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15 **UNITED STATES BANKRUPTCY COURT**
16 **NORTHERN DISTRICT OF CALIFORNIA**
17 **SAN FRANCISCO DIVISION**

18 In re:
19 **HELLER EHRMAN LLP,**
20 Debtor.

Case No.: 08-32514

Chapter 11

**JOINT PLAN OF LIQUIDATION OF
HELLER EHRMAN LLP (AUGUST 2,
2010)**

Confirmation Hearing

Date: August 9, 2010

Time: 9:30 a.m.

Place: United States Bankruptcy Court
235 Pine Street, 22nd Floor
San Francisco, CA

Judge: Honorable Dennis Montali

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PRELIMINARY STATEMENT

1
2 Heller Ehrman LLP, the above-referenced debtor and debtor in possession (the “Debtor”)
3 and the Official Unsecured Creditors’ Committee appointed in the Debtor’s case (the
4 “Committee”) and together with the Debtor (the “Proponents”), hereby propose the following *Joint*
5 *Plan of Liquidation* (the “Plan”). All Creditors should review the Disclosure Statement, and its
6 accompanying exhibits and other information, before voting to accept or reject the Plan.

7 The Plan sets forth a proposal for the resolution of all Claims and Interests against the
8 Debtor. In sum, the Plan provides for the Debtor to continue its wind-down efforts after
9 confirmation with its administration to be handled by a professional wind-down manager (the
10 “Plan Administrator”) replacing the Dissolution Committee as the primarily responsible party.
11 Confirmation of the Plan shall constitute and confirm the appointment of the Plan Administrator,
12 including responsibility and authority to (a) exercise the rights, power, and authority of the
13 Liquidating Debtor, under the applicable provisions of the Plan and bankruptcy and non-
14 bankruptcy law, and (b) retain post-confirmation professionals to represent the Liquidating Debtor
15 and assist the Plan Administrator in performing and implementing the Plan, including without
16 limitation retaining professionals originally engaged by the Debtor and/or the Committee, and (c)
17 otherwise implement the Plan, wind up the affairs of the Estate and close the Chapter 11 Case.

18 The Plan contemplates the liquidation of all Estate Assets for the benefit of the holders of
19 Allowed Claims and Allowed Interests. The resulting funds, after payment of Plan Expenses, will
20 be made available for distribution to holders of Allowed Claims and Allowed Interests in
21 accordance with the terms of the Plan. The Plan Administrator’s operation of the Liquidating
22 Debtor will be for the purpose of liquidating and monetizing Estate Assets, which consist primarily
23 of the Retained Claims and Defenses.

24 From and after the Effective Date, the Liquidating Debtor, acting through the Plan
25 Administrator, shall expeditiously seek to collect, liquidate, sell and/or reduce to Cash all Estate
26 Assets, including, without limitation, through pursuit of the Retained Claims and Defenses, and
27 use the proceeds thereof to fund the Plan.
28

1 As set forth in the Disclosure Statement, the Proponents believe that the Plan will allow the
2 holders of Unsecured Claims to receive a meaningful return on account of their Allowed Claims
3 against the Debtor, depending on the outcome of litigation and the allowance of Claims.

4 With the Plan, Creditors will receive a Ballot for voting on the Plan, and a Disclosure
5 Statement that provides information concerning the Debtor and the Plan. The Disclosure
6 Statement includes a summary of the assets and liabilities of the Debtor, a summary of what
7 Creditors and Interest Holders will receive under the Plan, a discussion of certain alternatives to
8 the Plan, and a summary of the procedures and voting requirements necessary for confirmation of
9 the Plan. You should thoroughly review both the Plan and Disclosure Statement before deciding
10 whether you will accept or reject the Plan.

11 As more fully described in the Disclosure Statement, the Plan must be approved by the
12 requisite number of Creditors and the Bankruptcy Court must find that it meets the applicable legal
13 standards before the Plan can be confirmed. If the Plan is not confirmed, the Bankruptcy Court may
14 order the case dismissed, or converted to a liquidating case under Chapter 7 of the Bankruptcy Code,
15 or the Debtor or other parties in interest may propose a different plan.

16 The Debtor and the Committee believe that the Plan provides the best mechanism available
17 for maximizing returns to Creditors and urge Creditors to vote in favor of the Plan.

18 **ARTICLE I**

19 **DEFINITIONS**

20 For purposes of this Plan, all capitalized terms used herein and not otherwise defined shall
21 have the meanings set forth below. A term not defined in the Plan, but defined in the Bankruptcy
22 Code or the Bankruptcy Rules, shall have the meaning ascribed to it in the Bankruptcy Code or the
23 Bankruptcy Rules, unless the context clearly requires otherwise. The rules of construction used in
24 section 102 of the Bankruptcy Code shall apply to construction of this Plan. The phrase “as soon
25 as practicable” shall mean within ten (10) Business Days of the relevant date. Headings and
26 captions are utilized in this Plan for convenient reference only, and shall not constitute a part of
27 this Plan for any other purpose.
28

1 1.1 **“Administrative Claim”** shall mean a Claim for an expense of administration of the
2 Debtor arising during the period commencing on the Petition Date and ending on the Effective Date
3 under sections 503(b), 1114(e)(2) or 546(c)(2) of the Bankruptcy Code and entitled to priority under
4 section 507(a)(1) of the Bankruptcy Code, including, but not limited to, (i) any actual and necessary
5 cost or expense of preserving the Estate of the Debtor or conducting the business of the Debtor,
6 (ii) administrative expenses previously allowed by the Bankruptcy Court, (iii) administrative claims
7 that are timely filed prior to the applicable Administrative Claims Bar Date, (iv) any Tax Claims
8 incurred by the Debtor after the Petition Date or relating to a tax year or period which occurs after
9 the Petition Date, (v) any claim by a seller of goods for reclamation; (vi) Professional Fees, and
10 (vii) all fees and charges assessed against the Debtor pursuant to 28 U.S.C. § 1930. For purposes of
11 this Plan, Administrative Claims shall also include Cure Obligations.

12 1.2 **“Administrative Claims Bar Date”** shall mean (a) March 19, 2010 for claims
13 arising prior to December 31, 2009, and (b) the first Business Day that is thirty (30) days after the
14 Effective Date pursuant to which Claimants must file a request for payment of any Administrative
15 Claim that arose between January 1, 2010 and the Effective Date, for which notice shall be provided
16 in the Proponents’ notice of the entry of the Confirmation Order.

17 1.3 **“Administrative Claims Bar Date Order”** shall mean, (a) for administrative claims
18 arising prior to December 31, 2009 the Court’s *Order (1) Establishing New General Bar Date for*
19 *Affected Creditors, (2) Establishing Interim Administrative Claims Bar Date, and (3) Designating*
20 *Form and Manner Of Notice Thereof*; and (b) for claims arising between January 1, 2010 and the
21 Effective Date, an order setting an Administrative Claims Bar Date, which order could be the
22 Confirmation Order.

23 1.4 **“Allowed”** shall mean, with respect to any Claim (other than an Administrative
24 Claim as set forth below):

25 (i) a Claim that appears in the Schedules, except a Claim that is listed as
26 disputed, contingent or unliquidated, or for which a contrary proof of Claim has been filed;

1 (ii) a Claim for which a proof of Claim has been timely filed as of the Bar Date or
2 Rejection Claim Bar Date, as applicable, and no objection thereto has been made on or before any
3 applicable deadline; or

4 (iii) a Claim that has been allowed, but only to the extent allowed (i) by a Final
5 Order, (ii) under this Plan, or (iii) under any agreements entered into prior to the Effective Date (and
6 approved by the Bankruptcy Court) or in connection with this Plan (and approved in accordance
7 with the terms of this Plan) establishing the amount and nature of any Claim; and

8 With respect to an Administrative Claim, a request for payment that has been filed
9 prior to the Administrative Claims Bar Date, and in accordance with either section 503(b) of the
10 Bankruptcy Code or the procedures for filing requests for payment of an expense of administration
11 set forth in the Administrative Claims Bar Date Order, and as to which either no objection has been
12 made on or before any applicable deadline, or if an objection has been made, a claim has been
13 allowed by Final Order.

14 1.5 **“Allowed Secured Claim”** shall mean that portion of an Allowed Claim (i) secured
15 by a valid, perfected and enforceable Lien that is not subject to avoidance under bankruptcy or
16 non-bankruptcy law, in an amount equal to the value, as determined by the Bankruptcy Court
17 pursuant to sections 506(a) and 1129(b) of the Bankruptcy Code and Bankruptcy Rule 3012, of the
18 interest of the holder of such Allowed Claim in the property of the Debtor, the Liquidating Debtor,
19 or the Estate, securing such Allowed Claim, or (ii) in an amount equal to the amount subject to setoff
20 by the holder of such Claim under section 553 of the Bankruptcy Code.

21 1.6 **“Allowed Unsecured Claim”** shall mean any Allowed Claim (including any
22 Rejection Claim) that is not an Allowed Administrative Claim, an Allowed Professional Fee Claim,
23 an Allowed Secured Claim, an Allowed Priority Employee Claim, an Allowed Biggers Priority
24 Employee Claim, an Insured Malpractice Claim, an Allowed Priority Employee Benefit Claim, an
25 Allowed Priority Tax Claim or an Assumed Obligation.

26 1.7 **“Amended Complaint”** means the amended complaint in the Biggers Adversary
27 filed on or about April 23, 2009, which added as defendants the Biggers Defendant Shareholder
28 Class and the Non-Debtor Defendants. The Amended Complaint alleges (1) violation of the Federal

1 Worker Adjustment and Retraining Notification (“WARN”) Act, 29 U.S.C. §§ 2101 *et seq.*;
2 (2) violation of the California WARN Act; (3) failure to pay vacation in violation of California law;
3 (4) waiting time penalties; (5) failure to pay wages under Washington law; (6) breach of contract as
4 to the Washington and New York putative vacation class; (7) promissory estoppel as to the
5 Washington and New York putative vacation class; (8) failure to pay wages under Washington, D.C.
6 and New York law; and (9) unfair business practices under California law.

7 1.8 “**Assumed Contract**” or “**Assumed Contracts**” shall mean each Executory Contract
8 assumed by the Debtor.

9 1.9 “**Assumption and Cure Order**” shall mean, with respect to any Assumed Contract,
10 an order of the Bankruptcy Court approving the assumption of such Executory Contract, and
11 determining any Cure Obligation with respect thereto. The Confirmation Order may constitute an
12 Assumption and Cure Order.

13 1.10 “**Available Cash**” shall mean, with respect to any distribution contemplated herein,
14 the aggregate amount of all Cash held by the Liquidating Debtor immediately prior to such
15 distribution.

16 1.11 “**Avoidance Actions**” shall mean all claims or causes of action arising under
17 sections 547 and 548 of the Bankruptcy Code.

18 1.12 “**Ballot**” shall mean the form for acceptance or rejection of the Plan distributed to
19 those Creditors entitled to vote on the Plan, as such form may be approved by the Bankruptcy Court
20 and which shall otherwise comply with the requirements of Bankruptcy Rule 3018(c).

21 1.13 “**Bank of America**” shall mean Bank of America, N.A.

22 1.14 “**Bank of America Preference Action**” shall mean that certain adversary proceeding
23 styled as *Official Committee of Unsecured Creditors v. Bank of America, et al.*, Adv. No. 09-03071.

24 1.15 “**Bank Preference Claims**” means (a) claims for relief pursuant to 11 U.S.C. § 547
25 for the avoidance of transfers of property of Heller Ehrman to the Banks to the extent such claims for
26 relief were set forth in the complaint filed on April 23, 2009 in the Bank of America Preference
27 Action, (b) claims for relief pursuant to 11 U.S.C. § 549 for the avoidance of postpetition transfers of
28 Estate property to the Banks to the extent such avoidance is based upon the avoidance of the Banks’

1 prepetition security interests pursuant to the claims for relief described in clause (a) and such claims
2 for relief were set forth in the complaint filed on April 23, 2009 in the Bank of America Preference
3 Action, and, (c) to the extent the transfers referred to in clause (a) or the transfers referred to in
4 clause (b) are avoided in the Bank of America Preference Action, the right to recover from the Banks
5 such avoided transfers or the value of such avoided transfers pursuant to 11 U.S.C. § 550.

6 1.16 **“Bankruptcy Code”** shall mean Title 11 of the United States Code, §§ 101 et seq., as
7 in effect on the Petition Date, as the same thereafter has been and may be amended, provided such
8 amendments are in effect.

9 1.17 **“Bankruptcy Court” or “Court”** shall mean the United States Bankruptcy Court for
10 the Northern District of California (San Francisco Division), or such other court as may hereafter
11 exercise jurisdiction over the Chapter 11 Case.

12 1.18 **“Bankruptcy Rules”** shall mean the Federal Rules of Bankruptcy Procedure, as in
13 effect on the Filing Date, as the same thereafter has been and may be amended, and the Local Rules
14 of the Bankruptcy Court to the extent applicable to the Chapter 11 Case.

15 1.19 **“Banks”** shall mean Bank of America, N.A. and Citibank, N.A. and , as the context
16 requires, Bank of America in its capacity as agent for itself and Citibank.

17 1.20 **“Banks’ Remaining Claims”** shall mean claims for legal fees and expenses incurred
18 by the Banks, including, without limitation, in connection with the Heller Ehrman bankruptcy case,
19 the Bank of America Preference Action, and/or the Liquidating Debtor.

20 1.21 **“Bar Date”** shall mean, as applicable, (i) April 27, 2009, which was the date set by
21 the Bankruptcy Court as the last date for filing a proof of Claim for a Claim that arose before the
22 Petition Date for non-Governmental Units, (ii) June 26, 2009 for Governmental Units; and
23 (iii) March 19, 2010 for those creditors entitled to file a proof of claim under the Court’s *Order*
24 *(1) Establishing New General Bar Date for Affected Creditors, (2) Establishing Interim*
25 *Administrative Claims Bar Date, and (3) Designating Form and Manner Of Notice Thereof.*

26 1.22 **“Biggers Adversary”** shall mean that certain adversary proceeding now pending in
27 the Bankruptcy Court styled as *Biggers, et al, v. Heller Ehrman, LLP*, Adv. No. 09-03058.
28

1 1.23 **“Biggers Approval Order”** shall mean a Final Order of the Bankruptcy Court
2 approving the Biggers Settlement Agreement under Bankruptcy Rule 9019, after notice and hearing
3 to creditors and parties in interest, in accordance with applicable law and local rules, which shall be
4 deemed to have occurred when 15 days have elapsed from the entry of the Bankruptcy Court’s order
5 approving the Biggers Settlement Agreement (i) which order has not been reversed, stayed, modified
6 or amended, (ii) as to which the time to or the right to appeal or seek reconsideration, review,
7 rehearing, or certiorari has expired or been waived, and (iii) as to which no appeal or petition for
8 reconsideration, review, rehearing, or certiorari is pending.

9 1.24 **“Biggers Defendant Shareholder Class”** means individuals Matthew Larrabee,
10 Robert Hubbell, Steven Koppel, Marie Fiala, Mark Weeks, Lynn Loacker, Barry Levin, Kenneth
11 Chernof, Lawrence Keeshan, Robert Rosenfeld, Peter Benvenuti, and Jonathan Hayden, on behalf
12 of themselves and on behalf of the individuals listed on Exhibit 2 to the Biggers Settlement
13 Agreement. The Biggers Defendant Shareholder Class comprises all shareholders of Heller Ehrman
14 PCs as of September 26, 2008.

15 1.25 **“Biggers Class”** shall mean each former employee of the Debtor who meets the
16 description of the Plaintiff Class Members set forth in Recital D to the Biggers Settlement
17 Agreement attached hereto as **Exhibit D**.

18 1.26 **“Biggers Priority Employee Claim”** shall mean that portion of an Allowed Claim
19 held by a member of the Biggers Class who does not exercise the Biggers Opt Out that is unsecured
20 and is entitled to priority under sections 507(a)(4) of the Bankruptcy Code. Such claims relate
21 primarily to claims under the WARN Act.

22 1.27 **“Biggers Opt Out”** shall mean that certain right of a member of the Biggers Class to
23 opt out of the Biggers Class as set forth in Section 17 of the Biggers Settlement Agreement attached
24 hereto as **Exhibit D**.

25 1.28 **“Biggers Opt Out Deadline”** shall mean May 13, 2010.

26 1.29 **“Biggers Settlement Agreement”** means that certain *Compromise and Settlement*
27 *Agreement*, dated as of October 8, 2009, as amended, entered into by and between certain Plaintiff
28 Class Representatives on behalf of the Plaintiff Class Members, on the one hand and the Debtor, the

1 Non-Debtor Biggers Defendants, the Biggers Defendant Shareholder Class, and the Committee, on
2 the other hand, and attached hereto as **Exhibit D**.

