

UNITED STATES BANKRUPTCY COURT  
MIDDLE DISTRICT OF FLORIDA  
TAMPA DIVISION

In Re: CHAPTER 11

JOHN P. KONECNIK,

Case No: 8:10-bk-20279-CED

Debtor.

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**AMENDED DISCLOSURE STATEMENT WITH RESPECT TO PLAN OF  
REORGANIZATION UNDER CHAPTER 11 OF THE UNITED STATES  
BANKRUPTCY CODE FOR JOHN P. KONECNIK AS OF DECEMBER 20, 2010**

(INTRODUCTION)

This Disclosure Statement is submitted by John p. Konecnik (the “Debtor”), pursuant to Section 1125 of the Bankruptcy Code in connection with the Plan of Reorganization Under Chapter 11 of the United States Bankruptcy Code for John P. Konecnik of December 20, 2010 (the “Plan”), proposed by the Debtor in their Reorganization Cases under Chapter 11 of the Bankruptcy Code. For purposes hereof, all capitalized terms used in this Disclosure Statement, and not otherwise separately defined herein, shall have the meanings ascribed to such terms in the Plan, as the Plan may be amended, modified or supplemented from time to time. Such meanings shall be equally applicable to both the singular and plural forms of such terms.

The Plan is currently on file with the Court. Creditors will be notified by the Clerk as to the hearing date on conformation of the plan and may attend such hearing.

For the Plan to be confirmed, each impaired Class of Claims and Interests is given the opportunity to vote to accept or reject the Plan, except, however, for those Classes which will not receive any distribution under the Plan and which are, therefore, considered to have rejected the Plan. With regard to the impaired Classes which vote on the Plan, the Plan will be deemed accepted by a Class of impaired Claims if the Plan is accepted by holders of Claims of such Class actually voting on the Plan who hold at least two-thirds (2/3) in amount and more than one-half (1/2) in number of the total Allowed Claims of such Class. The Plan will be deemed accepted by a Class of impaired Interests if it is accepted by the members actually voting on the Plan who hold at least two-thirds (2/3) in amount of the total Allowed Interests voted. Only those members of a Class who vote to accept or reject the Plan will be counted for voting purposes.

If any impaired Class of Claims or Interests does not accept the Plan, pursuant to Section 1129(b) of the Bankruptcy Code, the Bankruptcy Court may still confirm the

Plan at the request of the Debtors if, among other things, as to each impaired Class which has not accepted the Plan, the Plan “does not discriminate unfairly” and is “fair and equitable.” The Debtors believe that the Plan affords fair and equitable treatment for all Allowed Claims and Interests. If one or more of the impaired Classes of Claims or Interests votes to reject the Plan, the Debtors may request that the Bankruptcy Court confirm the Plan by application of the “cramdown” procedures available under Section 1129(b) of the Bankruptcy Code. However, there can be no assurance that the Debtors will be able to use the cramdown provisions of the Bankruptcy Code for Confirmation of the Plan. Any modification of the Plan necessary to effect a cramdown may result in a different treatment of Claims and Interests than those currently afforded in the Plan, which, as to any Claim or Interest, may be less favorable, and distributions to holders of Claims and Interests may be delayed

## ARTICLE 1

### **DEFINITIONS**

Unless the context otherwise requires, the following terms shall have the following meanings when used in initially capitalized form in the Plan. Such meanings shall be equally applicable to both the singular and plural forms of such terms. Any term used in capitalized form that is not defined in the Plan but that is defined in the Bankruptcy Code or Bankruptcy Rules (as such terms are hereinafter defined)

shall have the meaning ascribed to such term in the Bankruptcy Code or Bankruptcy Rules. The rules of construction set forth in Section 102 of the Bankruptcy Code shall apply in construction of the Plan.

1.1 “**Administrative Expense**” means (a) any cost or expense of administration of the Reorganization Cases that are allowed under Section 503(b) or 507(a)(1) of the Bankruptcy Code, to the extent the party claiming any such Administrative Expense files an application, motion, request or other Bankruptcy Court-approved pleading seeking such expense in the Reorganization Cases on or before the applicable Administrative Expense Claims Bar Date, including (i) any actual and necessary costs and expenses of preserving the Estates or operating the businesses of the Debtors (including wages, salaries, or commissions for services rendered) incurred on or after the Petition Date, (ii) any Postpetition cost, indebtedness or contractual obligation duly and validly incurred or assumed by the Debtors in Possession in the ordinary course of their business, (iii) any Claim granted administrative priority status by a Final Order of the Bankruptcy Court, (iv) any Claim by a Governmental Authority for taxes (and for interest and/or penalties related to such taxes) due for any Postpetition tax year or period, and (v) compensation for reimbursement of expenses of Professionals awarded or allowed pursuant to an order of the Bankruptcy Court under Section 330(a) or 331 of the Bankruptcy Code; (b) any Superpriority Claim; (c) all fees and charges assessed against the Estates under Chapter 123 of title 28, United States Code, 28 U.S.C. §§ 1911-1930; and (d) any and all other costs or expenses of administration of the Reorganization Cases that are allowed by Final Order of the Bankruptcy Court; provided, however, that, when used in the

Plan, the term “Administrative Expense” shall not include any Priority Tax Claim, any Disallowed Claim, or, unless otherwise expressly provided in the Plan, any separately classified Claims. In no event shall any Claim set out in a Proof of Claim be deemed to be an Administrative Expense (except for any Claim by a Governmental Authority for taxes (and for interest and/or penalties related to such taxes) which accrued and is first due for any Postpetition tax year or period).

