

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF MARYLAND  
Baltimore Division

In re:

EMPIRE HOLDINGS CORPORATION \* 10-34580-JFS  
\*  
Debtor (Chapter 11)  
\*  
\* \* \* \* \*

In re:

EMPIRE TOWERS CORPORATION \* 10-34611-JFS  
\*  
Debtor (Chapter 11)  
\*  
\* \* \* \* \*

**DISCLOSURE STATEMENT REGARDING JOINT PLAN OF  
REORGANIZATION PROPOSED BY EMPIRE HOLDINGS  
CORPORATION AND EMPIRE TOWERS CORPORATION**

THIS DISCLOSURE STATEMENT CONTAINS INFORMATION THAT MAY BEAR UPON YOUR DECISION TO ACCEPT OR REJECT THE PLAN OF REORGANIZATION PROPOSED BY EMPIRE HOLDINGS CORPORATION AND EMPIRE TOWERS CORPORATION. PLEASE READ THIS DOCUMENT CAREFULLY.

February 28, 2011

**TABLE OF CONTENTS**

INTRODUCTION .....3

    Purpose of the Disclosure Statement .....3

    Voting Instructions and Confirmation of the Plan.....3

    Confirmation of the Plan With and Without Necessary Acceptances .....4

HISTORY OF THE DEBTORS AND  
EVENTS LEADING TO THE CHAPTER 11 CASE.....4

SIGNIFICANT EVENTS DURING THE CHAPTER 11 CASE .....5

SUMMARY OF THE PLAN .....5

    Class One .....5

    Class Two.....6

    Class Three.....6

    Administrative Expenses .....6

    Tax Claims .....7

    Executory Contracts.....7

MEANS FOR EXECUTION OF THE PLAN.....7

    Assets of the Estate .....7

    Post-Confirmation Business Operations .....7

    The Distribution Account and Payment of Unsecured Claims.....7

ALTERNATIVES TO THE PLAN .....8

TAX CONSEQUENCES.....9

CONCLUSION.....9

Empire Holdings Corporation (“Holdings”) and Empire Towers Corporation (“Towers”) (with Holdings and Towers hereinafter collectively referred to as the “Debtors”) submit the following Disclosure Statement pursuant to the provisions of chapter 11 of title 11 of the United States Code.

## **INTRODUCTION**

### **Purpose of the Disclosure Statement**

Pursuant to section 1125 of the Bankruptcy Code, the purpose of a Disclosure Statement is to provide information that will enable a hypothetical reasonable investor, typical of the classes of claim holders and interest holders whose claims and interests are being solicited, to make an informed judgment about the Plan. The Debtors are providing this Disclosure Statement to each person holding a claim or interest so that each such person can make an informed judgment whether to vote to accept or reject the Plan. The material contained in this Disclosure Statement is intended solely for that purpose. The Disclosure Statement may not be relied on for any purpose other than to determine how to vote on the Plan, and nothing contained in the Plan or Disclosure Statement constitutes an admission of any fact or liability by any party.

The information contained in this Disclosure Statement has been assembled by the Debtors from the books and records of Holdings, Towers, publicly filed documents, and information gathered by the Debtors’ attorneys. No representations concerning the Debtors or the Plan are authorized by the Debtors other than as set forth in this Disclosure Statement. Any representations or inducements to secure your vote other than those contained in this document should not be relied on.

The Debtors have tried to make this Disclosure Statement accurate in all material respects. However, the Debtors are not able to warrant that the information contained in this Disclosure Statement is without any inaccuracy. The financial information contained in this Disclosure Statement has not been subject to a certified audit.

**The Court will hold a hearing on confirmation of the Plan beginning at \_\_\_\_\_ .m. on \_\_\_\_\_, 2011, at the United States Bankruptcy Court for the District of Maryland, 101 West Lombard Street, Courtroom 9-C, Baltimore, Maryland 21201.** At that hearing, the Court will consider whether the Plan satisfies the various requirements of the Bankruptcy Code, including whether the Plan is feasible and whether it is in the best interests of the creditors and interest holders of the Debtors. The Court will at that hearing also receive and consider a ballot report concerning the votes cast for acceptance or rejection of the Plan.