3 1.30 **“Biggers Subordinated Unsecured Claim”** shall mean an Allowed Claim for that
4 portion of a Biggers Unsecured Claim held by a member of the Biggers Class who does not exercise
5 the Biggers Opt Out in an amount that is set forth in an exhibit to be sent to each member of the
6 Biggers Class in connection with the solicitation of the member’s vote on this Plan. Such claims
7 relate primarily to waiting time penalties.

8 1.31 **“Biggers Unsecured Claim”** shall mean shall mean an Allowed Claim for that
9 portion of a Claim held by a member of the Biggers Class who does not exercise the Biggers Opt
10 Out that is unsecured and is not an Administrative Claim, a Priority Tax Claim, a Priority Employee
11 Claim, a Biggers Priority Employee Claim, a Biggers Subordinated Unsecured Claim, a Secured
12 Claim, or an Assumed Obligation. Such claims relate primarily to claims under the WARN Act.

13 1.32 **“Business Day”** shall mean any day that is not a Saturday, a Sunday or other day on
14 which banks are required or authorized by any federal, state or local law to be closed in the City of
15 San Francisco, California.

16 1.33 **“Cash”** shall mean cash and cash equivalents including, but not limited to, cash on
17 deposit in the bank accounts of the Debtor or the Liquidating Debtor, as applicable, checks, wire
18 transfers, money orders, certificates of deposit, money market or similar investments, and other
19 similar readily marketable securities or instruments.

20 1.34 **“Cash Collateral Account”** shall mean the account numbers XXX3459559 and
21 XXXX265976 both held in the name of Bank of America FBO Heller Ehrman LLP at Bank of
22 America.

23 1.35 **“Chapter 11 Case”** shall mean the Chapter 11 Case commenced by the Debtor upon
24 the filing with the Bankruptcy Court of a voluntary petition under chapter 11 of the Bankruptcy
25 Code.

26 1.36 **“Citibank”** shall mean Citibank, N.A.

27 1.37 **“Claim”** shall mean a claim against the Debtor within the meaning of section 101(5)
28 of the Bankruptcy Code.

1 1.38 “**Claimant**” shall mean the holder of a Claim.

2 1.39 “**Claims Reserve Account**” shall mean an interest bearing bank account or money
3 market account to be established and held in trust for the benefit of holders of Allowed Unsecured
4 Claims by the Liquidating Debtor on or after the Effective Date for the purpose of holding the funds
5 to be distributed under the Plan to Unsecured Creditors and for Plan Expenses, and any interest,
6 dividends or other income earned upon the investment of such Claims Reserve Account.

7 1.40 “**Class**” shall mean a category or group of Creditors or Interest Holders which are
8 substantially similar to the Claims or Interests of the other Creditors or Interests Holders in such
9 Class, as designated by this Plan pursuant to sections 1122 and 1123 of the Bankruptcy Code.

10 1.41 “**Class Counsel**” means Blum & Collins LLP.

11 1.42 “**Class Proof of Claim**” means the Class Proof of Claim filed on behalf of all
12 purported Plaintiff Class Members in the Biggers Adversary on or about March 27, 2009 and the
13 Amended Class Proof of Claim filed on April 3, 2009 and alleging substantially the same claims as
14 alleged in the Biggers Adversary.

15 1.43 “**Committee**” shall mean the Official Committee of Unsecured Creditors appointed
16 by the United States Trustee in the Debtor’s Chapter 11 Case.

17 1.44 “**Confirmation**” shall mean the approval of the Plan by and subject to the terms of
18 the Confirmation Order.

19 1.45 “**Confirmation Date**” shall mean the date of Confirmation.

20 1.46 “**Confirmation Hearing**” shall mean the duly noticed hearing held by the
21 Bankruptcy Court on confirmation of the Plan pursuant to section 1128 of the Bankruptcy Code.
22 The Confirmation Hearing may be adjourned by the Bankruptcy Court from time to time without
23 further notice other than the announcement of the adjourned date at the Confirmation Hearing.

24 1.47 “**Confirmation Order**” shall mean the order of the Bankruptcy Court, confirming
25 this Plan and providing for the effectuation of the transactions contemplated by this Plan in
26 accordance with the terms and provisions hereof and thereof.

27 1.48 “**Continuing Employee Benefit Plans**” shall mean the following programs that were
28 established by the Debtor for the benefit of its employees, that have not been terminated and are still

1 in effect as of the Effective Date, specifically, vacation, holiday and sick time, employee medical
2 insurance coverage (either paid directly to the insurer or reimbursed to the employee), employee
3 IRA contribution matching at 1%, vision insurance coverage, disability insurance coverage, life
4 insurance coverage and commuter benefits.

5 1.49 **“Credit Agreement”** shall mean that certain Second Amended and Restated Credit
6 Agreement dated as of May 1, 2007 (as amended from time to time) among Heller Ehrman, Bank of
7 America and the other lenders party thereto.

8 1.50 **“Creditor”** shall mean any entity that holds a Claim.

9 1.51 **“Cure Obligation”** shall mean, individually, any monetary amount payable to the
10 non-debtor party to an Assumed Contract pursuant to section 365(b)(1) of the Bankruptcy Code as a
11 condition to the assumption of such contract or lease and, collectively, all monetary amounts payable
12 to all non-debtor parties to all Assumed Contracts.

13 1.52 **“Debt”** shall mean liability on a Claim.

14 1.53 **“Debtor”** shall mean Heller Ehrman, LLP, as debtor and debtor in possession in its
15 Chapter 11 Case.

16 1.54 **“Disallowed Claim”** shall mean (i) a Claim or any portion thereof, that has been
17 disallowed by a Final Order of the Bankruptcy Court; (ii) a Claim that has been listed in the
18 Schedules at zero or as contingent, disputed, or unliquidated and as to which no proof of Claim has
19 been timely filed or deemed timely filed with the Bankruptcy Court pursuant to the Bankruptcy
20 Code, any Final Order of the Court, or other applicable law; or (iii) a Claim that has not been listed
21 in the Schedules and as to which no proof of Claim has been timely filed or deemed timely filed with
22 the Bankruptcy Court pursuant to the Bankruptcy Code, any Final Order of the Court, or other
23 applicable law.

24 1.55 **“Disclosure Statement”** shall mean the disclosure statement in support of the Plan,
25 in the form approved by the Bankruptcy Court, disseminated by the Proponents to the holders of
26 Claims against the Debtor in order to provide to such persons adequate information in accordance
27 with section 1125 of the Bankruptcy Code, as such disclosure statement may be modified, amended
28 or supplemented from time to time.

1 1.56 **“Dissolution Committee”** shall mean the Dissolution Committee formed under the
2 Plan of Dissolution for the purpose of governing the affairs of the Debtor after September 26, 2008,
3 currently comprised of Peter J. Benvenuti, Jonathan Hayden, Lynn Loacker, and Paul Sugarman.

4 1.57 **“Disputed Claim”** shall mean any Claim or portion of a Claim as to which an
5 objection to the allowance thereof has been interposed (whether as a separate objection to claim or in
6 connection with an adversary proceeding) as of the Effective Date or any later deadline fixed under
7 the Plan or by order of the Bankruptcy Court, which objection has not been withdrawn or determined
8 by Final Order. To the extent an objection relates to the allowance of only a part of a Claim, such
9 Claim shall be a Disputed Claim only to the extent of the objection.

10 1.58 **“Disputed Claims Amount”** shall mean the aggregate amount of Disputed Claims
11 that are fixed, absolute – and neither contingent nor unliquidated. For purposes of calculating
12 distributions of Cash under the Plan, the amount of each Disputed Claim shall be based upon the
13 face amount of such Creditor’s Disputed Claim (or the disputed portion thereof) as set forth in the
14 Creditor’s filed proof of Claim.

15 1.59 **“Effective Date”** shall mean the first Business Day on which each of the conditions
16 specified in Article VII of the Plan has been satisfied or duly waived.

17 1.60 **“Employee Retention Orders”** shall mean that certain *Order (1) Authorizing*
18 *Debtor And Debtor In Possession To (A) Pay And Honor Pre-Petition Employee Wages And Other*
19 *Employee Obligations In The Ordinary Course Of Business, And (B) Continue Honoring Employee*
20 *Obligations, Including Wages, Benefits On A Post-Petition Basis; And (2) Providing Related Relief*
21 entered on or about December 30, 2008, and the *Order Approving Revised Non-Insider Employee*
22 *Retention And Incentive Bonus Plan* entered on or about March 3, 2009.

23 1.61 **“Estate”** shall mean the bankruptcy estate of the Debtor pursuant to Bankruptcy
24 Code section 541.

25 1.62 **“Estate Assets”** shall mean all property of the estate of the Debtor under section 541
26 of the Bankruptcy Code including, all property, assets, equitable or legal rights or interests, contract
27 rights, benefits, causes of action, claims, or any other thing tangible or intangible, of any kind
28 whatsoever, owned or held by or on behalf of the Debtor in which the Debtor has any right, title or

1 interest to the full extent provided under section 541 of the Bankruptcy Code including, without
2 limitation, Available Cash, any Retained Claims and Defenses, the MPC Equity and MPC Equity
3 Payments, and Avoidance Actions.

4 1.63 **“Excess PC Funds”** means funds held or received by or on behalf of the Heller
5 Ehrman PCs on and after June 1, 2010 in excess of all amounts advanced to Debtor or the
6 Liquidating Debtor in connection with the Exit Financing, other than up to \$501,450, to the extent
7 received as proceeds of the settlement of the Heller Ehrman PCs disputes with John Skilton and
8 Darryl Snider relating to the following two trusts: (a) the Heller, Ehrman, White & McAuliffe, a
9 Professional Corporation Trust for the Benefit of Darryl L. Snider fully executed on October 18,
10 1999 and (b) the Heller Ehrman White & McAuliffe Trust for the Benefit of John Skilton dated as of
11 April 16, 2001.

12 1.64 **“Exculpated Parties”** shall have the meaning assigned to it in Article 8.4 of this
13 Plan.

14 1.65 **“Executory Contracts”** shall mean executory contracts and unexpired leases within
15 the meaning of Bankruptcy Code section 365.

16 1.66 **“Exit Financing”** shall mean that certain secured exit financing under which the
17 Debtor is the borrower and the Exit Financing Lender is the lender, the material terms of which are
18 set forth on **Exhibit H** to this Plan.

19 1.67 **“Exit Financing Account”** shall mean the interest bearing account with Bank of
20 America entitled “Heller Ehrman LLP FBO Bank of America, N.A., as Collateral Pledgee Exit
21 Financing Account”.

22 1.68 **“Exit Financing Collateral”** shall mean the liens and security interests granted in
23 connection with the Exit Financing.

24 1.69 **“Exit Financing Lender”** shall mean the Heller Ehrman PCs collectively.

25 1.70 **“Final Order”** shall mean an order or judgment of the Bankruptcy Court or other
26 court of competent jurisdiction (i) which has not been reversed, stayed, modified or amended, (ii) as
27 to which the time to or the right to appeal or seek reconsideration, review, rehearing, or certiorari has
28 expired or been waived (without regard to whether the time to seek relief from a judgment under

1 Bankruptcy Rule 9024 has expired), and (iii) as to which no appeal or petition for reconsideration,
2 review, rehearing, or certiorari is pending.

3 1.71 **“Former Shareholders”** shall mean each of the individuals that held an equity
4 interest in one of the Heller Ehrman PCs, each of whom is named on **Exhibit B**, attached hereto.

5 1.72 **“Former Shareholder Settlement Letter”** shall mean the individualized letters to be
6 sent to each Former Shareholder who has not previously agreed to settlement terms with the
7 Committee detailing the terms on which the Committee will settle the Estate’s known and unknown
8 claims against such Former Shareholder.

9 1.73 **“Former Shareholder Settlement Mechanism”** shall mean the process described in
10 Article 5.12 of this Plan.

11 1.74 **“Former Shareholder Settlement Payment”** shall mean a timely payment in good
12 funds made by a Former Shareholder of an amount fixed by the Committee, on terms agreed upon by
13 the Committee in the Model Former Shareholder Settlement Agreement, or other settlement
14 agreement between the parties.

15 1.75 **“Guaranty”** shall mean that certain Guaranty dated as of December 1, 2004 given by
16 the Heller Ehrman PCs and other guarantors party thereto in favor of Bank of America.

17 1.76 **“Heller Ehrman”** shall mean Heller Ehrman, LLP.

18 1.77 **“Heller Ehrman PCs”** shall mean each of the six partners holding an equity interest
19 in the Debtor, including but not limited to: Heller Ehrman (California), a Professional Corporation,
20 Heller Ehrman White & McAuliffe (Washington), P.S., a Washington professional service
21 corporation, Heller Ehrman White & McAuliffe (Oregon), P.C., an Oregon professional corporation,
22 Heller Ehrman (Alaska), P.C., a professional corporation, Heller Ehrman (New York), a Professional
23 Corporation, and Heller Ehrman (China), P.C., a District of Columbia professional corporation.

24 1.78 **“Heller Released Claims”** means all claims for relief, causes of action, defenses or
25 counterclaims, other than claims based on intentional torts other than fraudulent transfer claims
26 (including, without limitation, claims based on allegations relating to equitable subordination or
27 fraudulent transfers, except for any fraudulent transfer claim that is determined to be a Permissible
28 New Claim that the Debtor or the Estate (or any entity acting on behalf of the Debtor or the Estate)

1 could have asserted against the Banks or any of them, other than the Bank Preference Claims or
2 Permissible New Claims; provided however, that the Heller Released Claims shall not include
3 claims for relief, causes of action, defenses or counterclaims against any consultant, agent or
4 attorney of either or both Banks with respect to acts or omissions taken (in the case of affirmative
5 actions) or not taken (in the case of omissions) by such consultant, agent or attorney in a capacity
6 other than as a consultant, agent or attorney for either or both of the Banks in connection with such
7 Bank's (or Banks') dealings with Heller Ehrman, the Debtor or the Heller Ehrman PCs.

8 1.79 **"Insured Malpractice Claim"** shall mean the Insured Portion of any Malpractice
9 Claim.

10 1.80 **"Insured Portion"** shall mean, with respect to any Malpractice Claim, the amount
11 for which insurance coverage is available under any Malpractice Policy.

12 1.81 **"Interest Holder"** shall mean, individually, each of the Heller Ehrman PCs, or their
13 successors and assigns.

14 1.82 **"Interests"** shall mean any interests in the Debtor owned by the Heller Ehrman PCs,
15 or Julian N. Stern, P.C., or their successors and assigns.

16 1.83 **"Jewel Claims"** shall mean the Estate's claims arising under the California Court of
17 Appeal decision in *Jewel v. Boxer*, 156 Cal.App.3d 171 (1984), or any related unfinished business
18 doctrine claims, which have previously been assigned to the Committee for investigation and
19 prosecution, and/or any necessary Avoidance Action to recover the value of the foregoing.

20 1.84 **"Lien"** shall mean a charge against or interest in property to secure payment of a debt
21 or performance of an obligation.

22 1.85 **"Liquidating Debtor"** shall mean the Debtor as reorganized and reconstituted on and
23 after the Effective Date.

24 1.86 **"Liquidation Cash Collateral Account"** shall mean the segregated cash collateral
25 account maintained by Bank of America, as agent for itself and Citibank.

26 1.87 **"Malpractice Claim"** shall mean any unsecured non-priority claim against the
27 Debtor or any Former Shareholder, or any former employee of the Debtor arising out of alleged acts,
28 errors, or omissions in connection with the rendering or failing to render professional legal services

1 by the Debtor or other potential or actual liability or costs arising in connection therewith, whether
2 or not covered by a Malpractice Policy.

3 1.88 **“Malpractice Claim Expenses”** shall mean, as to any Malpractice Policy, all fees,
4 costs and expenses in the investigation, adjustment, settlement, defense and appeal of any claim and
5 shall include all fees, costs and expenses in the investigation, adjustment, settlement or defense of
6 any claim which includes a request for fines, penalties or punitive damages, whether or not
7 compensatory in nature; but does not include salaries nor office overhead expenses nor the costs of
8 supervisory counsel retained by Liquidating Debtor or the Plan Administrator. If paid, Malpractice
9 Claim Expenses are applied to the SIR Amount. However, the Liquidating Debtor and the Plan
10 Administrator are not obligating themselves to incur any Malpractice Claim Expenses or pay the Self
11 Insured Retention.

12 1.89 **“Malpractice Policy” or “Policies”** shall mean the policies of professional liability
13 insurance issued to the Debtor, as such policies have been amended, modified, renewed or
14 supplemented, from time to time set forth in **Exhibit I**.

15 1.90 **“Main Special Counsel Agreement for Legal Services”** shall mean the agreement
16 attached hereto as **Exhibit G**.

