and shall not be affected by, and shall survive, the death or incapacity of the undersigned.

Dated _____

Print or type Name of Voter:

Social Security or Tax I.D. No.:

Signature: _____

By: _____
(If Appropriate)

Title: _____
(If Appropriate)

Street Address: _____

City, State and Zip Code: _____

Telephone No.: _____

**RETURN THIS BALLOT TO:
Reliable Copy Service, Inc. – Eigen Balloting
Nemours Building
1007 Orange Street, Suite 110
Wilmington, Delaware 19801
(302) 654-8080**

¹ The Debtor in this chapter 11 case was formerly known as Eigen, Inc. The last four digits of Eigen, Inc.'s federal tax identification number are (1907). The location of Eigen, Inc.'s corporate headquarters was 13366 Grass Valley Avenue, Suite A, Grass Valley, CA 95945.

EXHIBIT A

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re:) Chapter 11
)
ie Corp.,¹) Case No. 10-11061 (PJW)
)
Debtor.)
)
)

DEBTOR'S PLAN OF LIQUIDATION

Dated: ~~August 18,~~[September 13,](#) 2010

POLSINELLI SHUGHART PC
Christopher A. Ward (Del. Bar No. 3877)
Justin K. Edelson (Del. Bar No. 5002)
Shanti M. Katona (Del. Bar No. 5352)
222 Delaware Avenue, Suite 1101
Wilmington, Delaware 19801
Telephone: (302) 252-0920
Facsimile: (302) 252-0921

Counsel to Debtor and Debtor in Possession

¹ The Debtor in this chapter 11 case was formerly known as Eigen, Inc. The last four digits of Eigen, Inc.'s federal tax identification number are (1907). The location of Eigen, Inc.'s corporate headquarters was 13366 Grass Valley Avenue, Suite A, Grass Valley, CA 95945.

**ARTICLE I.
TREATMENT AND CLASSIFICATION OF
CLAIMS AND INTERESTS; IMPAIRMENT**

The categories of Claims and Interests listed below classify Claims and Interests for all purposes, including voting, Confirmation and Distribution pursuant hereto and pursuant to sections 1122 and 1123(a)(1) of the Bankruptcy Code. Capitalized terms used, but not otherwise defined herein, shall have the meanings set forth in section 1.2 of the disclosure statement (as amended, modified or supplanted, the “**Disclosure Statement**”).

Class	Type	Status Under Plan	Treatment	Estimated Aggregate Amount in Class (\$)	Estimated Recovery of Class (%)
I	Secured Claims	Impaired, Entitled to Vote	Kazi Management VI, LLC (“ Kazi ”), has credit bid \$1,000,000 of its pre- and post-petition secured claims in complete satisfaction of its Secured Claims to purchase substantially all of the Debtor’s Assets.	\$20,188,547	0%
II	Allowed Priority Claims	Unimpaired, Deemed to Accept	The Debtor asserts that no amount is due on such Claims, as such Claims have been previously satisfied, are Assumed Liabilities, or shall be satisfied by the Debtor prior to the Distribution.	None	100%
III	Allowed General Unsecured Claims	Impaired, Entitled to Vote	The Record Holders of Allowed General Unsecured Claims, except for the Allowed Unsecured Claims of Kazi, which are relinquished pursuant to the Committee Settlement, shall share, on a pro-rata basis, in the proceeds of the Committee Settlement. The Distribution shall be made to this Class by the Debtor as soon as practicable after the Effective Date.	1 \$1,350,000 1	22 % 1
IV	Lender Unsecured Deficiency Claims	Impaired, Entitled to Vote	Kazi will not receive any recovery on its unsecured deficiency claims, but in consideration for the funding provided for the Class III Claimants as set forth in Section 2.2 below and the waiver of its Allowed Unsecured Claims, all claims and causes of action of the Debtor and its estate against Kazi, its affiliates, owners, directors, officers, employees, and agents shall be deemed waived, released and satisfied upon Kazi satisfying its obligations under the Committee Settlement, including making all of the payments set forth in Section 2.2.	19,188,547	0%
V	Interests	Impaired, Deemed to Reject	Interests shall be cancelled effective as of the Effective Date.	N/A	0%