1.2 “**Administrative Expense Claim**” means any Claim for the payment of any Administrative Expense.

1.3 “**Administrative Expense Claims Bar Date**” means the date established by an order or orders of the Bankruptcy Court as the deadline for the filing by any Creditor or other party in interest of an application, motion, request or other Bankruptcy Court-approved pleading for allowance of any Administrative Expense Claim that arose or is deemed to have arisen on or after the Petition Date. Holders of Administrative Expense Claims (including Holders of any Claims for Postpetition federal, state or local taxes) that do not file an application, motion, request or other Bankruptcy Court-approved pleading by the Administrative Expense Claims Bar Date shall be forever barred, estopped and enjoined from ever asserting such Administrative Expense Claims against the Debtors, or any of their Property, or against their Estates, and such Holders shall not be entitled to participate in any distribution under the Plan on account of any such Administrative Expense Claims.

1.4 “**Affiliate**” shall have the meaning ascribed to such term in Section 101(2) of the Bankruptcy Code.

1.5 “**Allowed**” means and includes, with respect to any Claim or Interest, (a) any Claim (other than a Disputed Claim) or Interest, proof of which was timely filed or, by Order of the Bankruptcy Court, was not required to be filed or (b) any Claim (other than a Disputed Claim) or Interest that is listed in the Schedules as liquidated in amount and not disputed or Contingent, and, in each such case in (a) and (b) herein, as to which either (1) no objection to the allowance thereof has been or may be filed within the applicable period of limitation fixed by the Plan, the Bankruptcy Code, the Bankruptcy Rules or the Bankruptcy Court or (2) the Claim or Interest has been allowed by a Final Order of the Bankruptcy Court (but only to the extent so allowed).

1.6 “**Allowed Amount**” means the dollar amount in which a Claim is Allowed; provided, however, that the Allowed Amount of a Claim shall not exceed the Estimated Amount of such Claim as determined pursuant to an Estimation Order. No amount shall be Allowed for or on account of punitive damages, penalties or postpetition interest on account of any Claim except as otherwise expressly specified in the Plan or provided by Final Order of the Bankruptcy Court.

1.7 “**Assets**” means all assets of the Debtors’ Estates.

1.8 “**Available Cash**” means: (i) with respect to the payments to Holders of Allowed Claims to be made on the Effective Date, the amount of Cash determined by the Debtors, in the exercise of their reasonable business judgment after accounting for reserves for operations, and the availability of financing, to be available for distribution to such Holders of Allowed Claims under this Plan; and (ii) with respect to each subsequent distribution to any Holder of an Allowed Claim, the amount of Cash available (including availability under the financing) to make payments or distributions pursuant to this Plan at the time of such distribution.

1.9 “**Avoidance Action**” means a Cause of Action which the Debtors may assert under Sections 541, 542, 543, 544, 547, 548, 549, 550 or 553 of the Bankruptcy Code.

1.10 “**Ballot**” means the ballot accompanying the Disclosure Statement upon which each Holder of a Claim or Interest entitled to vote on the Plan shall indicate their acceptance or rejection of the Plan in accordance with the Voting Instructions.

1.11 “**Bankruptcy Code**” means title 11 of the United States Code, 11 U.S.C. §§ 101 et seq., as in effect on the Petition Date, together with all amendments and modifications to the extent applicable to the Reorganization Cases.

1.12 “**Bankruptcy Court**” means either the United States Bankruptcy Court for the Middle District of Florida, Tampa Division, having jurisdiction over the Reorganization Cases or, to the extent the reference is withdrawn, the District Court.

1.13 “**Bankruptcy Rules**” means the Federal Rules of Bankruptcy Procedure and the local rules of the Bankruptcy Court, as applicable to the Reorganization Cases, together with all amendments and modifications to the extent applicable to the Reorganization Cases.

1.14 “**Bar Date**” means the bar date(s) established by the Bankruptcy Court from time to time as the last day for filing Proofs of Claim against or proofs of Interest in the Debtors, including with respect to executory contracts and unexpired leases that are rejected pursuant to the Plan, pursuant to a Final Order of the Bankruptcy Court or otherwise pursuant to Section 365 of the Bankruptcy Code; provided however, that, when used in the Plan, the term “Bar Date” shall not include the Administrative Expense Claims Bar Date.