17 1.91 **“Model Former Shareholder Settlement Agreement”** shall mean the form
18 agreement enclosed with the Former Shareholder Settlement Letter pursuant to which the Estate’s
19 claims against Former Shareholders shall be settled under the Plan. A representative form of the
20 Model Former Shareholder Agreement is attached to the Plan as **Exhibit L-1**. A subsequently
21 slightly modified form that was also utilized for many settlements with represented groups of Former
22 Shareholders is attached hereto as **Exhibit L-2**.

23 1.92 **“MPC”** shall mean MPC Insurance, Ltd.

24 1.93 **“MPC Equity”** shall mean the Debtor’s equity interest in MPC.

25 1.94 **“Net Available Cash”** shall mean the aggregate amount of all Available Cash held
26 by the Liquidating Debtors after the payment of (or appropriate reserve for) Allowed Administrative
27 Claims, Allowed Priority Tax Claims, Allowed Professional Fee Claims and net of amounts reserved
28 for Disputed Claims, Professional Fees and Plan Expenses.

1 1.95 **“New Plan Documents”** shall mean the First Amendment to Plan of Dissolution, and
2 such other documents as are deemed necessary to confirmation, to be filed with the Bankruptcy
3 Court and served upon each of party requesting special notice and the Office of the United States
4 Trustee, no later than ten (10) days prior to the date the Bankruptcy Court sets for objections to
5 Confirmation.

6 1.96 **“Non-Debtor Biggers Defendants”** means the Heller Ehrman PCs.

7 1.97 **“PC Obligations”** shall mean all obligations of the Heller Ehrman PCs under the
8 Guaranty.

9 1.98 **“Permissible New Claim”** shall mean any claim for relief, cause of action, defense
10 or counterclaim that the Bankruptcy Court has determined, after a motion on notice to the Banks,
11 satisfies all of the following criteria: (a) it is for an intentional tort; (b) it is not based upon facts that
12 were known, or should have been known, to the Debtor or the Committee as of June 17, 2010; (c) it
13 is not a claim for equitable subordination; (d) it is not a claim based upon a legal theory that the
14 Banks directly or indirectly exercised improper control over Heller Ehrman, the Debtor, the Heller
15 Ehrman PCs, their assets or their business affairs; (e) it is not a claim based on a legal theory that the
16 Banks exercised rights or remedies against Heller Ehrman, the Debtor, the Heller Ehrman PCs, their
17 assets or their business affairs that the Banks did not have at law (including, but not limited to, under
18 the Prepetition Loan Documents) or in equity; and (f) it is not a claim to avoid a fraudulent transfer;
19 provided, however, that, if the Banks ever take the position in papers filed with the Bankruptcy
20 Court or in oral argument before the Bankruptcy Court that plaintiff in the Bank of America
21 Preference Action is not entitled to judgment in that action because, at the time of the transfers
22 sought to be avoided and recovered in that action, there was no antecedent debt owing by Heller
23 Ehrman to the Banks and that, therefore, the plaintiff should not have grounded its complaint in the
24 Bank of America Preference Action on preference law but rather should have grounded its complaint
25 on fraudulent transfer law, then and only then may a fraudulent transfer claim be determined to be a
26 Permissible New Claim.

27 1.99 **“Petition Date”** shall mean December 28, 2008, which is the date when the Debtor
28 filed its voluntary petition pursuant to chapter 11 of the Bankruptcy Code.

1 1.100 **“Plaintiff Class Members”** means the Class Representatives and the persons listed
2 on Exhibit A to the Biggers Settlement Agreement.

3 1.101 **“Plaintiff Class Representatives”** means Debora K. Biggers, Carl Goodman, Anna
4 Scarpa, and Marjorie Norris, on behalf of themselves and on behalf of the individuals named on
5 Exhibit A to the Biggers Settlement Agreement.

6 1.102 **“Plan”** shall mean this joint chapter 11 plan of liquidation and any exhibits and
7 schedules hereto and any documents incorporated herein by reference, as the same may from time to
8 time be amended or modified as and to the extent permitted herein or by the Bankruptcy Code.

9 1.103 **“Plan Administrator”** shall mean Michael Burkart, whose curriculum vitae is set
10 forth at **Exhibit J** hereto and who shall file a further statement setting forth his qualifications and
11 affiliations, including a disclosure of any potential conflicts of interest, pursuant to Bankruptcy Code
12 section 1129(a)(5)(A)(i) not less than ten days prior than the last day to object to Confirmation.

13 1.104 **“Plan Expenses”** shall mean all actual and necessary costs and expenses incurred
14 after the Effective Date in connection with the administration of the Plan, including, but not limited
15 to, (i) costs, expenses and legal fees incurred related to filing and prosecuting objections to Claims,
16 (ii) the costs, expenses and legal fees incurred to investigate, litigate, estimate and settle the Retained
17 Claims and Defenses (which shall include the Avoidance Actions), including, but not limited to,
18 attorneys' fees, accounting fees, expert witness fees, consultants' fees, and all costs relating to
19 obtaining and distributing such recoveries, incurred by the Liquidating Debtor, (iii) the costs and
20 expenses of administration of the Liquidating Debtor, including without limitation the fees and costs
21 of the Plan Administrator; (iv) amounts necessary to compensate members of the Dissolution
22 Committee and the Debtor's Professionals after Confirmation for services rendered at the request of
23 the Plan Administrator regarding, *inter alia*, the Debtor's dissolution or the Bankruptcy Case; (v) all
24 costs to manage, store, transport, transfer and destroy client and administrative records up to 150%
25 of the budgeted amounts, and (vi) all fees payable pursuant to section 1930 of Title 28 of the United
26 States Code.

27 1.105 **“Plan of Dissolution”** shall mean that certain Plan of Dissolution of Heller Ehrman
28 LLP, dated as of September 26, 2008.

1 1.106 **“Post-Confirmation Budget”** shall mean the budget for Plan Expenses the
2 Liquidating Debtor projects on the Effective Date to be necessary and appropriate, in the exercise of
3 its business judgment, to carry out the provisions of this Plan. A copy of the Post Confirmation
4 Budget is attached hereto as **Exhibit K**.

5 1.107 **“Post-Confirmation Motion and Opportunity for Hearing”** shall mean the
6 procedures to be utilized after the Effective Date by any party seeking approval from the Court
7 respecting matters requiring approval under this Plan which procedures are more fully described in
8 Article 5.35 herein.

9 1.108 **“Post-Confirmation Service List”** shall mean a service list comprised of names and
10 email addresses for all members of the Committee as of the Effective Date, the Office of the United
11 States Trustee, counsel for Citibank and Bank of America, counsel for the Heller Ehrman PCs, and
12 any other creditor or party in interest that files a request for post confirmation notice after the
13 Effective Date with the Court and serves it on the Post Confirmation Service List.

14 1.109 **“Post-Forbearance Event of Default”** shall mean that there has been a Preference
15 Action Resolution and the PC Obligations have not been indefeasibly satisfied in full.

16 1.110 **“Preference Action Resolution”** shall mean a resolution of the Bank of America
17 Preference Action by the entry of a Final Order approving a judgment or settlement of such action.

18 1.111 **“Prepetition Loan Documents”** shall mean the prepetition loan and security
19 agreements among Heller Ehrman and the Banks, which includes the following documents, among
20 others: (a) the Credit Agreement, (b) the Security Agreement, (c) the Guaranty and (d) the Loan
21 Documents (as defined in the Credit Agreement).

22 1.112 **“Priority Employee Claim”** shall mean that portion of an Allowed Claim that is
23 unsecured and that is entitled to priority under section 507(a)(4) of the Bankruptcy Code that is not a
24 Biggers Priority Employee Claim.

25 1.113 **“Priority Employee Benefit Claim”** shall mean that portion of an Allowed Claim
26 that is unsecured and that is entitled to priority under section 507(a)(5) of the Bankruptcy Code.

27 1.114 **“Priority Tax Claim”** shall mean that portion of a Tax Claim, if any, entitled to
28 priority in payment under section 507(a)(8) of the Bankruptcy Code.

1 1.115 **“Professional Fees”** shall mean all amounts allowed and awarded by the Bankruptcy
2 Court for compensation for services rendered and reimbursement of expenses incurred by
3 Professionals pursuant to sections 330(a) and 503(b) of the Bankruptcy Code.

4 1.116 **“Professionals”** shall mean those attorneys, accountants and other financial advisors
5 employed by the Debtor (pursuant to section 327 of the Bankruptcy Code) or the Committee
6 (pursuant to section 1103 of Bankruptcy Code) in the Chapter 11 Case and to be compensated for
7 services rendered and reimbursed for expenses incurred pursuant to sections 330(a) and 503(b) of the
8 Bankruptcy Code.

9 1.117 **“Pro Rata” or “Pro Rata Share”** shall mean, with respect to distributions on
10 account of Allowed Claims, in the same ratio of an Allowed Claim in a particular Class to the
11 aggregate of all Allowed Claims in that Class.

12 1.118 **“Rejected Contract(s)”** shall mean those Executory Contracts which are rejected by
13 the Debtor pursuant to section 365 or 1123(b)(2) of the Bankruptcy Code.

14 1.119 **“Rejection Claim”** shall mean any Allowed Claim under Bankruptcy Code section
15 502(g) that arises under Bankruptcy Code section 365(g)(1) in favor of the non-debtor party to any
16 Executory Contract that is rejected by the Debtor pursuant to Bankruptcy Code sections 365(a) or
17 1123(b)(2).

18 1.120 **“Rejection Claim Bar Date”** shall mean the last date established by the Bankruptcy
19 Court by which entities asserting a Rejection Claim against the Debtor must have filed a proof of
20 Claim with respect to such Rejection Claim or be forever barred from asserting such Claim and/or
21 sharing in any distribution hereunder in respect of such Claim. For contracts or leases for which no
22 rejection claim bar date was previously established, or for contracts and leases rejected pursuant to
23 the Plan, the Rejection Claims Bar Date shall be thirty (30) days following the date upon which the
24 Confirmation Order is entered.

25 1.121 **“Reserved Claims”** shall mean the amounts necessary, or reserved, to pay (i)
26 allowed Chapter 11 administrative expenses, (ii) priority tax claims, (iii) allowed Claims in Class 1,
27 Class 2, or Class 3, (iv) allowed contingency fees of contingency fee counsel engaged by the
28 Debtor, the Liquidating Debtor, or the Committee, (v) Plan Expenses in accordance with the Post-

1 Confirmation Budget, or (vi) Court-approved settlements with certain retired shareholders of the
2 Heller Ehrman PCs.

3 1.122 **“Reserved Claims Pool”** shall mean the amounts which shall be funded on or after
4 the Effective Date pursuant to Article 5.1 of this Plan for the purpose of holding as reserves the
5 amounts of Administrative Claims (including amounts due for Professional Fees) which have not
6 become Allowed Claims.

7 1.123 **“Reserved Claims Pool Account”** shall mean the bank account established by the
8 Liquidating Debtor into which the Plan Administrator shall deposit the amounts which constitute the
9 Reserved Claims Pool.

10 1.124 **“Retained Claims and Defenses”** shall mean all claims, rights, interests, causes of
11 action, defenses, counterclaims, cross-claims, third-party claims, or rights of offset, recoupment,
12 subrogation or subordination held by the Debtor or its Estate against any party whether or not
13 pending on the Effective Date, not otherwise released or settled before the Effective Date, including
14 but not limited to those specifically set forth in Section III of the Disclosure Statement.

15 1.125 **“Schedules”** shall mean the schedules of assets and liabilities and the statement of
16 financial affairs filed by the Debtor with the Bankruptcy Court pursuant to section 521 of the
17 Bankruptcy Code and Bankruptcy Rule 1007, as amended from time to time.

18 1.126 **“Secured Claim”** shall mean a Claim secured by a Lien on property of the Debtor, or
19 the Estate, or secured by an amount subject to setoff under section 553 of the Bankruptcy Code, to
20 the extent of the value of such Lien or right of setoff as determined under sections 506(a) or 1129(b)
21 of the Bankruptcy Code, as applicable.

22 1.127 **“Security Agreement”** shall mean that certain Security Agreement dated as of
23 December 1, 2001 (as amended from time to time) by and among Bank of America, Heller Ehrman,
24 the Heller Ehrman PCs and the other grantors party thereto.

25 1.128 **“Self Insured Retention”** shall mean the amount retained for the insured’s own
26 account in any applicable Malpractice Policy (“SIR”), which when exceeded, triggers for the
27 applicable Malpractice Policy, the insurer’s obligation to fund a defense of a Malpractice Claim or to
28

1 pay the amount in excess of the SIR which is agreed to or adjudged to be owing on account of being
2 classified as an Insured Malpractice Claim.

3 1.129 “**Settling Former Shareholder**” shall mean any Former Shareholder who timely
4 executes the Model Former Shareholder Agreement (or other form of settlement agreement approved
5 by the Bankruptcy Court), and makes the Former Shareholder Settlement Payment, or other payment
6 agreed upon by the Committee.

7 1.130 “**SIR Amount**” shall mean the amount retained for the insured’s own account under
8 any applicable Malpractice Policy, less the Malpractice Claims Expenses incurred.

9 1.131 “**Subordinated Former Shareholders**” shall mean (a) the payees under the
10 Subordinated Former Shareholder Notes; (b) all Former Shareholders who did not retire, depart or
11 withdraw from their respective Heller Ehrman PC prior to the adoption of the Plan of Dissolution on
12 September 26, 2008, and (c) any Former Shareholder whose Claim is based (to the extent so based),
13 in whole or in part, upon return of capital. The names of the Subordinated Former Shareholders are
14 set forth on **Exhibit E** to this Plan.

15 1.132 “**Subordinated Former Shareholder Notes**” shall mean those certain Promissory
16 Notes made by the Debtor in connection with the departure of shareholders from one of the Debtor’s
17 partners (which notes are described in **Exhibit C** to this Plan).

18 1.133 “**Substantial Contribution Payment**” shall mean those certain payments to Blum &
19 Collins LLP to be made as contemplated in the Biggers Settlement Agreement attached hereto as
20 **Exhibit D** in the event the Biggers Approval Order becomes a Final Order.

21 1.134 “**Time Deposits**” shall mean time deposits, including without limitation, certificates
22 of deposit issued by Bank of America.

23 1.135 “**Top Thirty Former Shareholders**” shall mean each of the individuals named on
24 **Exhibit F**, attached hereto.

25 1.136 “**Uninsured Malpractice Claim**” shall mean any timely filed Malpractice Claim
26 which seeks an amount or is Allowed in an amount that more than the SIR Amount but which cannot
27 be more than the SIR of the applicable Malpractice Policy or Malpractice Policies.
28

1 1.137 “**Unliquidated Claim**” shall mean any Claim for which a proof of Claim has been
2 filed with the Bankruptcy Court but was not filed in a sum certain, and which Claim has not been
3 estimated, fixed or liquidated by the Bankruptcy Court at a sum certain as of the Effective Date.

4 1.138 “**Unsecured Claim**” shall mean any Claim that is neither secured nor entitled to
5 priority or administrative status under sections 507 or 503, respectively, of the Bankruptcy Code.

6 1.139 “**WARN Act**” means Federal Worker Adjustment and Retraining Notification Act,
7 29 U.S.C. §§ 2101 *et seq.* and California Labor Code section 1400 *et seq.*

8 **ARTICLE II**

9 **CLASSIFICATION OF CLAIMS AND INTERESTS**

10 2.1 **Criterion of Class.** The following is a designation of Classes of Claims under the
11 Plan. Administrative Claims and Priority Tax Claims have not been classified and are excluded
12 from the following Classes in accordance with section 1123(a)(1) of the Bankruptcy Code. A Claim
13 is classified in a particular Class only to the extent that (i) the Claim qualifies within the description
14 of that Class, and is classified in a different Class to the extent that the remainder of the Claim
15 qualifies within the description of that different Class, and (ii) the Claim, or any portion or Allowed
16 amount of such Claim, is an Allowed Claim in that Class and has not been paid, released or
17 otherwise satisfied prior to the Effective Date. In the event of a controversy as to whether (a) any
18 Class of Claims is impaired, or (b) any Class of Claims is properly designated, the Bankruptcy Court
19 shall, after notice and a hearing, determine such controversy pursuant to applicable provisions of the
20 Bankruptcy Code and Bankruptcy Rule 3013.

21 2.2 **Classes of Claims and Interests.** All Claims and Interests are divided into the
22 following Classes, which Classes shall be mutually exclusive:

23 2.2.1 **Class 1 Claims.** Class 1 shall consist of all Priority Employee Claims.

24 2.2.2 **Class 2 Claims.** Class 2 shall consist of all Biggers Priority Employee Claims.

25 2.2.3 **Class 3 Claims.** Class 3 shall consist of all Priority Employee Benefit Claims.

26 2.2.4 **Class 4 Claims.** Class 4 shall consist of the Secured Claims of Bank of America
27 and Citibank.

28 2.2.5 **Class 5 Claims.** Class 5 shall consist of the Secured Claim of MPC.