1.1 **Allowed Unclassified Claims.** The Debtor asserts that no amounts are due on account of such Claims, as such Claims have been previously satisfied, are Assumed Liabilities, or shall be satisfied by the Debtor prior to the Distribution. Each Holder of an Allowed Unclassified Claim that has not been satisfied or is not an Assumed Liability shall be paid by the Debtor the full amount of such Allowed Unclassified Claim in Cash on or before the Effective Date or on the date on which such Allowed Unclassified Claim becomes due and payable

¹ [A total of 28 proofs of claim were filed against the Debtor’s estate in the aggregate amount of \\$3,144,294.67. Prior to the Record Date, the Debtor objected to certain of these claims, including, but not limited to, Claim No. 21 filed by Michael Castorino in an unliquidated amount and Claim No. 25 filed by Steven Giardina in the amount of \\$2,000,000, to expunge, reduce or re-classify such claims. After the claims reconciliation process is complete, the Debtor believes that approximately \\$1,350,000 will be the Allowed amount of General Unsecured Claims.](#)

pursuant to the terms thereof, the agreement upon which such Allowed Unclassified Claim is based, or any applicable Order of the Bankruptcy Court.

1.2 **Special Provision Governing Claims.** Nothing under this Plan shall affect the Debtor's rights and defenses in respect of any Claim, including all rights in respect of legal and equitable defenses to or setoffs or recoupment against such Claims.

1.3 **Confirmation Pursuant to Section 1129(b) of the Bankruptcy Code.** In the event that all three Voting Classes vote to accept the Plan, the Debtor shall request the Bankruptcy Court to confirm the Plan under section 1129(b) of the Bankruptcy Code.

1.4 **Cancellation of Claims and Interests.** Except as otherwise set forth in this Plan, and except for purposes of evidencing a right to the Distribution, on the Effective Date, all agreements and other documents evidencing the Claims or rights of any Creditor against the Debtor, including all notes, guarantees, mortgages, and all Interests, shall be cancelled.

ARTICLE II. IMPLEMENTATION AND EXECUTION OF THE PLAN

2.1 **Effective Date.** The Plan shall become effective on the date that is the first Business Day on which each condition set forth in Section 4.2 of the Plan has been satisfied or waived as set forth therein (the "Effective Date").

2.2 **Implementation of the Plan.** The Plan will be implemented through the Distribution of the proceeds of the Committee Settlement. As soon as practicable after the Effective Date, but in no event prior to the final resolution of any objections to Claims that are or could be classified in Class III of the Plan, the Debtor shall make the Distribution to Class III Claims by distributing the proceeds of the Committee Settlement pro rata among the Record Holders of Allowed Class III Claims. If any portion of the Distribution is returned to the Debtor in any manner, such funds shall be donated to Charity. Disallowed Claims will not receive any Distribution. Payment of Allowed Professional Fees shall be made as soon as practical as set forth in the DIP budget and as provided for in the Committee Settlement after entry of an Order approving such Professional Fees.

2.3 **Delivery of Distribution.** The Distribution shall be made to Record Holders of Allowed Class III Claims: (i) at the address set forth on the proof of claim Filed by such Holder; (ii) at the address set forth in any written notices of address change Filed by such Holder; (iii) at the addresses reflected in the Schedules if neither a proof of claim nor a written notice of address change has been Filed; or (iv) if the Holder's address is not listed in the Schedules, at the last known address of such Holder according to the Debtor's books and records.

2.4 **Dissolution of the Debtor.** On the Effective Date or as soon thereafter as is reasonably practicable, the affairs of the Debtor will be considered wound up, and the Debtor may be dissolved at any time without the need for any further action or approval; provided, however, that the Debtor will remain in existence as required under applicable law to (a) complete Distributions under the Plan, and (b) complete resolution of any Claims objections.

2.5 **Directors and Officers.** On the date of the entry of the Final Decree, the sole member of the board of directors and executive officer of the Debtor shall be deemed to have resigned to the extent permissible under applicable law.