1.15 “**Business Day**” means any day other than a Saturday, Sunday or legal holiday (as such term is defined in Bankruptcy Rule 9006(a)).

1.16 “**Cash**” means lawful currency of the United States of America and its equivalents. When used in the Plan with respect to a distribution under the Plan, the term “Cash” means lawful currency of the United States, a certified check, a cashier’s check, a wire transfer of immediately available funds from any source, or a check drawn on a domestic bank.

1.17 “**Causes of Action**” means any and all of the Debtors’ or the Debtors’ Estates’ actions, claims, demands, rights, defenses, counterclaims, suits and causes of action, whether known or unknown, in law, equity or otherwise, including (a) all Avoidance Actions; and (b) any and all other claims or rights of the Debtors of any value whatsoever, at law or in equity, against any Creditor or other third party.

1.18 “**Claim**” means (a) right to payment, whether or not such right is reduced to judgment, liquidated, unliquidated, fixed, Contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured or unsecured; or (b) right to an equitable remedy for breach of performance if such breach gives rise to a right to payment, whether or not such right to an equitable remedy is reduced to judgment, fixed, Contingent, matured, unmatured, disputed, undisputed, secured or unsecured. The term “Claim” shall be broadly construed herein to include all manner and type of claim, whenever and wherever such claim may arise.

1.19 “**Class**” means a category of Holders of Claims or Interests as set forth in Article 3 of the Plan.

1.20 “**Clerk**” means the Clerk of the Bankruptcy Court.

1.21 “**Clerk’s Office**” means the Office of the Clerk of the Bankruptcy Court located at the Sam M. Gibbons United States Courthouse, 801 North Florida Avenue, Tampa, Florida, 33602.

1.22 “**Conditional Approval Order**” means the Order conditionally approving the Debtors’ Disclosure Statement and fixing the time for filing acceptances or rejections of the Debtors’ Plan, combined with notice of the hearing on Confirmation of Plan and other related matters entered in the Reorganization Cases.

1.23 “**Confirmation**” or “**Confirmation of the Plan**” means the approval of the Plan by the Bankruptcy Court at the Confirmation Hearing.

1.24 “**Confirmation Date**” means the date on which the Confirmation Order is entered on the Docket pursuant to Bankruptcy Rule 5003(a).

1.25 “**Confirmation Hearing**” means the hearing(s) which shall be held before the Bankruptcy Court in which the Debtors shall seek Confirmation of the Plan.

1.26 “**Confirmation Order**” means the Order of the Bankruptcy Court confirming the Plan pursuant to Section 1129 of the Bankruptcy Code and other applicable sections of the Bankruptcy Code.

1.27 “**Contingent**” means a right that has not accrued and that is dependent upon a future event or events that has or have not occurred and may never occur.

1.28 “**Creditor**” has the same meaning ascribed in Section 101(10) of the Bankruptcy Code and shall refer to any Holder of a Claim against the Debtors or Holder of any Claim against property of the Debtors as defined in Section 102(2) of the Bankruptcy Code, including Creditors with Administrative Expenses, Priority Tax Claims, Priority Claims, Secured Claims, Insider Claims and General Unsecured Claims.

1.29 “**Debtors**” means Fisherman’s Wharf of Venice, Inc., a Florida corporation, JPKJ, LLC, a Florida limited liability company, and JMT Partners, a Florida partnership (or any of them).

1.30 “**Debtors in Possession**” means the Debtors in the capacity, and with the status and rights conferred by Sections 1107 and 1108 of the Bankruptcy Code.

1.31 “**Disallowed Claim**” means any Claim which has been disallowed by an order of the Bankruptcy Court, which order has not been stayed pending appeal.

1.32 “**Disbursing Agent**” means the Reorganized Debtors or a Person selected by the Reorganized Debtors pursuant to the Plan (with approval of the Bankruptcy Court), as agent of the Bankruptcy Court, to hold and distribute the consideration to be distributed to the Holders of Allowed Claims under the Plan.

1.33 “**Disclosure Statement**” means the disclosure statement for the Plan approved by the Bankruptcy Court pursuant to Section 1125 of the Bankruptcy Code (including all annexes, exhibits and schedules attached thereto or referenced therein), as such disclosure statement may be amended or modified from time to time.