- 1 2.2.6 **Class 6 Claims.** Class 6 shall consist of Insured Malpractice Claims.
2 2.2.7 **Class 7 Claims.** Class 7 shall consist of General Unsecured Claims.
3 2.2.8 **Class 8 Claims.** Class 8 shall consist of all Biggers Subordinated Unsecured
4 Claims.
5 2.2.9 **Class 9 Claims.** Class 9 shall consist of the claims of Subordinated Former
6 Shareholders.
7 2.2.10 **Class 10 Interests.** Class 10 shall consist of the Interests held by the Interest
8 Holders.

9 **ARTICLE III**

10 **TREATMENT OF UNCLASSIFIED CLAIMS**

11 3.1 **Administrative Claims.** Each Allowed Administrative Claim, unless the holder of
12 such Claim has agreed to a different treatment, shall be paid in full by the Liquidating Debtor from
13 Available Cash or the Reserved Claims Pool Account (as applicable) on the latest of: (a) the
14 Effective Date, or as soon thereafter as practicable; (b) such date as may be fixed by the Bankruptcy
15 Court, or as soon thereafter as practicable; (c) the tenth Business Day after such Claim is Allowed,
16 or as soon thereafter as practicable; and (d) such date as the holder of such Claim and the
17 Liquidating Debtor may agree.

18 3.2 **Administrative Claim Bar Date.** All requests for payment of Administrative
19 Claims, other than Claims for Professional Fees, must be filed by the applicable Administrative
20 Claim Bar Date or the holders thereof shall be forever barred from asserting such Administrative
21 Claims against the Debtor or the Liquidating Debtor or from sharing in any distribution under the
22 Plan. Holders of Administrative Claims based on liabilities incurred in the ordinary course of the
23 Debtor's business following the Petition Date shall not be required to comply with the
24 Administrative Claim Bar Date, provided that, (i) such holders have otherwise submitted an invoice,
25 billing statement or other evidence of indebtedness to the Debtor in the ordinary course of business,
26 and (ii) such Claims are not past due according to their terms.

27 3.3 **Claims for Professional Fees.** Each party seeking an award by the Bankruptcy
28 Court of Professional Fees: (a) must file its final application for allowance of compensation for

1 services rendered and reimbursement of expenses incurred through the Effective Date on or before
2 the Administrative Claims Bar Date; and (b) if the Bankruptcy Court grants such an award, each
3 such party will be paid in full in Cash by the Liquidating Debtor in such amounts as are allowed by
4 the Bankruptcy Court as soon thereafter as practicable. All final applications for allowance and
5 disbursement of Professional Fees must be in compliance with all of the terms and provisions of any
6 applicable order of the Bankruptcy Court, including the Confirmation Order, and the Bankruptcy
7 Court's Guidelines for Compensation and Expense Reimbursement of Professionals and Trustees.

8 3.4 **Priority Tax Claims.** Each Allowed Priority Tax Claim, unless the holder of such
9 Claim has agreed to a different treatment, shall receive deferred cash payments to the extent
10 permitted by section 1129(a)(9) of the Bankruptcy Code with interest on the unpaid portion of such
11 Claim at the rate established by applicable nonbankruptcy law as of the calendar month in which the
12 Plan is confirmed, or at such other rate as may be agreed upon between the Liquidating Debtor and
13 the appropriate governmental unit, provided that the Liquidating Debtor may prepay any or all such
14 Claims at any time, without premium or penalty.

15 **ARTICLE IV**

16 **TREATMENT OF CLASSIFIED CLAIMS AND INTERESTS**

17 4.1 **Class 1 (Priority Employee Claims).** Class 1 shall consist of Priority Employee
18 Claims. Class 1 Claims are unimpaired. Each holder of an Allowed Priority Employee Claim who
19 is not employed by the Debtor as of the Effective Date of the Plan shall receive full payment of the
20 Allowed amount of such Claim from Available Cash on or as soon as practicable after the later of (i)
21 the Effective Date, or (ii) the date upon which the Bankruptcy Court enters a Final Order
22 determining or allowing such Claim. The Liquidating Debtor shall either pay on the Effective Date
23 or honor in the ordinary course of business, any Allowed Class 1 Priority Employee Claim for any
24 employee who is employed by the Liquidating Debtor on the Effective Date of the Plan. Holders of
25 Class 1 Claims who are members of the Biggers Class shall receive their distribution hereunder even
26 if they Opt-Out of the Biggers Settlement.

27 4.2 **Class 2 (Biggers Priority Employee Claims).** Class 2 shall consist of Biggers
28 Priority Employee Claims. Class 2 Claims are unimpaired. Each holder of an Allowed Biggers

1 Priority Employee Claim who is not employed with the Debtor as of the Effective Date of the Plan
2 shall receive full payment of the Allowed amount of such Claim from Available Cash only after the
3 Biggers Approval Order becomes a Final Order. Holders of Class 2 Claims who Opt-Out of the
4 Biggers Settlement will not receive any payment on account of such claim.

5 4.3 **Class 3 (Priority Employee Benefits Claims).** Class 3 shall consist of Priority
6 Employee Benefits Claims. Class 3 Claims are unimpaired. After payment in full of the Allowed
7 Claims of Classes 1 and 2, each holder of an Allowed Priority Employee Benefit Claim shall receive
8 full payment of the Allowed amount of such Claim from Available Cash on or as soon as practicable
9 after the later of (i) the Effective Date, or (ii) the date upon which the Bankruptcy Court enters a
10 Final Order determining or allowing such Claim.

11 4.4 **Class 4 (Claims of Bank of America and Citibank).** Class 4 consists of the
12 Disputed Secured Claims of Bank of America and Citibank. Class 4 Claims are impaired.

13 4.4.1 **Payment of Remaining Principal and Interest.** On the Effective Date, and
14 subject to the right of the Estate as limited by Articles 4.4.20 and 4.4.21 to recover the funds in the
15 Bank of America Preference Action or in such other action as may subsequently be filed by the
16 Estate, Bank of America and Citibank shall effect a payment of \$1,609,752.26 (assuming a payment
17 date of June 30, 2010, increasing or decreasing by \$253.30 daily), which represents the undisputed
18 amounts of principal and interest (but not attorneys' fees and costs) owing on the Class 4 Claim by
19 applying funds from the Cash Collateral Account thereto. Bank of America and Citibank shall then
20 return to the Liquidating Debtor the balance of the funds in the Cash Collateral Account, which as of
21 June 30, 2010 are estimated to be \$93,936.73.

22 4.4.2 **Banks' Remaining Claims.** To the extent permitted by law and in accordance
23 with terms of the Prepetition Loan Documents, the Banks may assert the Banks' Remaining Claims,
24 and, except as provided in Article 4.4.16, all rights of the Debtor or the Liquidating Debtor to object
25 to such claims for legal fees and expenses shall be preserved hereunder.

26 4.4.3 **Security for Banks' Remaining Claims.** On the Effective Date, the Liquidating
27 Debtor shall be deemed to have granted to the Banks pursuant to this Plan a security interest in any
28

1 and all monies that become property of the Liquidating Debtor following the Effective Date other
2 than the Reserved Claims.

3 **4.4.4 Liquidation Cash Collateral Account.** After the Liquidating Debtor has paid,
4 or reserved amounts to pay, the Reserved Claims, in furtherance of the security interest to secure the
5 Banks' Remaining Claims, the Liquidating Debtor will deposit the next \$4 million acquired by the
6 Liquidating Debtor into the Liquidation Cash Collateral Account. Furthermore, immediately prior to
7 any distribution to holders of Claims in Class 7, Class 8 or Class 9, the Liquidating Debtor will
8 deposit into the Liquidation Cash Collateral Account an amount equal to ten percent (10%) of the
9 aggregate amount to be distributed to holders of such Class 7, Class 8 or Class 9 Claims. The
10 Liquidation Cash Collateral Account shall not be security for any obligations that might be owing to
11 the Banks by the Heller Ehrman PCs.

12 **4.4.5 Restrictions on Distributions to Other Creditors.** Notwithstanding any other
13 provision of the Plan, the Liquidating Debtor will not make any distribution under this Plan to
14 holders of Claims in Class 7, Class 8 or Class 9 unless all of the deposits to the Liquidation Cash
15 Collateral Account required under Article 4.4.4 have been made.

16 **4.4.6 Withdrawals from Liquidation Cash Collateral Account.** No withdrawal
17 shall be made from the Liquidation Cash Collateral Account by any entity except pursuant to (a) a
18 written agreement executed by the Liquidating Debtor and the Banks or (b) an order entered by a
19 court of competent jurisdiction, including an order entered in accordance with Article 4.4.10 below.

20 **4.4.7 Use of Non-Segregated Funds.** If the Liquidating Debtor has made all deposits
21 into the Liquidation Cash Collateral Account required by Article 4.4.4, except as prohibited by
22 Articles 4.4.5 and 4.4.6, the Liquidating Debtor may use any monies of the Liquidating Debtor that
23 are not in the Liquidation Cash Collateral Account or in the Exit Financing Account notwithstanding
24 the grant of the security interest described in Article 4.4.3. (Withdrawal of funds from the Exit
25 Financing Account is governed by Article 4.4.9 below).

26 **4.4.8 Exit Financing Account.** Debtor will cause all proceeds of the Exit Financing to
27 be deposited into the Exit Financing Account, which shall be established as a condition to borrowing
28 funds under the Exit Financing. To the extent that any Exit Financing proceeds are advanced after

1 the Effective Date, the Liquidating Debtor shall cause such proceeds to be deposited into the Exit
2 Financing Account. Subject to the terms of any other agreements with Bank of America governing
3 the Exit Financing Account, some or all of the funds from time to time in the Exit Financing
4 Account may, at Debtor's option, be invested in Time Deposits. Interest earned on the Exit
5 Financing Account and on Time Deposits, and the principal of the Time Deposits at maturity which
6 is not invested in new Time Deposits, shall be deposited in the Exit Financing Account.

7 **4.4.9 Withdrawals from Exit Financing Account.** Debtor (and after the Effective
8 Date, the Liquidating Debtor) may only withdraw any balance in the Exit Financing Account and
9 shall be only entitled to the return, at Debtor's or Liquidating Debtor's written request, of any Time
10 Deposits: (a) prior to a Preference Action Resolution and (b) on and after a Preference Action
11 Resolution, so long as all of the PC Obligations have been indefeasibly satisfied in full. If there has
12 been a Preference Action Resolution and the PC Obligations have not been indefeasibly satisfied in
13 full, neither the Debtor nor the Liquidating Debtor shall have any right to withdraw any sums in the
14 Exit Financing Account or any Time Deposits or any proceeds of any thereof, nor any right to ask
15 Bank of America to part with physical possession of any instruments or agreements evidencing Time
16 deposits.

17 **4.4.10 Preference Action Resolution Defined.** The term "Preference Action
18 Resolution" is defined in Article I of this Plan.

19 **4.4.11 PC Obligations Defined.** The term "PC Obligations" is defined in Article I of
20 this Plan.

21 **4.4.12 Security Interest in Exit Financing Account.** To secure the prompt payment
22 and performance of the PC Obligations, Debtor hereby grants to the Banks a continuing security
23 interest in and lien upon the Exit Financing Account, all sums from time to time in the Exit
24 Financing Account, all Time Deposits, and all proceeds of the foregoing, whether now or hereafter
25 existing or arising. If there has been a Post-Forbearance Event of Default, Bank of America shall
26 have all rights and remedies by law, at equity or otherwise, including the rights and remedies of a
27 secured party under the Uniform Commercial Code to enforce its rights with respect to the security
28 interest granted hereby. Without limitation of the foregoing, Debtor agrees that during the existence

1 of a Post-Forbearance Event of Default, Bank of America shall be entitled to debit the Exit
2 Financing Account and to collect or redeem any Time Deposits. Any withdrawal penalties shall
3 constitute collection expenses and shall be part of the collateral security for the PC Obligations
4 secured hereby. In addition, nothing contained in this Article 4.4.12 is intended to limit any right or
5 remedy of the Banks as a secured creditor by law, at equity, or under the any of the Prepetition Loan
6 Documents to enforce its rights (x) against the Debtor or Liquidating Debtor, in the event that the
7 Banks prevail in the Bank of America Preference Action or (y) against the guarantors with respect to
8 the Guaranty. Bank of America is authorized to file one or more financing statements showing the
9 Debtor or Liquidating Debtor as the debtor and indicating the collateral as the Exit Financing
10 Account, all sums from time to time in the Exit Financing Account, all Time Deposits, and all
11 proceeds of the foregoing, whether now or hereafter existing or arising. Bank of America may
12 indicate some or all of the collateral on the financing statement, whether generally or specifically. If
13 requested by Bank of America, each of Debtor or Liquidating Debtor shall enter into a separate
14 agreement with Bank of America with respect to the matters set forth in Articles 4.4.8 through 4.4.12
15 (inclusive), in substantially the form set forth in Exhibit M.

16 **4.4.13 Termination of Prepetition Security Interest.** After the Effective Date, the
17 Liquidating Debtor, Bank of America and Citibank shall make such customary arrangements and
18 execute such customary documents, as mutually agreed upon, to effectuate a release of Bank of
19 America and Citibank's security interests or liens granted by Heller Ehrman pursuant to the
20 Prepetition Loan Documents; provided, however, that such termination of the Banks' security
21 interests or liens shall not affect any defense or claims the Banks or the Liquidating Debtor may
22 assert, or position the Banks or Liquidating Debtor may take, in the Bank of America Preference
23 Action, including, without limitation, the assertion that the Banks had a perfected security interest in
24 the property of Heller Ehrman or property of the Estate by reason of the security interests granted to
25 the Banks by the Heller Ehrman PCs; and provided further, that such termination of the Banks'
26 security interests or liens shall not extend to the security interest and liens granted by the Heller
27 Ehrman PCs and the other grantors (other than Debtor) under the Prepetition Loan Documents.
28

1 4.4.14 **Termination of Post-Confirmation Security Interest.** The security interests
2 granted pursuant to Articles 4.4.3 and 4.4.4 shall continue in full force and effect unless and until a
3 court of competent jurisdiction enters a final judgment determining that the Liquidating Debtor is not
4 required to pay the Banks' Remaining Claims as part of an allowed secured claim; provided,
5 however, that such security interests shall continue in full force and effect after entry of such final
6 judgment if the Banks post, and for so long as the Banks maintain, a bond for the benefit of the
7 Liquidating Debtor (in a form acceptable to the Liquidating Debtor in its reasonable discretion or
8 approved as adequate by a court of competent jurisdiction) in an amount equal to the amount then on
9 deposit in the Liquidation Cash Collateral Account. Such bond shall be in addition to any other bond
10 or security Bank of America and/or Citibank may be required to post under applicable law, including
11 but not limited to any bond required as a condition to the appeal of a final judgment entered in the
12 Bank of America Preference Action. In the event that the security interests granted pursuant to
13 Articles 4.4.3 and 4.4.4 have terminated pursuant to the foregoing provisions of this Article 4.4.14,
14 at the request of the Liquidating Debtor, the Banks shall make such customary arrangements and
15 execute such customary documents, as mutually agreed upon, to effectuate a release of those security
16 interests. The provisions of this Article 4.4.14 shall not apply to the security interest granted
17 pursuant to Article 4.4.12.

18 4.4.15 **Retained Bankruptcy Court Jurisdiction.** In the event Bank of America and
19 Citibank prevail in the Bank of America Preference Action and no stay of a judgment in favor of the
20 Banks is in effect, Bank of America and Citibank shall be entitled to file a motion with the
21 Bankruptcy Court seeking payment by the Liquidating Debtor of the Banks' Remaining Claims.
22 The Bankruptcy Court shall retain jurisdiction to resolve any disputes which may arise in connection
23 with the foregoing matters, including but not limited to (a) any claims by the Banks to attorneys fees
24 under Article 4.4.2, (b) any right of the Debtor or the Liquidating Debtor to object to such a claim
25 expressly preserved under Article 4.4.2, and (c) any claims by the Liquidating Debtor for attorneys
26 fees against the Banks should the Liquidating Debtor prevail in the Bank of America Preference
27 Action.
28

1 4.4.16 **Release.** Each of Debtor and the Committee fully, finally, and forever, releases
2 and discharges the Banks, and each of their respective past, present and future officers, directors,
3 servants, advisors, agents, attorneys, consultants, employees, beneficiaries, predecessors, successors,
4 assigns, direct and indirect parents, direct and indirect subsidiaries, affiliates and any Entity acting
5 for or on behalf of them, from any and all Heller Released Claims.

6 4.4.17 **Heller Released Claim Defined.** The term “Heller Released Claims” is defined
7 in Article I of the Plan.