2.6 **Records.** Pursuant to section 554 of the Bankruptcy Code, after the Distributions under the Plan are completed and all Claims objections are resolved, the Debtor shall be authorized to abandon all originals and/or copies of documents and business records.

2.7 **Effectuating Documents.** The officer and director of the Debtor shall be authorized to execute, deliver, file, or record such contracts, instruments, releases, and other agreements or documents and take such other actions as may be necessary or appropriate to effectuate and implement the provisions of the Plan.

2.8 **Objections to Claims.** As soon as practicable after the Bar Date, the Debtor, in consultation with the Creditors' Committee, shall prepare and file objections to Claims that are materially objectionable. Except as provided herein and in section 3.3 of the Plan, any objection to the allowance of a Claim that is not listed as disputed, contingent, or unliquidated in the Schedules and that is not Filed by the Effective Date shall be deemed waived, and the Claim shall be an Allowed Claim in the amount set forth on the proof of claim Filed by the Holder of such Claim, provided that such proof of claim was Filed prior to the Bar Date. Notwithstanding anything to the contrary in the Plan, the Debtor shall not make the Distribution until all Disputed Claims become Allowed or Disallowed in full or in part, either by (i) an agreement with the Record Holder of the Disputed Claim or (ii) by Final Order. Any agreement to resolve a Disputed Claim shall be conditioned upon the approval of the Creditors' Committee. If a Disputed Claim becomes Allowed, in full or in part, such Claim shall be a Class III Claim to the extent such Claim becomes Allowed, and the Record Holder of such Claim shall receive a Distribution as set forth in sections 2.2 and 2.3 of the Plan.

ARTICLE III. EXECUTORY CONTRACTS AND UNEXPIRED LEASES

3.1 **Background.** The Debtor believes that all executory contracts and unexpired leases of the Debtor were assumed and assigned to Kazi or rejected during the pendency of the Case. Article III of the Plan is included out of an abundance of caution. The rejection of any contract or lease during the Case shall control with respect to the filing of any Claim for rejection damages. Article III of the Plan shall not, under any circumstances, be deemed to extend the time period for filing Claims for rejection damages with respect to any executory contract or unexpired lease that was rejected pursuant to an Order entered in the Case.

3.2 **Executory Contracts and Unexpired Leases.** All executory contracts and unexpired leases of the Debtor that were not assumed and assigned to Kazi were deemed rejected as of July 28, 2010 pursuant to Section 365 of the Bankruptcy Code. Any Creditor asserting a claim for monetary damages as a result of the rejection of an executory contract or unexpired lease shall have filed a proof of claim pursuant to the Bar Date Order.

3.3 **Rejection Claims.** If no Rejection Claims are filed pursuant to section 3.2 of the Plan, such Rejection Claims, if any, shall be forever disallowed and barred. If a Rejection Claim is filed prior to the Bar Date, the Debtor or Creditors' Committee will have until the Effective Date to object to such Rejection Claim. The Debtor and the Creditors' Committee shall have no time limit in which to object to any claim filed after the Bar Date.

ARTICLE IV. CONDITIONS PRECEDENT TO CONFIRMATION AND CONSUMMATION OF THE PLAN

4.1 **Conditions to Confirmation.** The following shall be the condition to confirmation unless such condition is duly waived pursuant to section 4.3 of the Plan: the Confirmation Order is entered by the Bankruptcy Court and is in form and substance reasonably satisfactory to the Debtor, Kazi, and the Creditors' Committee.

4.2 **Conditions to the Effective Date.** The Effective Date shall not occur and the Plan shall not be consummated unless and until each of the following conditions has been satisfied or duly waived pursuant to section 4.3 of the Plan: (i) the Bankruptcy Court shall have entered the Confirmation Order in form and substance reasonably satisfactory to the Debtor, Kazi, and the Creditors' Committee; (ii) the Committee Settlement has been fully funded by Kazi; and (iii) the Confirmation Order shall have become a Final Order.