1.34 “**Disputed Claim**” means any Claim (other than a Disallowed Claim) that is not an Allowed Claim and (a) as to which a Proof of Claim has been filed with the Clerk’s Office or is deemed filed under applicable law or order of the Bankruptcy Court, or (b) which has been scheduled in the Schedules, and, in the case of subparagraph (a) or (b) above, as to which an objection has been or may be timely filed or deemed filed under the Plan, the Bankruptcy Code, the Bankruptcy Rules or an order of the Bankruptcy Court and any such objection has not been (i) withdrawn, (ii) overruled or denied by an order of the Bankruptcy Court, or (iii) sustained by an order of the Bankruptcy Court. In addition to the foregoing, a Disputed Claim shall also mean a Claim that is not an Allowed Claim, whether or not an objection has been or may be timely filed, if (a) the amount of the Claim specified in the Proof of Claim exceeds the amount of any corresponding Claim scheduled in the Schedules, (b) the classification of the Claim specified in the Proof of Claim differs from the classification of any corresponding Claim scheduled in the Schedules, (c) any corresponding Claim has been scheduled in the Schedules as disputed, contingent or unliquidated, (d) no corresponding Claim has been scheduled in the Schedules, or (e) such Claim is reflected as unliquidated or contingent in the Proof of Claim filed in respect thereof. To the extent an objection relates to the allowance of only a part of a Claim, such Claim shall be a Disputed Claim only to the extent of the objection. To the extent that the amount of the Claim specified in the Proof of Claim exceeds the amount of any corresponding Claim

scheduled in the Schedules, such Claim shall be a Disputed Claim only to the extent of the amount specified in the Proof of Claim which is in excess of the amount of the Claim as scheduled.

1.35 “**Distribution Date**,” when used with respect to an Allowed Claim, means the date that is as soon as reasonably practicable after the later of: (a) the Effective Date or (b) the first (1st) Business Day of the next calendar quarter after the date upon which the Claim becomes Allowed, unless the Claim becomes Allowed within fifteen (15) days before the first (1st) Business Day of the next calendar quarter, in which case the Distribution Date shall be the first (1st) Business Day of the next succeeding calendar quarter.

1.36 “**District Court**” means the United States District Court for the Middle District of Florida, or the unit thereof having jurisdiction over the matter in question.

1.37 “**Docket**” means the docket in the Reorganization Cases maintained by the Clerk.

1.38 “**Effective Date**” means, and shall occur on, the first (1st) Business Day immediately following the first date upon which all of the conditions to occurrence of the Effective Date contained in Section 10.2 of the Plan have been satisfied or waived by the Debtors; provided, however, that the Effective Date may occur at a point in time when the Confirmation Order is not a Final Order at the sole option of the Debtors unless the effectiveness of the Confirmation Order has been stayed or vacated, in which case the Effective Date shall be the first (1st) Business Day immediately following such date as is thirty (30) calendar days following the expiration or other termination of any stay of effectiveness of the Confirmation Order; and, further provided, that the Effective Date shall not occur until all of the conditions to occurrence of the Effective Date set forth in Section 10.2 of the Plan have been satisfied or waived by the Debtors.

1.39 “**Entity**” has the meaning ascribed in Section 101(15) of the Bankruptcy Code.

1.40 “**Estates**” means the estates created for the Debtors by Section 541 of the Bankruptcy Code upon the commencement of the Reorganization Cases.

1.41 “**Estimated Amount**” means the amount at which the Bankruptcy Court or, where required by applicable law, the District Court, estimates any Claim against the Debtors which is Contingent, unliquidated or disputed, for the purpose of: (a) allowance under Section 502(c) of the Bankruptcy Code or (b) assisting the Bankruptcy Court in making the findings required for Confirmation of the Plan pursuant to Sections 1129(a)(7)(A)(ii) and (a)(11) and, if necessary, Sections 1129(b)(1) and (2) of the Bankruptcy Code.

1.42 “**Estimation Order**” means an Order of the Bankruptcy Court or, where required by applicable law, the District Court, that determines the Estimated Amount of a Claim against the Debtors.

1.43 “**Final Order**” means an Order, the implementation, operation or effect of which has not been stayed and as to which Order (or any revision, modification or amendment thereof) the time to appeal or seek review or rehearing or writ of certiorari has expired and as to which no appeal or petition for review or rehearing or certiorari has been taken and is pending.

1.44 “**Final Decree Date**” means the date on which a Final Order, obtained after a hearing on notice to all Entities entitled to Notice and such other entities as the Bankruptcy Court may direct, has been entered determining that the Reorganization Cases should be closed.

1.45 “**General Unsecured Claim**” means any Claim which is not an Administrative Expense Claim, Priority Tax Claim, Priority Claim, Insider Claim, deficiency claim of Witzer, or Secured Claim, including (a) any Claim arising from the rejection of an executory contract or unexpired lease under Section 365 of the Bankruptcy Code, (b) any portion of a Claim to the extent the value of the Creditor’s interest in the applicable Estates’ interest in the collateral securing such Claim is less than the amount of the Allowed Claim, or to the extent that the amount of the Claim subject to setoff is less than the amount of the Allowed Claim, as determined pursuant to Section 506(a) of the Bankruptcy Code, (c) any Claims arising from the provision of goods or services to the Debtors prior to the Petition Date, and (d) any Claim designated as a General Unsecured Claim elsewhere in the Plan.