### **Voting Instructions and Confirmation of the Plan**

Before voting, you should read this Disclosure Statement, as well as the Plan, in their entirety. You should use only the ballot sent to you with this Disclosure Statement to cast your vote for or against the Plan. You should complete, date and sign your ballot and return it in person or by mail to Aryeh E. Stein, Esquire, Meridian Law, LLC, 104 Church Lane, Suite 100, Baltimore, Maryland 21208. **All ballots must be received by 5:00 p.m. on \_\_\_\_\_,**

**2011.** Only those votes that actually accept or reject the Plan may be counted.

An impaired class of claims accepts the Plan if at least two-thirds (2/3) in amount and more than one-half (1/2) in number of the Allowed Claims of that class which are actually voted are cast in favor of the Plan. Holders of Allowed Claims who do not vote are not counted as having voted either for or against the Plan.

#### **Confirmation of the Plan With and Without Necessary Acceptances**

Once it is determined which impaired classes have or have not accepted the Plan, the Court will determine whether the Plan may be confirmed. If all impaired classes accept the Plan and the Court finds that the other conditions set forth in section 1129(a) of the Bankruptcy Code are met, the Plan will be confirmed.

The Plan may be confirmed even if it is not accepted by all impaired classes, if the Court finds that at least one impaired class of claims has accepted the Plan and certain additional conditions are met. Those conditions are set forth in section 1129(b) of the Code. The Debtors intend to rely upon the provisions of section 1129(b) of the Code, if one or more impaired classes do not accept the Plan.

#### **HISTORY OF THE DEBTORS AND EVENTS LEADING TO THE CHAPTER 11 CASES**

Towers is the owner of certain real property located at 7300-7310 Ritchie Highway, Glen Burnie, MD 21061 (the "Property"). The office building, built on the Property in 1974, is the tallest building in northern Anne Arundel County and currently leases space to business and retail enterprises of a wide variety.

In 2007, Holdings executed a *Promissory Note Secured by Deed of Trust* (the "Note") whereby Holdings promised to pay Wells Fargo Bank, NA ("Wells Fargo") the sum of \$14,560,000. The Note was guaranteed by a Repayment Guaranty (the "Guaranty") executed by the Towers, and the Guaranty was secured, pursuant to an *Indemnity Deed of Trust* (the "Deed of Trust"), by the Property. The Note, Guaranty, Deed of Trust and related documents are hereinafter collectively referred to as the "Loan Documents." Wells Fargo assigned the Loan Documents to LaSalle Bank National Association, and, in 2008, LaSalle Bank National Association merged into Bank of America, NA ("BOA").

On or about October 9, 2009, prior to the Petition Date, BOA sent a notice of default to the Debtors whereby BOA demanded that the Debtors make certain payments under the Loan Documents. The Debtors attempted to negotiate a consensual resolution to the issues regarding the amounts owed pursuant to the Loan Documents, but these attempts were rebuffed by BOA. On or about September 7, 2010, BOA commenced a receivership action (the "Receivership Action") in the Circuit Court for Anne Arundel County, Maryland, case no. 02-C-10-155415 (the "State Court").

The Debtors commenced this reorganization proceeding on October 27, 2010 (the

“Petition Date”) prior to restructure their debts pursuant to the Bankruptcy Code so as to maximize the value of their estates.

### **SIGNIFICANT EVENTS DURING THE CHAPTER 11 CASE**

#### **BOA’s Motion for Stay Relief**

On December 27, 2010, BOA filed a motion seeking relief from the automatic stay in order to recommence the Receivership Action. The Debtors filed their opposition to BOA’s motion, asserting that the Property was necessary for the Debtors’ effective reorganization.

### **SUMMARY OF THE PLAN**

The Summary of the Plan contained in this Disclosure Statement is not a substitute for, and is qualified by, the full text of the Plan itself. A copy of the Plan accompanies this Disclosure Statement. If confirmed, the Plan creates binding obligations between the Debtors and its creditors. If any conflict should arise between the contents of the Plan and (1) the description of the Plan contained in this Disclosure Statement or (2) any other statement contained in this Disclosure Statement, the terms of the Plan govern the rights and obligations of the parties. ALL CREDITORS AND INTEREST HOLDERS ARE URGED TO READ THE PLAN CAREFULLY. The Debtors believe that the Plan is feasible, fair and equitable, does not discriminate unfairly and is in the best interest of creditors.

The Plan provides for division of the Debtors’ creditors and interest holders into five separate classes. In addition, the Plan treats two categories of claims (Administrative Expenses and Tax Claims) which do not vote and are referred to as "Unclassified Claims". The designation of a class or a category or unclassified claims does not mean that the Debtors are aware of any actual claimants in such class or category. The disclosure of the amount of a class of claims or the amount of a particular claim does not mean that the Debtors agree with the amounts claimed.