8 4.4.18 **1542 Waiver.** In connection with the release provided in Article 4.4.16, each of
9 Debtor and the Committee expressly waives and relinquishes any and all rights and protections
10 provided under section 1542 of the California Civil Code and any and all similar rights, rules,
11 regulations, and provisions of the laws of other state and federal jurisdictions. Each of Debtor and
12 the Committee acknowledge that section 1542 of the California Civil Code provides, and other states
13 may similarly provide, that “A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH
14 THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT
15 THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST
16 HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR.” Each
17 of Debtor and the Committee are aware that they hereafter may discover claims presently unknown
18 or undisclosed to them, facts in addition to or different from those which they now know or believe
19 to be true, and/or claims in their favor of which they currently are unaware. Nevertheless, by the
20 release provided in Article 4.4.16, each of Debtor and the Committee expressly intend for all of the
21 Released Heller Claims to be covered by such release, which shall constitute a full, complete,
22 absolute, and general release of all such claims. Notwithstanding the foregoing, nothing in the Plan
23 shall affect or diminish the Bank Preference Claims or claims for relief, causes of action, defenses or
24 counterclaims determined by the Bankruptcy Court to be Permissible New Claims.

25 4.4.19 **No Transfers.** Debtor and the Committee each represent, warrant and covenant
26 in favor of the Banks that it has not made and will not make any assignment or other transfer of any
27 of the Released Heller Claims to any other Entity.
28

1 4.4.20 **Bank Preference Claims Defined.** The term “Bank Preference Claims” is
2 defined in Article I of the Plan. For purposes hereof, if the plaintiff in the Bank of America
3 Preference Action obtains judgment in its favor on the claims for relief described in clause (a) of the
4 definition of Bank Preference Claims in Article I, then, for purposes of any claim described in clause
5 (b) of the definition of Bank Preference Claims in Article I, no transfer made to the Banks
6 postpetition shall be deemed authorized under the Bankruptcy Code or by the Bankruptcy Court,
7 notwithstanding any provision of the “Order Authorizing Debtor to Use Cash Collateral,” entered
8 on December 30, 2008, or of the “Final Order Authorizing Debtor to Use Cash Collateral,” entered
9 February 18, 2009, or of any other order entered in the Bankruptcy Case. Nothing in this Article
10 4.4.20 shall affect the security interest provided to the Banks in Articles 4.4.3, 4.4.4, or 4.4.12.

11 4.4.21 **Permissible New Claim Defined.** The term “Permissible New Claim” is defined
12 in Article I of the Plan.

13 4.4.22 **Credits against Judgment.** If the Banks do not prevail in the Bank of America
14 Preference Action, the amount of any judgment to be enforced against the Banks in connection with
15 the Bank of America Preference Action shall be reduced by (or the Banks shall be entitled to a credit
16 against the amount due under such judgment in an amount equal to) the excess of: (a) the sum of (i)
17 all amounts previously advanced to Debtor or the Liquidating Debtor in connection with the Exit
18 Financing together with interest thereon at the rate accrued under the Exit Financing, *plus* (y) any
19 Excess PC Funds actually expended (other than for the Exit Financing), *over* (b) funds then on
20 deposit in the Exit Financing Account.

21 4.4.23 **Excess PC Funds Defined.** The term “Excess PC Funds” is defined in Article I
22 of the Plan.

23 4.4.24 **Secured Claim Disputed.** Because the Secured Claim of the Banks is the
24 subject of a pending dispute, Class 4 is not entitled to vote on the Plan.

25 4.5 **Class 5 Claims (Secured Claim of MPC).** Class 5 shall consist of the secured claim
26 of MPC. MPC filed proof of claim number 604 in the amount of \$57,881.94 plus contingent
27 amounts. The Class 5 claim is an Allowed Secured Claim and is not impaired. Therefore, MPC is
28 not entitled to vote. MPC's relationship with the Debtor and Liquidating Debtor shall be further

1 defined by the Agreement to Settle Controversy executed by MPC and the Proponents upon the
2 Court's approval of Debtor's *Motion Pursuant to Bankruptcy Rule 9019(a) for Approval of*
3 *Settlement and Compromise with MPC Insurance, Ltd.* (Docket No. 1307).

4 4.6 **Class 6 Claims (Insured Malpractice Claims).** Class 6 shall consist of Insured
5 Malpractice Claims. Such claims are impaired and shall be paid solely from the available insurance
6 proceeds of any applicable Malpractice Policy. No holder of an Allowed Class 6 Claim shall receive
7 any distribution from Available Cash on account of such Class 6 Claim. If any portion of the
8 Allowed amount of a Malpractice Claim is greater than the SIR, the Claim will be bifurcated and
9 treated in two different classes as follows: (a) the amount of the Allowed Claim that is greater than
10 the SIR will be a Class 6 Insured Malpractice Claim; and (b) the amount of the Allowed Claim that
11 is less than or equal to the SIR Amount will be a Class 7 General Unsecured Claim. For example,
12 assume the SIR equals \$2,000,000.00 and there are \$500,000.00 of Malpractice Claim Expenses
13 related to a Malpractice Claim that is ultimately allowed in the amount of \$6,000,000.00. The SIR
14 Amount is \$1,500,000.00 (i.e., the SIR - the Malpractice Claim Expenses). The Allowed amount of
15 the Claim that is greater than the SIR (i.e., \$6,000,000.00-\$ 2,000,000.00 =\$4, 000,000.00) is a Class
16 6 Insured Malpractice Claim. The amount of the claim that is equal to or less than the SIR Amount
17 (i.e., \$1,500,000.00) will be a Class 7 General Unsecured Claim. Any Malpractice Claim that is
18 Allowed in an amount that is less than the SIR shall not fall within Class 6, but shall be instead a
19 Class 7 General Unsecured Claim. For example assume the SIR equals \$2,000,000.00 and there are
20 \$500,000.00 of Malpractice Claim Expenses related to a Malpractice Claim that is ultimately
21 allowed in the amount of \$1,400,000.00. In this instance the SIR Amount is \$1,500,000.00 Since the
22 Allowed amount of the Claim is less than the SIR, the Claimant will have a Class 7 General
23 Unsecured claim for \$1,400,000.00. In no event shall a Malpractice Claim treated as a Class 7
24 General Unsecured claim be allowed in an amount in excess of the SIR. Any Malpractice Claim that
25 is Allowed in an amount that is less than the SIR shall not fall within Class 6, but shall be instead a
26 Class 7 General Unsecured Claim. (See Article 4.7).

27 4.7 **Class 7 (General Unsecured Claims).** Class 7 shall consist of Unsecured Claims,
28 including but not limited to Biggers Unsecured Claims and Uninsured Malpractice Claims. Class 7

1 does not include Biggers Subordinated Unsecured Claims (Class 8) or the Subordinated Former
2 Shareholder Claims (Class 9). Class 7 Claims are impaired. Any Malpractice Claim that is Allowed
3 in an amount that is less than the SIR shall not fall within Class 6, but shall be instead a Class 7
4 General Unsecured Claim. For example assume the SIR equals \$2,000,000.00 and there are
5 \$500,000.00 of Malpractice Claim Expenses related to a Malpractice Claim that is ultimately
6 allowed in the amount of \$1,400,000.00. In this instance the SIR Amount is \$1,500,000.00 Since the
7 Allowed amount of the Claim is less than the SIR, the Claimant will have a Class 7 General
8 Unsecured claim for \$1,400,000.00. In no event shall a Malpractice Claim treated as a Class 7
9 General Unsecured claim be allowed in an amount in excess of the SIR.

10 Each holder of an Allowed Class 7 Claim shall receive, a Pro Rata Share of Net Available
11 Cash after deductions for the payment (or appropriate reserve for) the Allowed Claims of senior
12 classes of Claims and reserves for Disputed Claims, Professional Fees and/or Plan Expenses.
13 Notwithstanding the preceding sentence, in the event Bank of America and Citibank become holders
14 of Allowed Unsecured Claims by virtue of Bankruptcy Code section 502(h), the Liquidating Debtor
15 shall not make any further disbursements to any other holder of an Allowed Unsecured Claim until
16 Bank of America and Citibank receive the Cash they would have received in the Chapter 11 Case
17 had they held Allowed Unsecured Claims on the Effective Date. For example, if Class 7 creditors
18 have received distributions totaling 20% of their Allowed Claims at the time that the Banks'
19 Allowed Unsecured Claim arises, the Banks will be paid 20% of their Allowed Unsecured Claims
20 before any further distributions to the other members of Class 7. To the extent that all Allowed
21 Class 7 Claims have been paid in full, including post-petition interest at the annual rate of five per
22 cent (5%) simple interest per annum, any remaining funds in the Claims Reserve Account shall be
23 used by the Liquidating Debtor to fund the expense of claims in Class 8, as described below.
24 Holders of Class 7 Claims who are also members of the Biggers Class shall receive their distribution
25 hereunder for the portion of such Claim that is not a Biggers Unsecured Claim even if they Opt-Out
26 of the Biggers Settlement.

27 4.8 **Class 8 (Biggers Subordinated Unsecured Claims).** Class 8 shall consist of all
28 Biggers Subordinated Unsecured Claims. Class 8 Claims are impaired. Once Allowed Class 7

1 Claims are satisfied in full with interest as described above, each holder of an Allowed Class 8
2 Claim shall receive a Pro Rata Share of Net Available Cash after deductions for the payment (or
3 appropriate reserve for) the Allowed Claims of senior classes and reserves for Disputed Claims,
4 Professional Fees and/or Plan Expenses. To the extent that all Allowed Class 8 Biggers Subordinated
5 Unsecured Claims have been paid in full, including post-petition interest at the annual rate of five
6 per cent (5%) simple interest per annum, and funds remain in the Claims Reserve Account, such
7 funds shall be used by the Liquidating Debtor to fund the expense of claims in Class 9, as described
8 below.

9 4.9 **Class 9 (Subordinated Former Shareholder Claims).** Class 9 shall consist of all
10 Subordinated Former Shareholder Claims. Class 9 Claims are impaired. The Claims in this Class
11 are subordinated pursuant to the express subordination provision contained in the Subordinated
12 Former Shareholders Notes, which provides, “Payment of principal of and interest on this note is
13 subordinate to the prior payment of indebtedness of the [Debtor] for borrowed money; provided
14 however that the payments hereunder shall be payable when due if at such time the [Debtor] is not in
15 default with respect to any such indebtedness.” The Claims in this Class are also subordinated
16 pursuant to the express subordination provision in the Debtor’s Plan of Dissolution, which provides,
17 “There will be no return of capital to any Shareholder, recently departed Shareholder, or former or
18 retired Shareholder and no payment of any kind made to former and/or retired Shareholders until
19 such time as all of the legal obligations of the [Debtor] to third party creditors have been satisfied,
20 except if permitted by the [Debtor’s] senior secured lenders, Shareholders may pursue claims for
21 compensation for services rendered prior to their departure or other expenses of contractual rights
22 arising from or related to their employment.” Plan of Dissolution at XI(E). Claims of Former
23 Shareholders that are the subject of an agreement with the Debtor and/or the Committee to allow
24 such Claims are not in this Class, nor are Claims for compensation held by members of the
25 Dissolution Committee.

26 Once Allowed Class 7 and 8 Claims are satisfied in full with interest, as described above,
27 each holder of an Allowed Subordinated Former Shareholder Claim shall receive a Pro Rata Share of
28 Net Available Cash after deductions for the payment (or appropriate reserve for) the Allowed Claims

1 of senior classes and reserves for Disputed Claims, Professional Fees and/or Plan Expenses. To the
2 extent that all Allowed Class 9 Subordinated Shareholder Claims have been paid in full, including
3 post-petition interest at the annual rate of five per cent (5%) simple interest per annum, and funds
4 remain in the Claims Reserve Account, such funds shall be distributed to the Holders of Class 10
5 Interests, as described below.

6 **4.10 Class 10 (Interests).** Class 10 consists of the Interests held by the Interest Holders.
7 On the Effective Date, the Interest Holders shall have no ability to direct or control the affairs of the
8 Liquidating Debtor, but shall retain their status as partners of the Liquidating Debtor. Interest
9 Holders shall receive nothing under the Plan until the Allowed Claims of Classes 1 through 9 are
10 paid in full, with interest at the rate of five per cent (5%) simple interest per annum, at which point
11 all Net Available Cash, net of amounts reserved for Disputed Claims, Professional Fees and/or Plan
12 Expenses, shall be paid to the Interests Holders consistent with the extent of their Interests.

13 **4.11 Nonconsensual Confirmation.**

14 **4.11.1 Classes 1 through 9 Cramdown.** The Proponents hereby request confirmation
15 of the Plan pursuant to section 1129(b) of the Bankruptcy Code on the basis that the Plan is fair and
16 equitable and does not discriminate unfairly as to the holders of Class 1 through 9 Claims.

17 **4.11.2 Class 10 Cramdown.** The Proponents hereby request confirmation of the Plan
18 pursuant to section 1129(b) of the Bankruptcy Code on the basis that the Plan is fair and equitable
19 and does not discriminate unfairly as to the holders of Class 10 Interests.

20 **ARTICLE V**

21 **MEANS FOR IMPLEMENTATION OF THE PLAN**

22 The Plan shall be implemented on the Effective Date. In addition to the provisions set forth
23 elsewhere in this Plan regarding means of execution, the following shall constitute the principal
24 means for implementation of the Plan.

25 **5.1 Effective Date Transactions.** Without limiting the generality of the foregoing, and
26 without altering or amending the terms of the Plan in any manner, on (or, where appropriate, after)
27 the Effective Date, the following actions shall occur:

- 28 (i) The transactions contemplated under the Plan shall be consummated;

1 (ii) The Liquidating Debtor shall be capitalized with the Former Shareholder
2 Settlement Payments and the proceeds of the Exit Financing, subject to the terms of the Former
3 Shareholder Settlement Mechanism;

4 (iii) The Liquidating Debtor shall fund the Reserved Claims Pool Account with the
5 funds necessary to establish the Reserved Claims Pool;

6 (iv) The Liquidating Debtor shall reserve such funds as are necessary to fund all
7 anticipated Plan Expenses, including without limitation any anticipated litigation costs, prior to
8 making any distributions pursuant to this Plan;

9 (v) The Liquidating Debtor shall assume the Assumed Contracts and, when
10 required under the terms of this Plan, satisfy any Cure Obligations, subject to any contract, legal and
11 other rights and defenses;

12 (vi) To the extent that Cash is available, the Liquidating Debtor will make the
13 Substantial Contribution Payment, to the extent the same has previously been authorized by the
14 Bankruptcy Court; and

15 (vii) Upon Confirmation, the Debtor shall execute the New Plan Documents, and
16 the Plan Administrator shall assume his responsibilities under the Plan.

17 5.2 **Revesting of Estate Assets.** Upon the Effective Date, the Liquidating Debtor shall
18 be vested with all right, title and interest in the Estate Assets free and clear of all Claims and Liens,
19 other than any obligations under this Plan.

20 5.3 **Replacement of Dissolution Committee/Continued Existence.** Upon the Effective
21 Date, the Plan of Dissolution shall be deemed amended to replace the Dissolution Committee with
22 the Plan Administrator, and the Dissolution Committee shall be relieved of its responsibilities for the
23 Debtor. Nothing contained herein shall affect the Dissolution Committee's responsibility to
24 administer the affairs of the Heller Ehrman PCs or their successors and assigns, which shall maintain
25 their separate existence for all purposes under this Plan. The Liquidating Debtor, as represented by
26 the Plan Administrator, shall be authorized to execute such other documents as are necessary and
27 appropriate to carry out the provisions of this Plan, without the necessity of filing such documents
28 with the Bankruptcy Court. In the event the Liquidating Debtor seeks and obtains the assistance of

1 any member of the Dissolution Committee or the Debtor's Professionals after Confirmation,
2 regarding, *inter alia*, the Debtor's dissolution or the Bankruptcy Case, the Liquidating Debtor shall
3 pay for such assistance at the regular hourly rates of the member of the Dissolution Committee or the
4 Debtor's Professionals.

5 **5.4 Management of Liquidating Debtor by Plan Administrator.** Subject to the
6 oversight and consent of the Committee which is required for certain Plan Administrator actions or
7 decisions that are set forth in Article 5.14, on and after the Effective Date, the Plan Administrator
8 shall be responsible for the implementation of the Plan, including with respect to the management,
9 control and operation of the Liquidating Debtor. The Liquidating Debtor and its counsel will
10 succeed to the Debtor's attorney-client privilege with the Debtor's former clients. The Plan
11 Administrator shall post a bond in favor of the Liquidating Debtor in an amount equal to not less
12 than 125% of the amount of Estate Assets which are held in Cash at any time, and the bond may be
13 proportionately reduced or increased from time to time, as required by the circumstances. The cost
14 of such bond shall be paid from Estate Assets. The Plan Administrator shall be compensated on an
15 interim basis at the rate of \$250 per hour, plus reasonable out of pocket expenses, including
16 reimbursement of the premium for a professional E&O policy, paid monthly from Estate Assets
17 without further order of the Bankruptcy Court. For time incurred prior to Confirmation in
18 preparation for a transfer of control, the Plan Administrator may be compensated Post-Confirmation
19 up to forty (40) hours of time. The Plan Administrator may petition the Court to modify the hourly
20 rate two years after the Effective Date. Upon completion of all duties and concurrent with a Post
21 Confirmation Motion and Opportunity for Hearing seeking closure of the Chapter 11 Case, the Plan
22 Administrator shall file a Post Confirmation Motion and Opportunity for Hearing seeking approval
23 of all fees and expenses previously paid as compensation by the Liquidating Debtor after the
24 Effective Date.