1.46 “**General Unsecured Creditor**” means any Creditor holding a General Unsecured Claim.

1.47 “**Governmental Unit**” means any federal, state, local or municipal (a) government, (b) governmental agency, (c) governmental commission, (d) governmental department, (e) governmental bureau, (f) governmental ministry or (g) governmental entity.

1.48 “**Holder**” means an Entity holding a Claim or Interest.

1.49 “**Impaired**” means impaired within the definition of Section 1124 of the Bankruptcy Code.

1.50 “**Insider Claim**” means any Claim of any Insider, including any Claim asserted by John Konecnik, Arlene Konecnik, Laura Mote or Richard Mote.

1.51 “**Insider**” has the meaning ascribed to it in Section 101(31) of the Bankruptcy Code. For purposes of the Plan, the term “Insiders” shall mean, individually or collectively as the context requires, (a) John Konecnik, (b) Arlene Konecnik, (c) Laura Mote, and (d) Richard Mote.



1.52 “**Interest**” means (a) any equity interest in the Debtors or (b) any claim (i) arising from rescission of a purchase or sale of a security of the Debtors or of an Affiliate of the Debtors, (ii) for damages arising from the purchase or sale of such a security, or (iii) for reimbursement or contribution allowed under Section 502 on account of such claim.

1.53 “**Liabilities**” means any and all liabilities, obligations, judgments, damages, charges, costs, Debts, and indebtedness of any and every kind and nature whatsoever, whether heretofore, now or hereafter owing, arising, due or payable, direct or indirect, absolute or contingent, liquidated or unliquidated, known or unknown, foreseen or unforeseen, in law, equity or otherwise, of or relating to the Debtors, or otherwise based in whole or in part upon any act or omission, transaction, event or other occurrence taking place prior to the Effective Date in any way relating to the Debtors, any assets of the Debtors, the businesses or operations of the Debtors, the Reorganization Cases, or the Plan, including any and all liabilities, obligations, judgments, damages, charges, costs, Debts, and indebtedness based in whole or in part upon any Claim of or relating to successor liability, transferee liability, or other similar theory.

1.54 “**Lien**” means, with respect to any asset or Property, any mortgage, pledge, security interest, lien, right of first refusal, option or other right to acquire, assignment, charge, claim, easement, conditional sale agreement, title retention agreement, defect in title, or other encumbrance or hypothecation or restriction of any nature pertaining to or affecting such asset or Property, whether voluntary or involuntary and whether arising by law, contract or otherwise.

1.55 “**Local Rules**” means the Local Rules of the United States Bankruptcy Court for the Middle District of Florida, as in effect on the Petition Date, together with all amendments and modifications thereto that were subsequently made applicable to the Reorganization Cases.

1.56 “**Order**” means an order or judgment of a court.

1.57 “**Person**” means any person, individual, partnership, corporation, limited liability company, joint venture company, association or other entity of whatever kind, whether or not for profit, including, but not limited to, any “person” as such term is defined in Section 101(41) of the Bankruptcy Code, but excluding any Governmental Unit.

1.58 “**Petition Date**” means May 4, 2010.

1.59 “**Plan**” means the Joint Plan of Reorganization under Chapter 11 of the United States Bankruptcy Code for Fisherman’s Wharf of Venice, Inc., JPKJ, LLC, and JMT Partners dated as of August 2, 2010, and all exhibits to the Plan, as the same may be

amended, supplemented, modified or amended and restated from time to time in accordance with the provisions of the Plan and the Bankruptcy Code.

1.60 “**Plan Documents**” means all documents, attachments and exhibits, as the same may be amended, modified or supplemented from time to time, that aid in effectuating the Plan, which documents, attachments and exhibits shall be filed by the Debtors with the Bankruptcy Court on or before the Plan Documents Filing Date.

1.61 “**Plan Documents Filing Date**” means the date for the filing of the Plan Documents which shall be either: (a) the date, as determined by the Debtors, that is as soon as practicable, but that in no event is later than five (5) calendar days before the commencement of the Confirmation Hearing or (b) such other date (or dates) as determined by the Bankruptcy Court.

1.62 “**Postpetition**” means arising or accruing on or after the Petition Date and before the Effective Date.

1.63 “**Prepetition**” means arising or accruing prior to the Petition Date.

1.64 “**Priority Claim**” means a Claim that is entitled to a priority in payment pursuant to subparagraphs (3) through (7) of Section 507(a) of the Bankruptcy Code and that is not an Administrative Expense Claim, a Priority Tax Claim, a Secured Claim, an Insider Claim or a General Unsecured Claim.

1.65 “**Priority Tax Claim**” means a Claim of a governmental unit that is entitled to a priority in payment pursuant to Section 507(a)(8) of the Bankruptcy Code and that is not an Administrative Expense Claim, a Priority Claim, an Insider Claim or a General Unsecured Claim.