#### **Class One**

Class 1 consists of the secured claim of BOA. BOA has filed a proof of claim asserting a claim in the amount of \$20,161,552.72 as of the Petition Date.

Unless the holder of the Class 1 claim agrees to less favorable treatment or the lien or security interest of BOA is avoided, the holder of the Class 1 claim shall receive at the closing (or as soon thereafter as the funds can be delivered) on a purchase of the Loan Agreement the full amount of its Secured Claim. The holder of the Class 1 claim shall retain its lien on the Property until receipt of payment satisfying the Secured Claim in full. The Class 1 claim is impaired under the Plan.

Unless the holder of the Class 1 claim agrees to less favorable treatment, the holder of the Class 2 claim shall receive at the closing (or as soon thereafter as the settlement agent can deliver the funds) on any sale or refinancing of the Real Property or purchase of the Loan Documents the

full amount of its Allowed Claim. The holder of the Class 1 claim shall retain its lien on the Real Property until receipt of payment satisfying the Allowed Claim in full.

The Class 1 claim is impaired under the Plan.

### **Class Two**

Class 2 consists of General Unsecured Claims. General Unsecured Claims are unsecured claims arising before the filing date of the Debtors' Chapter 11 petition, which are not entitled to a priority under the Bankruptcy Code and are not otherwise classified under the Plan. "General Unsecured Claim" may include those portions of the claims of creditors holding security in excess of the value of the Collateral.

Unless a holder of a Class 2 claim agrees to less favorable treatment, each holder of a Class 2 Allowed Claim shall receive such holder's Pro Rata share of distributions from the Distribution Account, in accordance with Article VII of the Plan, until either (a) such holder has received 5 percent of the Class 2 Claim or (b) the Distribution Account is without further assets to distribute. No holder of a Class 2 Claim shall receive a distribution greater than the amount of such holder's Allowed Claim. Class 2 claims are impaired under the Plan.

### **Class Three**

Class 3 consists of the membership interests in the Debtors. Unless a holder of a Class 3 interest agrees to less favorable treatment, each holder of the Class 3 interest shall retain his/her interest in the Debtors. Class 5 interests are not impaired under the Plan.

### **Administrative Expenses**

Administrative Expenses are claims arising after the commencement of the Debtors' Chapter 11 cases which are entitled to a priority of payment under the Bankruptcy Code. *See* Glossary of Definitions.

Unless a holder of an Administrative Expense agrees to less favorable treatment, and except as stated elsewhere in the Plan, all Administrative Expenses accrued and unpaid as of the Effective Date shall be paid in full in Cash on the tenth Business Day after, at the Debtors' discretion, (a) the Effective Date or (b) the date such claim has been allowed pursuant to a Final Order of the Court; provided, however, that (x) Administrative Expenses incurred in the ordinary course of business may be paid in the ordinary course of business, (y) the fees, costs and disbursements of Professionals approved by the Court shall be paid in full on the later of the Effective Date or the tenth day after the entry of an order allowing such payment and (z) fees required to be paid pursuant to 28 U.S.C. § 1930(a)(6) shall be paid on the tenth Business Day after the Debtors' receipt of an invoice therefor.

Administrative Expenses of the estate consist of professional fees incurred by the Debtors and fees required to be paid pursuant to 28 U.S.C. § 1930(a)(6). The Debtors' estimate of the Administrative Expenses as of the Confirmation Date is:

Administrative Expense	Amount
Debtors' Attorney	\$20,000.00
U.S. Trustee fees	
\$1,300.00	

### **Tax Claims**

Tax Claims consist of allowed unsecured claims of governmental units for certain types of taxes, including income, property, excise tax and employment taxes, which arose prior to August 4, 2010. *See* Glossary of Definitions.

Unless a holder of a Tax Claim agrees to less favorable treatment, the Debtors will pay to each holder of a Tax Claim the allowed amount of its claim with interest at 6 percent, on or before the first anniversary of the Effective Date.

The Debtors are not aware of any Tax Claims.

### **Executory Contracts**

The Plan provides that, as of the Effective Date, the Debtors assume all Executory Contracts, unless the contract has been rejected prior to the Confirmation Date or a motion to approve rejection of a contract is pending on the Confirmation Date. The Debtors do not believe that they are parties to any Executory Contracts.