25 **5.5 Continued Business of Liquidating Debtor.** On and after the Effective Date, the
26 Liquidating Debtor shall continue to engage in its wind-down operations and may use, acquire,
27 dispose of and/or abandon Estate Assets without supervision by the Bankruptcy Court and free of
28 any restrictions under the Bankruptcy Code or the Bankruptcy Rules, except as set forth in this Plan.

1 The Liquidating Debtor will not continue or engage in the conduct of any trade or business, except to
2 the limited extent necessary to accomplish the liquidation and distribution of the Estate Assets. With
3 regard to the Debtor's client files, the Liquidating Debtor shall not abandon them and shall take all
4 measures necessary (and expend as Plan Expenses the amounts necessary) to abide by the Debtor's
5 obligations under all applicable ethical rules to preserve the confidentiality of client-related materials
6 as and until such files are destroyed, so long as the Debtor's cost to destroy the client files does not
7 exceed 150% of the budgeted amounts for file destruction.

8 **5.6 Continued Administrative Support for the Heller Ehrman PCs.** On and after the
9 Effective Date, the Liquidating Debtor shall continue to provide administrative services to the Heller
10 Ehrman PCs similar in kind and to the same extent as those provided prior to the Effective Date at
11 no cost to the Heller Ehrman PCs.

12 **5.7 Retained Claims and Defenses.** Except as otherwise limited by Article 5.14, on and
13 after the Effective Date, pursuant to section 1123(b)(3) of the Bankruptcy Code, the Liquidating
14 Debtor, acting through the Plan Administrator, shall retain and may enforce the Retained Claims and
15 Defenses with all powers and authority of a debtor in possession or trustee under the Bankruptcy
16 Code.

17 **5.7.1 Small Claims and Defenses.** With respect to any of the following having a net
18 value equal to or less than \$100,000.00: (a) Retained Claims and Defenses, (b) any accounts
19 receivable (whether or not contingent), or (c) any claims objections, the Plan Administrator may
20 investigate such claims, objections or defenses and may assert, settle or enforce any such claims,
21 objections or defenses without supervision by the Bankruptcy Court and free of any restrictions
22 under the Bankruptcy Code or the Bankruptcy Rules.

23 **5.7.2 Large Claims and Defenses.** With respect to any of the following having a net
24 value over \$100,000.00: (a) Retained Claims and Defenses, (b) any accounts receivable (whether or
25 not contingent), or (c) any claims objections, the Plan Administrator shall file and serve a Post
26 Confirmation Motion and Opportunity for seeking Court approval to settle or abandon any such
27 claims or defenses, as a condition to taking such action.
28

1 5.7.3 **Bankruptcy Rule 2004.** In the course of any ongoing investigations, the Plan
2 Administrator shall have the right post-confirmation to utilize Bankruptcy Rule 2004 examinations,
3 to be enforced pursuant to Bankruptcy Rule 2005.

4 5.7.4 **Standing.** To the extent any Retained Claims and Defenses are already pending
5 on the Effective Date, the Plan Administrator as successor to the Debtor may continue the
6 prosecution of such Retained Claims and Defenses. Without limiting the foregoing, the Plan
7 Administrator, acting on behalf of the Liquidating Debtor, shall accede to and become the holder of
8 all rights in and to any confidentiality agreements, joint defense agreements, and privilege
9 agreements, as well as rights pursuant to attorney-client privilege, attorney work product and any
10 other or similar doctrine, of the Debtor and the Committee. Any proceeds received from or on
11 account of the Retained Claims and Defenses shall constitute Estate Assets and shall vest entirely in
12 the Liquidating Debtor.

13 5.8 **Avoidance Actions.** On and after the Effective Date, the Liquidating Debtor, acting
14 through the Plan Administrator, shall retain and may enforce the Avoidance Actions with all powers
15 and authority of a debtor in possession or trustee under the Bankruptcy Code. The Plan
16 Administrator may investigate Avoidance Actions and may assert, settle or enforce any such claims
17 or defenses. To the extent any Avoidance Actions (including the Bank of America Preference
18 Action) are already pending on the Effective Date, the Plan Administrator as successor to both the
19 Debtor and the Committee, may continue the prosecution of such Avoidance Actions. Any
20 proceeds received from or on account of the Avoidance Actions shall constitute Estate Assets and
21 shall vest entirely in the Liquidating Debtor.

22 5.9 **Claims Reserve Account.** On or as soon as practical following the Effective Date,
23 the Claims Reserve Account shall be opened by the Plan Administrator and held by the Liquidating
24 Debtor and funded by all Cash not deposited in the Reserved Claims Pool Account, which funds
25 (minus Plan Expenses) shall be held for the benefit of holders of Claims in Classes 2, 7, 8 and 9.
26 Unless otherwise provided in the Confirmation Order, the Claims Reserve Account shall be invested
27 by the Plan Administrator in a manner consistent with the objectives of section 345(a) of the
28 Bankruptcy Code. All duties and obligations associated with the maintenance of the Claims Reserve

1 Account, including but not limited to, any fees, taxes, tax reporting or filings with any governmental
2 authority, shall be the sole responsibility of the Plan Administrator.

3 **5.10 Liquidating Debtor Litigation.** Upon the Effective Date, the Plan Administrator
4 shall fund the amounts required by counsel under the Main Special Counsel Agreement for Legal
5 Services. Confirmation of the Plan shall constitute Bankruptcy Court approval of the Main Special
6 Counsel Agreement for Legal Services. The Plan Administrator may or may not reserve additional
7 funds after Confirmation, in his discretion, as contemplated by the Main Special Counsel Agreement
8 for Legal Services.

9 **5.11 Liquidating Debtor Liquidation Budget.** Upon the Effective Date, the Plan
10 Administrator shall exercise his business judgment and reserve the estimated amount of two years'
11 U.S. Trustee fees and may reserve additional funds post confirmation based on information available
12 at the time in the exercise of his or her business judgment.

13 **5.12 Former Shareholder Settlement Mechanism.**The Committee (and not the Debtor)
14 has adopted the following two prong procedure for the resolution of certain claims against Former
15 Shareholders assigned to the Committee during the Chapter 11 case:

16 (a) As and when the Proponents solicit votes on the Plan, and excepting the Top
17 Thirty Former Shareholders, those Former Shareholders who have not previously agreed to
18 terms with the Committee may receive, at the Committee's discretion, a Former Shareholder
19 Settlement Letter outlining the terms (including the amount that must be paid to the Estate as
20 a Former Shareholder Settlement Payment) under which the Committee is prepared to settle
21 all of the estate's known and unknown claims against such Former Shareholder (except Jewel
22 Claims, for which the Settling Former Shareholder shall receive a conditional covenant not to
23 sue and excepting other specifically non-released claims). In order to participate in the
24 settlement process under section 5.12(a), a Settling Former Shareholder must: (i) Execute the
25 Model Former Shareholder Settlement Agreement (forms of which are attached to the Plan as
26 **Exhibits L-1 and L-2**), and (ii) Pay the Estate the Former Shareholder Settlement Payment -
27 - such payment to be received by the Estate on or before ten business days prior to the date
28 first set for a Plan Confirmation Hearing.

1 (b) The Top Thirty Former Shareholders shall receive a grouped settlement offer nine
2 business days prior to the date that the Plan is first set for a Confirmation Hearing, and this
3 offer shall be subject to an overall participation requirement of 90% in dollar amount of all
4 other Former Shareholders who received offers pursuant to section 5.12(a) above before any
5 Top Thirty Former Shareholder settlement will be deemed accepted and approved under the
6 Plan. Notwithstanding the foregoing, the Committee shall maintain the right to waive such
7 participation requirement on a blanket basis and/or negotiate individual settlements with
8 specific Former Shareholders in the Top Thirty. This participation requirement will not
9 affect those Former Shareholders who are not Top Thirty Former Shareholders.

10 **5.13 Limitation of Liability of Plan Administrator and the Committee.** The Plan
11 Administrator, the Committee (including its members individually) and their attorneys, accountants,
12 consultants, employees, agents and assignees, heirs, successors, and assigns, shall have no liability
13 for any error of judgment made in good faith other than as a result of gross negligence or willful
14 misconduct. The Plan Administrator and the Committee (including its members individually) shall
15 not be liable for any action taken or omitted in good faith and believed by them to be authorized
16 within the discretion or rights or powers conferred upon them by this Plan or the New Plan
17 Documents. In performing his duties hereunder, the Plan Administrator may consult with counsel
18 selected by him, at the expense of the Liquidating Debtor. No provisions of this Plan shall require
19 any employee, officer or director of the Plan Administrator or the Committee (including its members
20 individually) to expend or risk their own funds or otherwise incur personal financial liability in the
21 performance of any of duties under this Plan or in the exercise of any of the Plan Administrator's
22 rights and powers. The Liquidating Debtor shall indemnify and hold the Plan Administrator and the
23 Committee (including its members individually) harmless, from and against any damages, costs,
24 claims and other liabilities incurred in connection with their respective duties and responsibilities
25 hereunder, other than those damages, costs, claims and other liabilities that result from such party's
26 gross negligence or willful misconduct. Notwithstanding the above, nothing in this paragraph shall
27 shield a Professional employed by the Plan Administrator and/or the Committee from injuries caused
28 by his negligence in the performance of his or her duties.

1 5.14 **Continuation of and Powers of the Committee.** From and after the Effective Date,
2 the Committee shall remain in existence as currently constituted for as long as the Committee has at
3 least one active member. The Liquidating Debtor shall pay for post-confirmation liability insurance
4 as requested by the Committee. Any member may resign from the Committee by serving written
5 notice to all members of the Committee and to the Plan Administrator. Such written notice may
6 specify the date of resignation. The Plan shall amend the existing Committee bylaws to provide: (a)
7 in the event that there is a tie vote on a motion presented to the Committee, the motion shall be
8 decided based on the aggregate claim amounts of the voting members, and (b) to make the minimum
9 number of Committee members one (1). The Committee may utilize the Professionals of the
10 Liquidating Debtor or retain their own Professionals in the Committee's discretion. The Plan
11 Administrator shall send the Committee members monthly status reports regarding the status of the
12 Retained Claims and Defenses and quarterly reports on the status of the Liquidating Debtor's budget
13 to actual performance regarding the Post-Confirmation Budget. The Plan Administrator shall work
14 with the Chair of the Committee to schedule Committee meetings as needed.

15 As long as the Committee has one or more members remaining, the Plan Administrator may
16 not take the following actions without the written approval of the Committee:

17 (a) Settle asserted claims against third parties and/or Claims against the estate, where the
18 claim asserted exceeds \$250,000.00. For example, if Creditor A asserts a claim for \$100,000.00 in
19 the Chapter 11 Case, the Plan Administrator may settle the amount of Creditor's A's claim against
20 the estate without Committee approval. If the Estate asserts a claim against Defendant X for
21 \$260,000.00 and wishes to settle for a cash payment of \$200,000, Committee approval is required.

22 (b) Fund the second payment of \$3,000,000.00 pursuant to the Main Special Litigation
23 Counsel Agreement for Legal Services to McGrane Greenfield LLP;

24 (c) Expend funds in excess of 10% of the budgeted line items on the Post-Confirmation
25 Budget; or

26 (d) Hold Net Available Cash in excess of reasonably projected Plan Expenses that would
27 otherwise be available for distribution to Class 7, 8 or 9 Creditors for more than a six (6) month
28 period without distributing such funds pursuant to the provisions of the Plan.

1 The restrictions on the powers of the Plan Administrator set forth above in this Article 5.14
2 shall terminate when the Committee no longer has any members and ceases to exist. The Committee
3 may seek Court approval to remove the Plan Administrator if he or she fails to obtain Committee
4 approval for one or more of the foregoing described actions and/or for cause. The Plan
5 Administrator may only defend such a motion on the ground that (i) he or she did not take any
6 actions that were restricted by Article 5.14(a)-(e) above or (ii) if the motion is made for cause, that
7 no cause exists for removal. If the Plan Administrator is removed by the Bankruptcy Court or is no
8 longer able or willing to complete his or her duties, the Committee shall appoint a successor Plan
9 Administrator.

10 **5.15 Material Default Under the Plan.** Failure to make any payment required to be
11 made under the Plan by the Liquidating Debtor shall be considered a default under the Plan. If any
12 default is not cured within 30 days after service of written notice of such default to the Liquidating
13 Debtor, the U.S. Trustee, any affected Creditor, or any affected party in interest asserting such
14 default may seek to enforce its rights under the Plan.

15 **5.16 Cooperation.** Proponents of the Plan shall cooperate with one another in connection
16 with any matter related to the consummation or implementation of this Plan.

17 **5.17 Payment of Plan Expenses.** All Plan Expenses may be paid by the Liquidating
18 Debtor.

19 **5.18 Biggers Settlement Mechanism.** Pursuant to the Biggers Settlement Agreement,
20 holders of Biggers Priority Claims and Biggers Unsecured Claims who do not Opt Out will have
21 their Claims Allowed once the Biggers Settlement Order becomes a Final Order and a judgment is
22 entered and becomes final. The Proponents expect this will occur some time shortly after the
23 Effective Date.

24 Even if a member of the Biggers Class elects to Opt Out of the Biggers Settlement by the
25 Biggers Opt Out Deadline, such member shall still receive the treatment provided in the Plan for
26 their Class 1 and Class 7 Claims that are not related to the WARN Act or waiting time penalties.
27 Once the Biggers Settlement Order becomes a Final Order, the Substantial Contribution Payment
28 shall become owing, as set forth in the Biggers Settlement Agreement.

1 **5.19 Distribution Procedures.** Distributions to holders of Allowed Claims in Classes 7
2 through 9 shall be made as soon as practicable as determined by the business judgment of the Plan
3 Administrator based upon the amount of funds to be distributed relative to the administrative costs of
4 making a distribution. Because both the timing and the amount of distributions to Unsecured
5 Creditors are dependent on the proceeds from the prosecution of the Retained Claims and Defenses
6 and Avoidance Actions, it would be imprudent to provide an estimate as to when distributions will
7 be made under the Plan. To the extent not accomplished previously, the Plan Administrator shall
8 promptly move to file objections to Claims with the goal being that all objections be filed and served
9 not later than one hundred and eighty (180) days following the Effective Date, provided that such
10 date shall not bar later objections. Notwithstanding the preceding sentence, no distributions shall be
11 made on account of Class 7, 8, 9 or 10 Claims or Interests until all objections to Claims have been
12 filed. No payments or distributions shall be made by the Liquidating Debtor on account of Disputed
13 Claims unless and to the extent such Claims become Allowed Claims. The funds allocated to
14 Disputed Claims will not be distributed, but will be held in the Claims Reserve Account by the
15 Liquidating Debtor in accordance with this Plan pending resolution of such Disputed Claims.
16 Except as otherwise agreed by the holder of a particular Claim, or as provided in this Plan, all
17 amounts to be paid by the Liquidating Debtor under the Plan shall be distributed in such amounts
18 and at such times as is reasonably prudent, in the form of interim and/or final distributions, with
19 sufficient reserves established to satisfy the reserve requirements for Disputed Unsecured Claims,
20 Professional Fees and anticipated Plan Expenses. Unless otherwise provided in this Plan, all
21 distributions to Creditors shall be: (i) in U.S. dollars by check, draft or warrant, drawn on a domestic
22 bank, or by wire transfer from a domestic bank, and (ii) by first-class mail (or by other equivalent or
23 superior means as appropriate).

24 **5.20 Resolution of Disputed Claims** The Plan Administrator shall promptly move to file
25 objections to Claims that have not been previously objected to with the goal being that all objections
26 be filed and served not later than one hundred and eighty (180) days following the Effective Date,
27 provided that such date shall not bar later objections. Except as otherwise provided in the
28 Confirmation Order, the Liquidating Debtor shall be authorized to settle, or withdraw any objections

1 to, any Disputed Claim (including Malpractice Claims) following the Confirmation Date in
2 accordance with Articles 5.7.1 or 5.7.2 of the Plan, as applicable, and the Bankruptcy Court shall
3 retain jurisdiction to hear and adjudicate the allowance or disallowance of Claims, as provided for in
4 Article IX of this Plan. Settled Claims shall be deemed to be Allowed Claims in the amount
5 compromised for purposes of this Plan. Under no circumstances will any distributions be made on
6 account of Disallowed Claims.