1.66 “**Professional**” means any professional employed in the Reorganization Cases with the approval of the Bankruptcy Court pursuant to Section 327 or 1103 of the Bankruptcy Code.

1.67 “**Proof of Claim**” means a proof of claim filed with the Bankruptcy Court with respect to the Debtors pursuant to Bankruptcy Rule 3001, 3002 or 3003.

1.68 “**Pro Rata Share**” means the same proportion an Allowed Claim in a particular Class bears to the total amount of Allowed Claims in such Class.

1.69 “**Proof of Claim**” means any proof of claim filed with the Bankruptcy Court with respect to the Debtors pursuant to Bankruptcy Rules 3001 or 3002.

1.70 “**Property**” means any property or asset of any kind, whether real, personal or mixed, tangible or intangible, whether now existing or hereafter acquired or arising, and wherever located, and any interest of any kind therein.

1.71 “**Proponent**” means the Debtors as the proponents of the Plan.

1.72 “**Rejected Contracts**” has the meaning ascribed to such term in Article 8 of the Plan.

1.73 “**Released Parties**” means the Debtors, the Reorganized Debtors, and their directors, officers, employees, agents, representatives, attorneys, accountants, and Professionals (acting in such capacity).

1.74 “**Reorganization Cases**” means the above-captioned Chapter 11 cases for the Debtors that were filed on the Petition Date.

1.75 “**Reorganized Debtors**” means Fisherman’s Wharf of Venice, Inc., JPKJ, LLC, and JMT Partners on and after the Effective Date as reorganized pursuant to the Plan.

1.76 “**Reserved Claims**” means all Disputed Claims as of the applicable determination date in the full amount listed in the Schedules, unless a Proof of Claim was timely filed with respect to such Claim, in which case in the face amount of such Proof of Claim, or unless such Claim has been estimated by the Bankruptcy Court for the purpose of allowance pursuant to Section 502(c) of the Bankruptcy Code, in which case in such estimated amount. Unless any order of the Bankruptcy Court estimating a Claim provides otherwise, the amount so estimated shall apply both for voting purposes and for purposes of computing Reserved Claims. As used in the Plan, the term “Reserved Claims” shall not include any Disallowed Claims.

1.77 “**Schedules**” means the schedules, statements and lists filed by the Debtors with the Bankruptcy Court pursuant to Bankruptcy Rule 1007, as they may be amended or supplemented from time to time.

1.78 “**Secured Claim**” means any Claim that is (a) secured in whole or part, as of the Petition Date, by a Lien which Lien is valid, perfected and enforceable under applicable law and is not subject to avoidance under the Bankruptcy Code or applicable non-bankruptcy law, or (b) subject to setoff under Section 553 of the Bankruptcy Code, but only to the extent of the value of the assets or property securing any such Claim, or to the extent of the amount subject to setoff, as the case may be.

1.79 “**Statutory Fees**” means any fees or charges assessed against the Debtors’ Estates under Section 1930, chapter 123 of title 28 of the United States Code.

1.80 “**Unimpaired**” means any Claim that is not Impaired within the meaning of Section 1124 of the Bankruptcy Code.

1.81 “**United States Trustee**” means the Office of the United States Trustee for the Middle District of Florida.

1.82 “**Voting Deadline**” means the last day to file a Ballot accepting or rejecting the Plan as fixed by the Conditional Approval Order.

1.83 “**Voting Instructions**” means the instructions for voting on the Plan contained in the section of the Disclosure Statement entitled “Voting Instructions.”

1.84 “**Witzer**” means Stephen A. Witzer, as Trustee u/a/d February 7, 1985, David C. Freund, as Trustee u/a/d August 11, 1993, Paecia S. Weinsten, as Trustee u/a/d March 7, 1991, Donna J. Dooley, and William A. Dooley, IRA.

## ARTICLE 2

### THE REORGANIZATION CASE

#### 2.1 History of the Debtor and Factors Precipitating the Reorganization Case

The Debtor, John P. Konecnik, Jr is the owner of a restaurant/marina (Fisherman’s Wharf), a motel (d/v/a A Place To Be Motel), and a home in Nokomis, Florida. Business was doing very well which allowed for investments in a home in North Carolina, rental homes, as well as a motor home, boats and cars. The debtor put in 5 million dollars into these investments and personally guaranteed the balance based on income he was receiving from the income producing properties, the restaurant/marina and the motel.

When the economy came crashing down, and southwest Florida took a heavy toll in the crash, the Debtor’s income diminished considerably making it impossible to make payments on the loans. The Debtor entered into an agreement with The State of Florida regarding improvements to the marina at a cost of 4 million dollars, which the county has held up, which would have increased the profits.

This, together with litigation in his corporate case of Fisherman’s Wharf caused him to fall behind in his mortgage in North Carolina which is subject to foreclosure. For more information on Fisherman’s Wharf refer to the Case Management Summary in that case 8:10-bk-10694.