4.3 **Waiver of Conditions to Confirmation or the Effective Date.** The conditions to Confirmation set forth in section 4.1 of the Plan and the conditions to the Effective Date set forth in section 4.2 of the Plan may be

waived in whole or in part in writing signed by the Debtor and the Creditors' Committee without further Order. Notwithstanding the foregoing, the Committee Settlement shall become final upon entry of the Confirmation Order.

4.4 **Effect of Nonoccurrence of Conditions to the Effective Date.** If each of the conditions to the Effective Date, except for Kazi's funding of its obligations under the Committee Settlement, is not satisfied or duly waived in accordance with sections 4.1, 4.2 and 4.3 of the Plan within 120 days of the Confirmation Order becoming Final, then upon motion by the Debtor, Kazi, or the Creditors' Committee made before the time that each of such conditions has been satisfied or duly waived, and upon notice to such parties in interest as the Bankruptcy Court may direct, the Confirmation Order shall be vacated by the Bankruptcy Court; provided, however, that notwithstanding the filing of such motion, the Confirmation Order may not be vacated if each of the conditions to the Effective Date is either satisfied or duly waived before the Bankruptcy Court enters an Order granting such motion. If the Effective Date has not occurred because Kazi has not funded its obligations under the Committee Settlement, then the Creditors' Committee shall be vested with sole authority under the Plan to enforce the terms of the Committee Settlement and/or terminate the Confirmation Order. In the event of a default in Kazi's obligations to fund the amounts required under the Committee Settlement, Kazi shall be responsible for the costs of collection, including reasonable attorneys' fees, incurred by the Creditors' Committee to enforce the Committee Settlement and collect such amounts required thereunder. If the Confirmation Order is vacated pursuant to this section 4.4 of the Plan, (i) the Plan shall be null and void in all respects, and (ii) nothing contained in the Plan shall (a) constitute a waiver or release of any Claims by or against, or any Interest in, the Debtor, or (b) prejudice in any manner the rights of the Debtor or any other party in interest.

ARTICLE V. MISCELLANEOUS PROVISIONS

5.1 **Binding Effect of the Plan.** The provisions of the Plan shall be binding upon all Creditors, Holders of Interests, and all parties to the Plan, and inure to the benefit of the Debtor's estate and its respective predecessors, successors, assigns, agents, officers and directors. The terms of the Plan shall be enforceable against the Debtor, its Creditors, and all parties-in-interest.

5.2 **Approval of Committee Settlement.** Pursuant to section 1123(b)(3) of the Bankruptcy Code and Bankruptcy Rule 9019, the Committee Settlement is incorporated into this Plan as if fully set forth herein. The Confirmation Order shall serve as approval of the Committee Settlement and authority for all parties to take all actions that are necessary or appropriate to implement and give effect to the Committee Settlement. The Committee Settlement, and the release of Kazi provided under this Plan, shall become final and binding upon the Effective Date.

5.3 **Avoidance Actions.** The claims and causes of action asserted by the Creditors' Committee, and all causes of action or claims, direct or indirect, of the Debtor and its estate against Kazi, its agents, employees, officers, representatives, directors, owners, and professionals, including, but not limited to, Avoidance Actions, shall be waived, released and satisfied upon the Effective Date and, upon the Effective Date, the Committee Adversary Proceeding shall be dismissed with prejudice and without costs. The Debtor and the Creditors' Committee have investigated any possible Avoidance Actions and have determined that no material, viable Avoidance Actions exist. Accordingly, as of the Effective Date, the Debtor and the Creditors' Committee waive and release all Avoidance Actions.

5.4 **Retention of Jurisdiction.** Following the Confirmation Date and the Effective Date, the Bankruptcy Court shall retain jurisdiction over the provisions of this Plan including Disputed Claims, Rejection Claims, and Professional Fee Claims, the removed actions and over all disputes and litigation which may be pending on the Confirmation Date, and any controversies which may arise hereafter that would affect the Debtor's ability to carry out the Plan, until all such disputes and litigation shall be concluded and the Plan shall be fully consummated. Further, the Bankruptcy Court shall retain jurisdiction for the purpose of the Distribution, the Return Distribution(s), and any related issues that may arise.