7 **5.21 Reserve Provisions for Disputed Claims.** The Liquidating Debtor shall implement
8 the following procedures with respect to the allocation and distribution of Cash held in reserve for
9 the benefit of holders of Disputed Claims that may become Allowed Claims:

10 (i) Cash respecting Disputed Claims shall not be distributed, but shall be
11 withheld by the Liquidating Debtor, in an amount equal to the amount of the distributions that would
12 otherwise be made to the holders of such Claims if such Claims had been Allowed Claims;

13 (ii) All holders of Allowed Claims shall be entitled to receive, if available, interim
14 distributions under the Plan. No distributions may be made to the holders of Allowed Claims unless
15 adequate reserves are established for the payment of Disputed Claims and sufficient funds are also
16 reserved for expected Professional Fees and Plan Expenses;

17 (iii) For the purposes of effectuating the provisions of this Article 5.21, the
18 Bankruptcy Court may estimate the amount of any contingent or unliquidated Claim pursuant to
19 section 502(c) of the Bankruptcy Code, which provides, “There shall be estimated for the purpose of
20 allowance under this section—(1) any contingent or unliquidated claim, the fixing or liquidation of
21 which, as the case may be, would unduly delay the administration of the case; or (2) any right to
22 payment arising from a right to an equitable remedy for breach of performance.” The amounts so
23 fixed or liquidated by the Bankruptcy Court shall be deemed to be Allowed Claims for purposes of
24 distribution under this Plan, or alternatively, until such time as the Claim becomes Allowed, the
25 amount so fixed by the Bankruptcy Court shall serve as the basis to calculate the appropriate
26 Disputed Claim reserve;

27 (iv) When a Disputed Claim becomes an Allowed Claim, there shall be distributed
28 to the holder of such Allowed Claim, in accordance with the provisions of this Plan, Cash equal to

1 the holder's Pro Rata Share of the Distributions that have previously been made on account of the
2 Claims in the same class. In no event shall such holder be paid more than the amount that would
3 otherwise have been paid to such holder if the Disputed Claim (or the Allowed portion of the
4 Disputed Claim) had not been a Disputed Claim;

5 (v) Interim distributions may be made from time to time to the holders of
6 Allowed Claims prior to the resolution by Final Order or otherwise of all Disputed Claims, provided
7 that, such distributions are otherwise consistent with the terms of this Plan and the aggregate amount
8 of Cash to be distributed at such time is practicable in comparison to the anticipated costs of such
9 interim distributions;

10 (vi) No holder of a Disputed Claim shall have any Claim against the Cash reserved
11 with respect to such Claim until such Disputed Claim shall become an Allowed Claim. In no event
12 shall any holder of any Disputed Claim be entitled to receive (under the Plan or otherwise) any
13 payment (x) which is greater than the amount reserved for such Claim pursuant to this Article 5.21
14 (unless the Claim is otherwise allowed in a greater amount by the Bankruptcy Court) or (y) except as
15 otherwise permitted under this Plan, of interest or other compensation for delays in distribution. In
16 no event shall the Plan Administrator have any responsibility or liability for any loss to or of any
17 amount reserved under these provisions of this Plan unless the loss is caused by the Plan
18 Administrator's gross negligence or willful misconduct;

19 (vii) To the extent a Disputed Claim ultimately becomes an Allowed Claim in an
20 amount less than the Disputed Claims Amount reserved for such Disputed Claim, then the resulting
21 surplus of cash shall be made available for redistribution to other holders of Allowed Claims of like
22 class until such time as each holder of an Allowed Claim has been paid the Allowed amount of its
23 Claim.

24 **5.22 Allocation of Distributions.** Distributions to any holder of an Allowed Claim shall
25 be allocated first to the principal amount of any such Allowed Claim, as determined for federal
26 income tax purposes, and then, to the extent the consideration exceeds such amount, to the remainder
27 of such Claim comprising interest, if any (but solely to the extent that interest is an allowable portion
28 of such Allowed Claim).

1 5.23 **Exit Financing and Exit Financing Collateral.** Provided that the Plan is confirmed,
2 Heller Ehrman (California), on its own behalf and as agent on behalf of the other Heller Ehrman
3 PCs, shall lend to the Debtor \$3,500,000.00 as Exit Financing, plus \$500,000.00 in the first quarter
4 of 2011 if an anticipated tax refund is obtained by that time and such additional amounts as the
5 parties and the Banks may thereafter agree. The Exit Financing shall accrue interest at 5% per
6 annum, simple, and will be secured by a first priority security interest in the Debtor's claims against
7 Bank of America and Citibank. Payment of principal and interest shall be deferred for a period of
8 three years, and the entire obligation may be cancelled upon the occurrence of certain conditions.
9 Repayment of the Exit Financing is subordinate to: (a) the pre-existing liens of Bank of America and
10 Citibank; (b) Administrative Claims in the Chapter 11 Case; and (c) the attorneys' fee lien or claims
11 of attorneys retained to pursue the Debtor's claims against Bank of America and Citibank to the
12 extent of attorneys' fees attributable to the recovery on such claims (but not on claims against
13 entities other than Bank of America or Citibank. Notwithstanding any other terms, the Exit
14 Financing shall become due and payable upon the occurrence of any of the following: (a) conversion
15 of the Debtor's Chapter 11 Case to a case under Chapter 7 of the Bankruptcy Code; (b) the
16 appointment of a trustee; (c) dismissal of the Chapter 11 Case; or (d) the filing of a motion or
17 adversary proceeding challenging the validity of the lien granted to the Exit Financing Lender which
18 is not dismissed or withdrawn within 20 days of its filing. Promptly upon execution thereof, Debtor
19 or Liquidating Debtor (to the extent funds are advanced after the Effective Date and additional
20 promissory notes are issued), shall cause the Heller Ehrman PCs to deliver to Bank of America all
21 original promissory notes issued in connection with the Exit Financing. Additional terms are set
22 forth in the term sheet attached to the Plan as **Exhibit H.**¹ The Debtor also agreed to grant releases
23 to certain Former Shareholders who asserted claims against the Heller Ehrman PCs, and in return,
24 the Heller Ehrman PCs will pay the Debtor an agreed sum.

25 Upon the Effective Date, the Exit Financing shall become an obligation of the Liquidating
26 Debtor, subject to the exact same terms and conditions as those imposed upon the Debtor and its

27 _____
28 ¹ The Debtor shall provide copies of the Exit Financing documents to the Bankruptcy Court, counsel to Bank of
America and Citibank, the Office of the United States Trustee and counsel to the Creditors' Committee prior to the
Confirmation Hearing.

1 property by the Exit Financing documents, without altering or affecting the Exit Financing
2 Collateral. Notwithstanding Confirmation, no further steps need be taken by the Exit Financing
3 Lender to maintain the perfection or priority of its lien position with respect to the Exit Financing
4 Collateral after the Effective Date.

5 5.24 **Rounding.** Whenever any payment of a fraction of a cent would otherwise be called
6 for the actual distribution shall reflect a rounding of such fraction down to the nearest cent.

7 5.25 **De Minimis Distributions.** Notwithstanding any other provision of this Plan,
8 distributions of less than \$50.00 need not be made by the Liquidating Debtor on account of any
9 Allowed Claim, provided that, distributions that would otherwise be made but for this provision shall
10 carry over until the next date of a distribution until the cumulative amount to which any holder of an
11 Allowed Claim is entitled is more than \$50.00, at which time the cumulative amount of such
12 distributions shall be paid to such holder. Distributions that will not be made as of the date of a final
13 distribution shall be treated as unclaimed distributions as provided in Article 5.27 of this Plan.

14 Notwithstanding any other provision of this Plan, at the point when the remaining funds in
15 the Claims Reserve Account consist of an amount impracticable to distribute, the Liquidating Debtor
16 may donate (or authorize the Plan Administrator to donate) such Cash to a nonprofit organization or
17 organizations in this judicial district that are exempt pursuant to section 501(c) of the Internal
18 Revenue Code (Title 26 of the United States Code).

19 5.26 **Disputed Payments.** In the event of any dispute between and among Creditors as to
20 the right of any entity to receive or retain any payment or distribution to be made to such entity
21 under the Plan, the Liquidating Debtor may, in lieu of making such payment or distribution to such
22 entity, instead hold such payment or distribution until the disposition thereof shall be determined by
23 the Bankruptcy Court.

24 5.27 **Unclaimed Property.** Creditors have the obligation to file change of address forms
25 with the Court and to serve such changes of address on the Plan Administrator and his counsel. If a
26 Claimant fails for the second consecutive time to claim any Cash within 90 days from the date upon
27 which a distribution is made, such Claimant shall be subject to having its claim excluded from future
28 distributions. The Plan Administrator shall file an omnibus Post Confirmation Motion and

1 Opportunity for Hearing seeking to exclude such Claimants from future distributions and shall serve
2 such Claimants at the address on Claimants proof of claim, if any, on the address scheduled by the
3 Debtor for such Claimants, on any addresses supplied by Claimants in any and all change of address
4 filings filed with the Court, and if available on any agents for service of process addresses that are
5 available from the California Secretary of State and any other states in which the Debtor did business
6 (but only to the extent that such agents for service of process are available from the Secretary of
7 State's web sites without charge). Upon Court approval of the subject Claimants' forfeiture, such
8 Cash (including interest thereon) shall be made available for re-distribution to other holders of
9 Allowed Claims of like Class. Entities which fail to claim Cash shall forfeit their rights thereto and
10 shall have no claim whatsoever against the Liquidating Debtor or the Plan Administrator, as
11 applicable, or any holder of an Allowed Claim to whom distributions are made under this Plan,
12 provided, however, that the Plan Administrator may but is not required to undertake reasonable
13 efforts, in his business judgment, to locate creditors whose distributions are returned.

14 **5.28 Successor Plan Administrator.** If the Plan Administrator resigns, dies, is removed
15 by the Committee pursuant to Article 5.14 of the Plan, or is otherwise unable or unwilling to perform
16 his or her duties under this Plan, the Committee shall name the successor Plan Administrator. If the
17 Committee no longer exists, the successor Plan Administrator shall be Paul D. Menzies. If Mr.
18 Menzies is unable or unwilling to serve, the successor Plan Administrator shall be selected by the
19 Creditor holding the largest undisputed Allowed Claim, after consultation with parties in interest,
20 including Unsecured Creditors and Interest Holders or their successors, as appropriate.

21 **5.29 Setoffs.** Nothing contained in this Plan shall constitute a waiver or release by the
22 Debtor of any right of setoff or recoupment that the Debtor or the Liquidating Debtor may have
23 against any Creditor or Interest Holder.

24 **5.30 No Distributions on Late-Filed Claims.** Except as otherwise provided in a Final
25 Order of the Bankruptcy Court, any Claim as to which a proof of Claim was first filed after the Bar
26 Date shall be a Disallowed Claim, and no distribution shall be made to a holder of such a Claim,
27 provided that, to the extent such Claim was listed in the Schedules (other than as contingent,
28

1 disputed, or unliquidated), such Claim shall be treated as an Allowed Claim in the amount in which
2 it was so listed.

3 **5.31 Withholding Taxes.** Pursuant to section 346(f) of the Bankruptcy Code, the
4 Liquidating Debtor shall be entitled to deduct any federal, state or local withholding taxes from any
5 Cash payments made with respect to Allowed Claims, as appropriate. The Liquidating Debtor shall
6 comply with all reporting obligations imposed on it by any governmental unit.

7 **5.32 Post-Effective Date Reports.** Following the Effective Date, the Liquidating Debtor
8 shall prepare and submit to the Bankruptcy Court and the Office of the United States Trustee,
9 post-confirmation reports for a revested debtor in the form suggested by the Office of the United
10 States Trustee for Region 17. The first post-confirmation report shall be due within thirty (30) days
11 following the end of the first calendar quarter from the Effective Date and shall be filed on a
12 quarterly basis thereafter within thirty (30) days after the end of each quarter, unless otherwise
13 agreed by the Liquidating Debtor and the Office of the United States Trustee. Twice yearly, the Plan
14 Administrator shall also provide oral reports to Claimants to be held at a convenient location in San
15 Francisco (the “Plan Administrator Meetings with Claimants”), or by conference call. Claimants can
16 participate in the Plan Administrator Meetings with Claimants by executing a disclosure of potential
17 conflicts form, and a confidentiality and common interest agreement and returning it to the Plan
18 Administrator or his Counsel at or prior to the commencement of any meeting. The Plan
19 Administrator in the exercise of his business judgment may exclude any Claimant who presents a
20 conflict that makes participation in such meeting inappropriate from any relevant portion of such
21 meeting. The Plan Administrator shall serve on all members of the Post Confirmation Service List a
22 notice of each meeting at least thirty days prior to each Plan Administrator Meetings with Claimants.
23 Claimants that elect to participate in these meetings, shall have no fiduciary duty to any other
24 Claimant to act on or respond to any information provided by the Plan Administrator at the
25 meetings, and shall have no liability to any Claimant or party for any opinions expressed by a
26 Claimant at any Plan Administrator Meetings with Claimants.

27 **5.33 Post-Effective Date Employment and Compensation of Professionals.** After the
28 Effective Date, the Plan Administrator may retain any existing Professionals of the Committee or the

1 Debtor without further employment agreements or orders. Additionally, after the Effective Date, the
2 Plan Administrator may hire other professionals without the requirement that such professionals file
3 employment applications for Bankruptcy Court approval of their employment, whether on an hourly,
4 contingency fee or other basis, and without requirement that such professionals file applications for
5 payment of post-Effective Date fees and expenses on an interim basis; provided, however, that no
6 less frequently than every 180 days, such post-confirmation professionals, and the Plan
7 Administrator shall file Post Confirmation Motions and Opportunity for Hearings seeking final
8 approval of their respective fees and expenses as previously invoiced or paid on an interim basis, as
9 the case may be. Such applications need not be in the format required by the Local Rules of the
10 Bankruptcy Court or the United States Trustee's Guidelines, but shall be sufficiently detailed to
11 identify the hours worked, the rates charged and the work performed. In the case of fees or expenses
12 paid on a basis which is not by billable hours, the application shall include such other, sufficiently
13 specific information so that the Bankruptcy Court can otherwise determine the reasonableness of
14 such fees and expenses. The Court may *sua sponte* make determinations and rulings with respect to
15 the reasonableness of any specific fee request whether an objection is filed and/or a hearing is held
16 or not.

17 5.34 **Final Decree.** Upon substantial consummation of the Plan, the Plan Administrator
18 shall be authorized to file a motion for the entry of a final decree closing the Chapter 11 case
19 pursuant to section 350 of the Bankruptcy Code. Concurrently with the motion for entry of final
20 decree, the Plan Administrator shall also file a report with the Court and the Office of the United
21 States Trustee that sets forth the distributions made by the Liquidating Debtor pursuant to the Plan.

22 5.35 **Procedures for Post-Confirmation Motion and Opportunity for Hearing.** A
23 Post-Confirmation Motion and Opportunity for Hearing shall be served on the Post-Confirmation
24 Service List and shall: (i) detail the requested relief; (ii) provide evidentiary support; and (iii) give
25 any and all parties in interest fourteen (14) calendar days to file written opposition with the Court
26 and to request a hearing. If no opposition is filed, the Court may act on the Post Confirmation
27 Motion and Opportunity for Hearing without hearing.
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1 3002(c)(4). The notice of entry of the Confirmation Order shall provide the Rejection Claim Bar
2 Date for agreements rejected pursuant to the Plan. Any Rejection Claim not filed by the applicable
3 Rejection Claims Bar Date shall be a Disallowed Claim and shall be forever barred as a Claim
4 against the Debtor, the Liquidating Debtor, the Committee or any property of the Debtor and from
5 sharing in any distribution under this Plan.

6 **6.2 Satisfaction of Cure Obligations.** The Liquidating Debtor shall satisfy any Cure
7 Obligations for the Assumed Contracts by making a Cash payment equal to the lesser of the amount:
8 (a) set forth on Exhibit A hereto, (b) set forth in any other notice, motion or supplement to the Plan
9 filed and served in connection with the Confirmation Hearing or as may be determined in an
10 Assumption and Cure Order, or (c) agreed to in writing between the Liquidating Debtor and the non-
11 debtor parties to such contracts or leases. The Debtor has attached a schedule of proposed Cure
12 Obligations to the Disclosure Statement approved by the Court pursuant to section 1125 of the
13 Bankruptcy Code. Objections, if any, to the Cure Obligations must be filed fourteen (14) days prior
14 to the Confirmation Hearing. The Liquidating Debtor shall satisfy the Cure Obligations within ten
15 (10) days from the date from which an Assumed Contract is assumed pursuant to section 365(b) of
16 the Bankruptcy Code.