## ARTICLE III

### TREATMENT OF EXECUTORY CONTRACTS AND UNEXPIRED LEASES

#### 3.1 Assumption and Rejection of Executory Contracts and Unexpired Leases.

(a) Rejection. Any executory contracts or unexpired leases that (a) have not been assumed by the Debtors with the Bankruptcy Court’s approval on or prior to the Confirmation Date, and (b) are not the subject of a pending motion to assume on the Confirmation Date, shall, as of the Confirmation Date (subject to the occurrence of the Effective Date), be deemed to have been rejected by the Debtors. The Plan shall constitute a motion to reject such executory contracts and unexpired leases, and the

Debtors shall have no liability thereunder except as is specifically provided in the Plan. Entry of the Confirmation Order shall, subject to and upon the occurrence of the Effective Date, constitute the approval, pursuant to Sections 365(a) and 1123(b)(2) of the Bankruptcy Code, of the rejection of the executory contracts and unexpired leases rejected pursuant to the Plan.

(b) Assumption. Notwithstanding anything in Section 9.1(a) to the contrary, the Debtors will assume the executory contracts identified on Exhibit "B" hereto with the cure amounts set forth thereon paid in accordance with Section 9.2 below. In addition, the Debtors may seek to assume certain executory contracts and unexpired leases that will be identified in any motion to assume pending on the Confirmation Date.

(c) Reservation. Notwithstanding anything in Sections 9.1(a) and 9.1(b) to the contrary, this Section 9.1 shall not apply to any executory contract or unexpired lease that is treated otherwise under the Plan.

3.2 Cure. At the election of the Debtors, any monetary defaults under any executory contract and unexpired lease to be assumed shall be satisfied pursuant to Section 365(b)(1) of the Bankruptcy Code, in one of the following ways: (a) by payment of the default amount in Cash on the Effective Date; (b) by payment of the default amount in equal monthly installments commencing on the Effective Date and continuing for six months without interest, prepayable at any time with no penalty or premium; or (c) on such other terms as agreed to by the parties to such executory contract or unexpired lease. Any party to an executory contract that does file an objection to the Plan prior to the deadline for filing objections to the Plan established by order of the Bankruptcy Court shall be deemed to agree to the cure amount for such executory contract as reflected on Exhibit "B" hereto. In the event of a dispute regarding (i) the cure amount for any executory contract to be assumed under the Plan, (ii) the ability of the Debtors to provide adequate assurance of future performance under the contract or lease to be assumed, or (iii) any other matter pertaining to assumption, the cure payments required by Section 365(b)(1) of the Bankruptcy Code shall be made following the entry of a Final Order resolving the dispute and approving assumption.

3.3 Claims under Rejected Executory Contracts and Unexpired Leases. The Bankruptcy Court shall determine the dollar amount, if any, of the Claim of any Person or Governmental Unit seeking damages by reason of the rejection of any executory contract or unexpired lease; provided, however, that such Person or Governmental Unit files a Proof of Claim with the Bankruptcy Court before thirty (30) calendar days following the Confirmation Date. To the extent any such Claim is Allowed by the Bankruptcy Court by Final Order, such Claim shall become, and shall be treated for all purposes under the Plan as, an Allowed Unsecured Claim and the holder thereof shall receive distributions as a holder of an Allowed Claim in such Class or Classes pursuant to the Plan. The Plan shall constitute notice to Persons and Governmental Units that may assert a Claim for damages from the rejection of an executory contract or unexpired lease of the bar date for filing a Proof of Claim in connection therewith; provided,

however, that the Debtors shall have no obligation to notify such Persons and Governmental Units that the Confirmation Date has occurred.

#### ARTICLE IV

4.1 PlanFunding. The Debtors will fund the Plan from the Available Cash, the income from the Reorganized Debtors' business, and the proceeds from any causes of action asserted by the Debtors. The Debtors anticipate that such funds will be sufficient to pay all remaining Allowed Administrative Claims, Statutory Fees, Priority Tax Claims, and Priority Claims on the Effective Date and thereafter when payments are required to be made under the Plan when such Claims become Allowed Claims.

#### ARTICLE V

##### **TREATMENT OF ALLOWED CLAIMS AND ALLOWED INTERESTS**

5.1 General. The Allowed Claims and Allowed Interests, as classified in Article 3 herein, shall be satisfied in the manner set forth in this Article 5. The treatment of, and the consideration to be received by, Holders of Allowed Claims and Holders of Allowed Interests pursuant to the Plan shall be in full and final satisfaction, settlement, release, extinguishment and discharge of their respective Allowed Claims and Allowed Interests (of any nature whatsoever).

##### 5.2 John p. Konecnik Claims and Interests:

(1) Class 1 – Witzer Secured Claim. Class 1 consists of the Secured Claim of Stephen A. Witzer, et al. secured by the real property owned by the Debtor. Witzer shall be paid either by the proceeds of the income generated by Fisherman's Wharf or the income generated by the Motel owned by the Debtor. This Creditor will be paid interest only payments following the Effective of the Plan.