5.5 **Governing Law.** Except as mandated by the Bankruptcy Code or Bankruptcy Rules, as applicable, the rights and obligations arising under the Plan shall be governed by, and construed and enforced in accordance with, the laws of the State of Delaware.

5.6 **Headings.** The headings of articles, paragraphs, and subparagraphs of the Plan are inserted for convenience only and shall not affect the interpretation of any provision of the Plan.

5.7 **Time.** Whenever the time for the occurrence or happening of an event as set forth in this Plan falls on a day that is not a Business Day, then the time for the next occurrence or happening of said event shall be extended to the next day which is a Business Day.

5.8 **Severability.** Should any provision of the Plan be determined to be unenforceable after the Effective Date, such determination shall in no way limit or affect the enforceability and operative effect of any and all of the other provisions of the Plan.

5.9 **Revocation.** The Debtor reserves the right to revoke and withdraw the Plan prior to the entry of a Confirmation Order. If the Debtor revokes or withdraws the Plan, the Plan shall be deemed null and void and nothing contained herein shall be deemed to constitute a waiver or release of any claims by or against the Debtor, any other Person, or to prejudice in any manner the rights of such parties in any further proceedings involving the Debtor.

5.10 **Plan Controls.** In the event and to the extent that any provision of the Plan is inconsistent with the provisions of the Disclosure Statement, or any other agreement to be executed by any Person pursuant to the Plan, the provisions of the Plan shall control and take precedence.

5.11 **Statutory Fees.** The Debtor shall pay all fees payable pursuant to 28 U.S.C. § 1930.

5.12 **Dissolution of the Creditors' Committee.** On the Effective Date, the Creditors' Committee shall be dissolved and its members shall be deemed released of any continuing duties, responsibilities and obligations in connection with the Case or the Plan and its implementation, and the retention and employment of the Creditors' Committees' attorneys, financial advisors and other agents shall terminate, except with respect to: (i) any matters concerning the Distribution; (ii) the Final Fee Hearing; (iii) any objections Filed pursuant to Article III; or (iv) any appeals of the Confirmation Order through the date such appeals are finally decided, settled, withdrawn, or otherwise resolved.

5.13 **Balloting Agent.** Reliable Copy Service, Inc. ("**Reliable**"), in its capacity as claims, noticing and balloting agent, shall be relieved of such duties on the date of the entry of the Final Decree.

5.14 **Exculpation and Limitation of Liability.** Pursuant to section 1125(e) of the Bankruptcy Code, the Debtor, Creditors' Committee, and Kazi, as well as each of their respective members, advisors and professionals shall not be liable for any Cause of Action arising in connection with or out of the administration of the chapter 11 Case, pursuit of confirmation of the Plan, the consummation of the Plan, or the administration of the Plan or the property to be distributed under the Plan, except for gross negligence or willful misconduct as determined by Final Order of the Bankruptcy Court. The Confirmation Order shall enjoin all holders of Claims and Interests from asserting or prosecuting any Claim or cause of action against the Debtor, the Creditors' Committee, and Kazi and each of their respective members, professionals and advisors as to which such Person has been exculpated from liability pursuant to this section.

5.15 **Releases and Injunctions Related to Releases.**

5.15A - Releases by Debtor. Effective as of the Confirmation Date, but subject to the occurrence of the Effective Date, for good and valuable consideration, to the fullest extent permissible under applicable law, the Debtor, its Estate and each of its officers and directors, the Creditors' Committee, and Kazi and its officers and directors, completely and forever release, waive, void, extinguish and discharge any and all

claims, causes of action, whether based in law or equity, including, but not limited to, the allegations in the State Court Actions, against the Debtor.