## **MEANS FOR EXECUTION OF THE PLAN**

### **Assets of the Estates**

The Debtors' assets consist solely of the Real Property. According the Schedule of Assets filed by the Debtors in these cases, the tax-assessed value of the Real Property is \$12,481,600. The Debtors have obtained a commitment from an investor group that is willing to purchase the Loan Documents from BOA. The Debtors anticipate that closing on the note purchase will take place within 45 days of the execution of the note purchase agreement, with a one-time 30 day extension option available at the Debtors' election with the posting of an additional \$50,000 good faith deposit.

### **Post-Confirmation Business Operations**

Subsequent to confirmation of the Plan, the Debtors will continue to operate the Property.

### **The Distribution Account and Payment of Unsecured Claims**

On the date of the closing of any note purchase agreement, the Debtors will open an

account to be entitled the "Empire Towers Creditor Distribution Account". The Debtors will deposit into the Distribution Account the net proceeds from sale of the Real Property, after payment of the Allowed Secured Claims.

Not later than 30 days following closing of the sale or refinancing of the Real Property, the Debtors shall distribute to holders of Allowed Claims or interests entitled to participate in such distribution pursuant to the Plan a Pro Rata distribution of all funds in the Distribution Account, less all reserves permitted under the Plan.

Proceeds from the recovery of any Avoidable Transfers will also be deposited into the Distribution Account. The Debtors are not currently aware of any Avoidable Transfers.

The Debtors will reserve from the Distribution Account sufficient funds to pay the anticipated expenses incurred and to be incurred in the discharge of its duties set forth in the Plan, including reserving funds for taxes, if any, which may be become due. Wherever the Plan requires payment in full of a particular class of claims, including Administrative Expenses, as a prerequisite to any payment of another class of claims, the Debtors may satisfy such condition by reserving the full amount sought by the holder(s) of such claim(s) for distribution, if required, at a later date.

If a distribution to a claim holder is returned to the Debtors as undeliverable, no further distribution will be made to such claim holder unless and until the Debtors receive notification in writing of the correct, current address of such claim holder. The Debtors are not required to attempt to locate any claim holder. If the Debtors are unable to deliver such distribution within six months following the final sale or other disposition of property of the Debtors, the funds will be redistributed to other creditors. Additionally, the Debtors are not required to distribute an amount less than five dollars to any single creditor.

#### **ALTERNATIVES TO THE PLAN**

The alternatives to confirmation of the Plan, or to confirmation of some other plan of reorganization should the Plan not be confirmed, are the dismissal of this reorganization case (leaving the Debtors' creditors and shareholders to pursue their non-bankruptcy remedies, if any) or the liquidation of the Debtors in Chapter 7.

Dismissal of this case would likely result in the re-activation of the Receivership Action, which would ultimately likely result in a foreclosure by BOA of the Debtors' interests in the Real Property. This method of liquidation of the Debtors' sole asset is likely to result in a substantial reduction in the realized value of the Real Property, to the detriment of BOA and the Debtors. The Debtors do not believe that the Real Property will likely command a sufficiently high price at a foreclosure sale to satisfy the Debtors' obligations to BOA.

The other alternative is the conversion of the case to a liquidation case under Chapter 7 of the Bankruptcy Code.

The Debtors' sole asset, the Real Property, is encumbered by the lien of BOA. Although the Debtors' Schedule A values the Real Property at \$12,481,600, the forced sale inherent in a



Chapter 7 case means that a trustee is likely to recover far less. There is also the possibility that a trustee would abandon the Real Property, and BOA would recommence its Receivership Action, leading to the results stated above.

Based upon the foregoing, the Debtors believe that the value distributed to creditors under the Plan is greater than the value that creditors would receive through an alternative to the Plan.

### **TAX CONSEQUENCES**

Implementation or non-implementation of the Plan may modify or affect the timing of the federal income tax treatment of the claims or interests of the Debtors' creditors or interest holders. In addition, state or federal tax consequences may flow from the Plan, depending on the creditor's or interest holder's state of residence. Differences among creditors or interest holders, including differences in form of organization, methods of accounting and prior tax-related actions taken with respect to their claims or interests, may have a material effect on the tax treatment of their involvement. Creditors and shareholders are urged to consult their tax advisors concerning the tax consequences of the Plan to them.

### **CONCLUSION**

The Debtors believes that the proposed Plan is feasible, fair and equitable, does not discriminate unfairly, and is in the best interest of creditors.

Dated: February 28, 2011

Empire Holdings Corporation

BY: /s/ Wilfred T. Azar, III  
Wilfred T. Azar, III  
President

Empire Towers Corporation

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