(2) Class 2 – Claim of Bank of America, N.A. Class 2 consists of the Secured Claim of Bank of America, N.A. secured by a 2007 Ford pickup Truck 150. (Claim #1) This Creditor shall receive the normal monthly payment beginning on the Effective Date of the Plan except that the Debtor seeks a reduced interest rate of 5.25% pursuant to the Till Case.

(3) Class 3 – Claim of Deutsche Bank national Trust Company Class 3 consists of the Secured Claim of Deutsche Bank with regard to a First Mortgage on real property at 566 Blue Ridge Road, Lake Toxaway, NC 28747. (Claim #8) 30 yr Fixed Mortgage @ 4.27% Interest.

(4) Class 4 – Claim of Bank of America, N.A. Class 4 consists of the Claim of Bank of America with regard to the purchase Money Security for the 2006 Vanstar Featherlite Motorhome. (Claim # 2) normal monthly payment beginning on the Effective Date of the Plan except that the Debtor seeks a reduced interest rate of 5.25% pursuant to the Till Case

(5) Class 5 – Claim of Chase Home Finance. Class 5 consists of the Secured Claim of Chase Home Finance with regard to a Mortgage on real property owned by the Debtor located at Kim Miller Road Lake Toxaway, NC 28747 (Claim #5) 30 yr Fixed Mortgage @ 4.27% Interest.

(6) Class 6 – Claim of Premier American Bank. Class 6 consists of the Secured Claim of Premier American Bank with regard to a mortgage on real property owned by the Debtor (Motel known as A Place to Be) located at 208,212, 216 Casey Key Road Nokomis, FL 34275 (Claim # 6) Interest only for 30 months at 5.25% Ten 5 year principle and interest at 5.25%

(7) Class 7 – Premier American Bank. – Class 7 consists of the Secured Claim of Premier American Bank with regard to Boat Loan.(Claim #7) This Creditor shall receive the normal monthly payment beginning on the Effective Date of the Plan except that the Debtor seeks a reduced interest rate of 5.25% pursuant to the Till Case

(8) Claims of the Sarasota County Tax Collector – Class 9 claims consist of the Sarasota Tax Collector with regard to the Motel known as A Place to Be

(9) Unsecured Claims - Class 10 consists of all General Unsecured Claims. Claims shall receive within 90 days of the Effective Date, Fifteen Percent (15%) of claim unless otherwise negotiated.

(10) Class 10 – Insider Claims. Class 10 consists of all Insider Class 10 consists of all Insider Claims. On the Effective Date, each Holder of an Allowed Insider Claim in Class 6 shall retain such Claim; provided, however, such Holder shall not be entitled to any distribution from the Reorganized Debtor on account of such Claim until and unless each Holder of an Allowed Claim in Classes 1 through 9 is satisfied in full as provided under this Plan.

(11) Class 12 – Interests in the Debtor. Class 11 consists of all Interests as well as any Insider Claims asserted by an Insider that are deemed to be Interests as provided in Section 510(b) of the Bankruptcy Code.

## ARTICLE 6

### **TREATMENT OF ADMINISTRATIVE CLAIMS AND PRIORITY TAX CLAIMS**

6.1 Administrative Expense Claims. Each Holder of an Allowed Administrative Expense Claim (except any such Holder that agrees to different treatment) shall receive the Allowed Amount of such Holder's Allowed Administrative Expense Claim, without interest, in Cash, in full satisfaction, settlement, release, extinguishment

and discharge of such Claim, on the Distribution Date, unless such other treatment as may be agreed upon by the Holder of such Allowed Administrative Claim and the Debtors.

6.2 Priority Tax Claims. Each Holder of an Allowed Priority Tax Claim (except any such Holder that agrees to different treatment) shall receive the Allowed Amount of such Holder's Allowed Priority Tax Claim, without post-petition interest or penalty, in full satisfaction, settlement, release, extinguishment and discharge of such Claim, on the Distribution Date, or in regular installment payments over a period not exceeding five years from the Petition Date of a total value, as of the Effective Date, equal to the Allowed Amount of such Claim. The obligations in respect of any Allowed Priority Tax Claim that is secured by a valid, perfected and enforceable Lien shall be collateralized by a continuation of the Lien underlying such Claim and such obligation shall be and become due and payable upon the sale or other disposition of the collateral thereof.

## ARTICLE 8

### CONCLUSION

If to the debtor:

John P. Konecnik  
509 Tamiami Trail N.  
Venice, Florida 34292

Dated: Tampa FL  
December 20, 2010

With Mandatory copies to:

Lynn V.H. Ramey, Esq.  
P.O. Box 2163  
Tampa, FL 33601

By:   
John P. Konecnik Jr.,