17 **6.3 Post-Petition Executory Contracts and Unexpired Leases.** Except as may be
18 provided otherwise by the Confirmation Order, all agreements and stipulations entered into by the
19 Debtor on or after the Petition Date, and all Executory Contracts previously assumed by the Debtor
20 on or after the Petition Date, shall remain in full force and effect following Confirmation to the
21 extent and in the manner set forth in such agreements, stipulations and Assumed Contracts or leases,
22 in each case as approved and authorized by the Bankruptcy Court, and as the same may have been
23 amended, modified or transferred.

24 **6.4 Continuing Employee Benefit Plans.** Except as otherwise provided in the Plan, all
25 Continuing Employee Benefit Programs for existing employees of the Debtor on the Effective Date
26 shall be treated as “executory contracts” and shall be assumed pursuant to sections 365 and
27 1123(b)(2) of the Bankruptcy Code by operation of the Plan.
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ARTICLE VIII

EFFECTS OF CONFIRMATION

8.1 **Binding Effect of Plan.** The provisions of the confirmed Plan shall bind the Debtor, the Liquidating Debtor, the Committee, and any Creditor or Interest Holder, whether or not such Creditor or Interest Holder has filed a proof of Claim or Interest in the Chapter 11 Case, whether or not the Claim of such Creditor or the Interest of such Interest Holder is impaired under the Plan, and whether or not such Creditor or Interest Holder has accepted or rejected the Plan. All Claims and Debts shall be as fixed and adjusted pursuant to this Plan.

8.2 **Revesting of Property Free and Clear.** Upon the Effective Date, title to all Estate Assets shall vest in the Liquidating Debtor for the purposes contemplated under the Plan. All Unsecured Claims against the Debtor or the Estate shall be of no further force or effect except with respect to the rights of holders of Allowed Claims to received payments or distributions as set forth herein. Following the Effective Date, the Liquidating Debtor may use, acquire or dispose of any such property free of any restrictions imposed by the Bankruptcy Court, the Bankruptcy Code or the Bankruptcy Rules and without further approval of the Bankruptcy Court or notice to Creditors, except as may otherwise be required under the Plan or the Confirmation Order. Except as otherwise expressly provided in the Plan or Confirmation Order, all rights or causes of action are hereby preserved and retained for enforcement solely and exclusively by and at the discretion of the Liquidating Debtor.

8.3 **Injunction.** On the Effective Date, and except as otherwise provided by the Plan, all entities who have held, hold or may hold Claims against or Interests in the Debtor or the Debtor's estate that arose prior to the Effective Date are permanently enjoined from taking legal action against the Debtor or the Liquidating Debtor for the purpose of directly or indirectly collecting, recovering, or receiving payment or recovery with respect to any Claim or demand against the Debtor or the Liquidating Debtor. In addition to the foregoing, on the Effective Date, and except as otherwise provided by the Plan, Bank of America and Citibank and their successors and assigns shall be temporarily enjoined pursuant to Bankruptcy Code section 105 from taking legal action against any Settling Former Shareholder for the purpose of directly or indirectly collecting, recovering, or

1 receiving payment or recovery with respect to any claim or demand against Settling Former
2 Shareholder predicated in whole or in part on Settling Former Shareholder's former employment or
3 shareholder status with the Debtor or any of the Heller Ehrman PCs, with such injunction to remain
4 in effect until the final resolution of the Bank of America Preference Action, whether by settlement
5 or judgment no longer subject to any pending or possible appeal.

6 **8.4 Limitation of Liability.** The Debtor, the Liquidating Debtor, the Dissolution
7 Committee and each of its members, and the Committee and each of its past and present members,
8 and their respective officers, directors, managers, employees, agents, and representatives
9 (collectively, the "Exculpated Parties"), will neither have nor incur any liability to any entity for any
10 action in good faith taken or omitted to be taken in connection with or related to the Chapter 11
11 Case, the investigations of potential claims or the formulation, preparation, dissemination,
12 implementation, Confirmation or consummation of the Plan, the Disclosure Statement, or any
13 agreement created or entered into in connection with the Plan or incident to the Chapter 11 Case,
14 provided that, this limitation will not affect or modify the rights of either the Banks or any holder of
15 an Allowed Claim to enforce its rights under the Plan or the non-debtor party to an Assumed
16 Contract to enforce its rights under the Assumed Contract, nor shall the foregoing exonerate any of
17 the Exculpated Parties from any liability that results from an act or omission to the extent such act or
18 omission is determined by Final Order to have constituted gross negligence or willful misconduct.
19 In addition, notwithstanding any other provision of this Plan, no holder of a Claim or Interest, no
20 other party in interest, none of their respective agents, employees, representatives, financial advisors,
21 attorneys or affiliates, and no successors or assigns of the foregoing, shall have any right of action
22 against any Exculpated Party for any act or omission from and after the Petition Date in connection
23 with, relating to or arising out of the Chapter 11 Case or the consideration, formulation, preparation,
24 dissemination, implementation, Confirmation or consummation of the Plan, the Disclosure
25 Statement, or any transaction or document created or entered into, or any other act taken or omitted
26 to be taken, in connection therewith, except for: (a) the liability of any entity that would otherwise
27 result from the failure to perform or pay any obligation or liability under the Plan or any contract,
28 instrument, release or other agreement or document to be entered into or delivered in connection

1 with the Plan, or (b) the liability of any entity that would otherwise result from any such act or
2 omission to the extent that such act or omission is determined in a Final Order to have constituted
3 gross negligence or willful misconduct. The Exculpated Parties do not include any Professionals.

4 **ARTICLE IX**

5 **RETENTION OF JURISDICTION**

6 From and after the Confirmation Date, the Bankruptcy Court shall retain such jurisdiction
7 as is legally permissible, including, but not limited to, for the following purposes:

- 8 (i) To hear and determine any and all objections to the allowance of a Claim,
9 actions to equitably subordinate a Claim, or any controversy as to the classification of a Claim in a
10 particular Class under the Plan;
- 11 (ii) To administer or enforce the Plan;
- 12 (iii) To liquidate any Disputed Claims;
- 13 (iv) To hear and determine any and all adversary proceedings, contested matters or
14 applications pending on the Effective Date;
- 15 (v) To hear and determine any and all motions for the rejection of Executory
16 Contracts and to fix and allow any Claims arising therefrom;
- 17 (vi) To hear and determine any and all applications by Professionals for an award
18 of pre-Effective Date Professional Fees, and to consider and rule upon the periodic and final fee
19 applications of the Plan Administrator, Professionals, or other professionals retained Post
20 Confirmation post-Confirmation as provided in this Plan, and/or to resolve any disputes concerning
21 payment of such post-Effective Date fee requests.
- 22 (vii) To interpret and/or enforce the provisions of the Plan, and the injunction
23 provided for in the Plan and to determine any and all disputes arising under or regarding
24 interpretation of the Plan, or any other agreement, document or instrument contemplated by the Plan,
25 including, without limitation, and claims asserted against the Plan Administrator or against any
26 professionals engaged by him or claims asserted against the Committee, the Dissolution Committee
27 and either of their members and/or professionals;
- 28

1 (viii) To enter and implement such orders as may be appropriate in the event
2 Confirmation is for any reason stayed, reversed, revoked, modified or vacated;

3 (ix) To modify any provision of the Plan to the extent permitted by the Bankruptcy
4 Code and to correct any defect, cure any omission, or reconcile any inconsistency in the Plan or in
5 the Confirmation Order as may be necessary to carry out the purposes and intent of the Plan;

6 (x) To approve applications for Bankruptcy Rule 2004 Examinations and any
7 enforcement orders necessary, including but not limited to pursuant to Bankruptcy Rule 2005;

8 (xi) To approve any compromise and settlements and/or abandonments of claims
9 against third parties, and/or the abandonment of any Asset of the Estate, which either the Plan
10 Administrator in his sole discretion believes should be noticed to creditors, or which is the subject of
11 an objection by the Committee;

12 (xii) To approve any sales of assets or claims pursuant to section 363 of the
13 Bankruptcy Code, which the Plan Administrator in his sole discretion believes should be noticed to
14 creditors;

15 (xiii) To approve interim and/or final distributions to creditors, including the
16 approval of any publication notices, which the Plan Administrator in his sole discretion believes
17 should be noticed to creditors;

18 (xiv) To issue an injunction or injunctions post-confirmation pursuant to
19 Bankruptcy Code section 105 upon a proper showing; and

20 (xv) To close the Chapter 11 Case when administration of the case has been
21 completed.

22 **ARTICLE X**

23 **MISCELLANEOUS**

24 10.1 **Severability of Plan Provisions.** In the event that, prior to the Confirmation Date,
25 any term or provision of this Plan is held by the Bankruptcy Court to be invalid, void or
26 unenforceable, the Bankruptcy Court shall, have the power to alter and interpret such term or
27 provision to make it valid or enforceable to the maximum extent practicable, consistent with the
28 original purpose of the term or provision held to be invalid, void or unenforceable, and such term or

1 provision shall then be applicable as altered or interpreted. Notwithstanding any such holding,
2 alteration or interpretation, the remainder of the terms and provisions hereof shall remain in full
3 force and effect and shall in no way be affected, impaired or invalidated by such holding, alteration
4 or interpretation. The Confirmation Order shall constitute a judicial determination and shall provide
5 that each term and provision hereof, as it may have been altered or interpreted in accordance with the
6 foregoing, is valid and enforceable pursuant to its terms.

7 10.2 **Governing Law.** Except to the extent that the Bankruptcy Code or other federal law
8 is applicable, the rights, duties and obligations arising under this Plan shall be governed by, and
9 construed and enforced in accordance with, the laws of the State of California.

10 10.3 **Headings.** The headings contained in this Plan are for convenience of reference only
11 and shall not limit or otherwise affect in any way the meaning or interpretation of this Plan.

12 10.4 **Language Interpretation.** In the interpretation of this Plan, unless the context
13 otherwise requires, references in this Plan to the singular shall be construed to include references to
14 the plural and vice versa; words importing the singular shall be deemed to import the plural and vice
15 versa; words denoting gender shall include all genders; references to sections, schedules, and
16 exhibits shall mean sections, schedules, and exhibits of and to this Plan; references to part includes
17 the whole, except where the context clearly requires otherwise “or” has the inclusive meaning
18 represented by the phrase “and/or,” and the words “hereof,” “herein,” “hereunder,” and similar terms
19 in this Plan refer to this Plan as a whole and not to any particular provision of this Plan.

20 10.5 **Exhibits.** All exhibits attached to this Plan or the Disclosure Statement are, by this
21 reference, hereby incorporated into the Plan. The final version of all exhibits to the Plan and the
22 Disclosure Statement will be substantially in the forms attached hereto or thereto. The Proponents
23 reserve the right to make non-substantive changes and corrections to such exhibits in advance of the
24 Confirmation Hearing. If any exhibits are changed or corrected, the replacement exhibits will be
25 filed with the Bankruptcy Court prior to the commencement of the Confirmation Hearing.

26
27 10.6 **Exemption from Transfer Taxes:** The Debtor and the Liquidating Debtor shall
28 have all the rights and benefits granted pursuant to Bankruptcy Code section 1146(c) under this Plan.

1 10.7 **Notices.** All notices required or permitted to be made in accordance with the Plan
2 shall be in writing and shall be delivered personally or by nationally recognized overnight or
3 next-day courier service, first class mail or via facsimile with electronic confirmation of receipt as
4 follows:

5 If to the Debtor:
6 (By Mail or Facsimile)
7 Shelley Salinero
8 Heller Ehrman LLP
9 333 Bush Street, 10th Floor
10 San Francisco, CA 94104
11 (415) 772-6463
12 (415) 772 6268 (Facsimile)

13 and

14 Michael Burkart
15 Plan Administrator
16 5150 Fair Oaks Blvd, #101-185
17 Carmichael, CA 95608
18 (916) 485-0412

19 With a copy to:

20 John D. Fiero, Esq.
21 Teddy M. Kapur, Esq.
22 Pachulski Stang Ziehl & Jones LLP
23 150 California Street, Suite 1500
24 San Francisco, CA 94111
25 (415) 263-7000
26 (415) 263-7010 (Facsimile)

27 If to the Committee:

28 Theresa Hoyt
29 BREF 333, LLC
30 Three World Financial Center
31 New York, New York 10281
32 (212) 417 7286
33 Email: thoyt@brookfield.com

34 With a copy to:

35 (By Mail or Facsimile)
36 Steven H. Felderstein, Esq.
37 Thomas A. Willoughby, Esq.
38 Felderstein, Fitzgerald, Willoughby & Pascuzzi, LLP
39 400 Capital Mall, Suite 1450
40 Sacramento, CA 95814
41 (916) 329-7400
42 (916) 329-7435 (Facsimile)
43 Email: twilloughby@ffwplaw.com

1 10.8 **Computation of Time Periods.** In computing any period of time prescribed or
2 allowed by the Plan, the day of the act, event, or default from which the designated period of time
3 begins to run shall not be included. The last day of the period so computed shall be included unless
4 it is a Saturday, a Sunday, or a legal holiday, or, when the act to be done is the filing of a paper in the
5 Bankruptcy Court, a day on which weather or other conditions have made the clerk's office
6 inaccessible, in which event the period runs until the end of the next day which is not one of the
7 aforementioned days.

8 10.9 **Defects, Omissions and Amendments.** The Proponents, with the approval of the
9 Bankruptcy Court and without notice to all holders of Claims or Interests, insofar as it does not
10 materially and adversely affect holders of Claims, may correct any defect, omission or inconsistency
11 in the Plan in such manner and to such extent as may be necessary or desirable to expedite the
12 execution of the Plan. The Plan may be altered or amended before or after Confirmation as provided
13 in section 1127 of the Bankruptcy Code.

14 10.10 **Filing of Additional Documents.** The Proponents shall file with the Bankruptcy
15 Court such agreements or other documents as may be necessary or appropriate to effectuate and
16 further evidence the terms and conditions of the Plan.

17 10.11 **Successors and Assigns.** The rights, benefits and obligations of any entity named or
18 referred to in this Plan shall be binding on, and shall inure to the benefit of, the heirs, executors,
19 administrators, successors and/or assigns of such entity.

20 10.12 **Implementation.** Upon Confirmation, the Debtor and the Committee shall be
21 authorized to take all steps and execute all documents necessary to effectuate the provisions
22 contained in the Plan.

23 10.13 **Certain Actions.** By reason of entry of the Confirmation Order, prior to, on or after
24 the Effective Date (as appropriate), all matters provided for under the Plan that would otherwise
25 require approval of the owners, stockholders, shareholders, members, directors, managers, or
26 officers of the Debtor under the Plan, including, without limitation, (i) the distribution of Cash
27 pursuant to the Plan, (ii) the adoption, execution, delivery, and implementation of all contracts,
28 leases, instruments, releases, and other agreements or documents related to the Plan, and (iii) the

1 adoption, execution, and implementation of other matters provided for under the Plan involving the
2 company or organizational structure of the Debtor, shall be deemed to have occurred and shall be in
3 effect prior to, on or after the Effective Date (as appropriate), pursuant to the applicable general
4 corporation, limited liability, or partnership law of the state in which the Debtor or the Liquidating
5 Debtor is chartered, organized or incorporated, without any requirement of further action by the
6 owners, stockholders, shareholders, members, directors, managers, or officers of the Debtor.

7 **10.14 Waiver of Fourteen (14) Day Stay.** The Proponents request as part of the
8 Confirmation Order a waiver from the Bankruptcy Court of the fourteen (14) day stay of Bankruptcy
9 Rule 3020(e) and, to the extent applicable, a waiver of the fourteen (14) day stay of Bankruptcy
10 Rule 6004(h).

11 Dated: August __, 2010

HELLER EHRMAN LLP

12
13 By _____

Peter J. Benvenuti
Chair of the Dissolution Committee

14
15 Dated: August __, 2010

THE OFFICIAL COMMITTEE OF
UNSECURED CREDITORS

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18 BY: BREF 333, LLC

19 By _____

Theresa A. Hoyt, its Authorized Signatory,
as the Chair of the Committee

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Dated: August 2, 2010

PACHULSKI STANG ZIEHL & JONES LLP

By /s/ John D. Fiero
John D. Fiero (CA Bar No. 136557)
Kenneth H. Brown (CA Bar No. 100396)
Teddy M. Kapur (CA Bar No. 242486)
Attorneys for Heller Ehrman LLP, Debtor and
Debtor in Possession

Dated: August 2, 2010

FELDERSTEIN FITZGERALD WILLOUGHBY &
PASCUZZI LLP

By /s/ Steven H. Felderstein
Steven H. Felderstein (CA Bar No. 56978)
Thomas A. Willoughby (CA Bar No. 137579)
Christopher Crowell (CA Bar No. 253103)
Attorneys for The Official Committee of
Unsecured Creditors