5.15B - Releases by Holders of Claims and Equity Interests. *Effective as of the Confirmation Date, but subject to the occurrence of the Effective Date, for good and valuable consideration, to the fullest extent permissible under applicable law, all Creditors and all parties-in-interest, and each of their respective advisors and professionals will be deemed to completely and forever release, waive, void, extinguish and discharge all claims and causes of action, whether based in law or equity, including, but not limited to, the allegations in the State Court Actions, that may be asserted against the Debtor, its Estate, and its officers, directors, members, shareholders, or employees, the Creditors' Committee and its members, and/or Kazi and its employees, agents, officers, directors, affiliates, and owners, as well as the defendants in the Committee Adversary Proceeding.*

5.15C - Injunction Related to Releases. *Each Person that is a Holder of a Claim and/or Interest, all parties-in-interest and each of their respective members, advisors and professionals is permanently, forever and completely stayed, restrained, prohibited and enjoined from, directly or indirectly, derivatively or otherwise, commencing or continuing any claims, causes of action, whether based in law or equity, including, but not limited to, the allegations in the State Court Actions, that may be asserted against the Debtor, its Estate, and its officers, directors, members, shareholders, or employees, and the Creditors' Committee and its members, and/or Kazi and its employees, agents, officers, directors, affiliates, and owners, as well as the defendants in the Committee Adversary Proceeding.*

5.15D - No Personal Liability. *No officer or director of the Debtor shall have any personal liability for any Claims, obligations, suits, judgments, damages, debts, rights, Causes of Action or liabilities, or any Interests or rights of an equity security holder, whatsoever, whether liquidated or unliquidated, fixed or contingent, matured or unmatured, known or unknown, foreseen or unforeseen, now existing or hereafter arising, in law, equity or otherwise that are based in whole or part on any act, omission, transaction, event or other circumstance that occurred, arose, took place, existed or exists on or prior to the Effective Date in connection with or related to the Debtor or its Estate, or its business operations.*

ARTICLE VI. FINAL FEE HEARING AND FINAL DECREE

6.1 **The Professional Fee Claim Bar Date.** Any and all applications for the final allowance of Professional Fee Claims shall be Filed and served upon counsel to the Debtor, counsel to the Creditors' Committee, counsel to Kazi, the United States Trustee, and all parties on the Debtor's Bankruptcy Rule 2002 service list on or before the Professional Fee Claim Bar Date.

6.2 **Final Fee Hearing.** A hearing on final allowance of Professional Fee Claims (the "**Final Fee Hearing**") shall be held as soon as practicable after the Professional Fee Claim Bar Date. Debtor's counsel shall File a notice of the Final Fee Hearing, and such notice shall be served upon counsel for the Creditors' Committee, counsel for Kazi, all Professionals, the United States Trustee, and all parties on the Debtor's Bankruptcy Rule 2002 service list.

6.3 **Final Decree.** Subsequent to the Effective Date and the Final Fee Hearing, Debtor's counsel shall File a certification of counsel requesting the entry of the Final Decree.

ARTICLE VII. REQUEST FOR CONFIRMATION

7.1 **Request for Confirmation.** The Debtor requests confirmation of this Plan in accordance with section 1129(a) and/or section 1129(b) of the Bankruptcy Code.

IN WITNESS WHEREOF, the Debtor has executed this Plan this ~~18~~¹³th day of ~~August~~^{September}, 2010.

ie Corp.

By: /s/ Brian Burr
Name: Brian Burr
Title: Chief Executive Officer

Document comparison by Workshare Professional on Monday, September 13, 2010
9:23:54 AM

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Document 1 ID	PowerDocs://PLAZA/1870238/5
Description	PLAZA-#1870238-v5-Eigen_- _Plan_and_Disclosure_Statement
Document 2 ID	PowerDocs://PLAZA/1870238/6
Description	PLAZA-#1870238-v6-Eigen_- _Plan_and_Disclosure_Statement
Rendering set	standard

Legend:	
Insertion	
Deletion	
Moved from	
Moved to	
Style change	
Format change	
Moved deletion	
Inserted cell	
Deleted cell	
Moved cell	
Split/Merged cell	
Padding cell	

Statistics:	
	Count
Insertions	37
Deletions	49
Moved from	0
Moved to	0
Style change	0
Format changed	0
Total changes	86