In re LandAmerica Financial Group, Inc., et al., Case No. 08-35994 (KRH)

Responses to Objections to Debtors' Disclosure Statement with Respect to the Joint Chapter 11 Plan of Reorganization of LandAmerica Financial Group, Inc. and its Affiliated Debtors [1, 2]

Party	Objection	Response
Paul Busse (the "**Paul Busse Objection**") Docket No. 2099	A. The Disclosure Statement does not contain information sufficient to make an informed decision as to whether or not to vote "yes" or "no" on the Plan. Among other things, the Debtors must disclose: i. all claims held by LES, LFG and the Exchange Customers against each Debtor and the officers and directors of each Debtor, the pros and cons, the possible defenses, probability of success, and estimate of the net proceeds that may be available to the Exchange Customers; ii. each and every insurance policy, the insured, owners and beneficiaries of each policy, the reason why the Exchange Customers are not entitled to this source of recovery, an estimate of the insurance proceeds that will cover the costs of defending such claims, the impact on the Exchange Customers claims if all available insurance proceeds are used in successful defense of claims pursued by the Debtors; iii. information and calculations necessary to determine if the Exchange Customers will receive more from the Plan rather than a Chapter 7 liquidation; and	The Debtors are obligated to disclose information necessary for a creditor entitled to vote on the Plan to determine whether it should accept or reject the Plan, and have done so. i. Contrary to Mr. Busse's assertions, the Debtors are not required to publicly disclose their strategies for future litigation or to speculate on the probability of success of such litigation. Moreover, such disclosure, if made, could be detrimental to the LFG Trust and the LES Trust, who are charged with pursuing the Other Litigation and the ARS Litigation. ii. The Debtors' insurance policies, including the limits of coverage under such policies, are listed in Section 4.1(f) of the Disclosure Statement. iii. The Debtors have included the Liquidation Analysis as Exhibit 4 to the Disclosure Statement. The Liquidation Analysis provides (a) a summary of the liquidation values of each of the Debtors' assets, assuming a chapter 7 liquidation, and (b) the expected recoveries of each of the Debtors' creditors and equity interest holders under the Plan. iv. **This is a confirmation objection.** While couched in the terms of a Disclosure Statement objection, objections related to the propriety of the exculpation provision are confirmation objections. The inclusion of the exculpation provision is in no way indicative that any of the parties exculpated by the Plan would have any liability relating to these Chapter 11 Cases absent the exculpation provision, which are standard provisions in chapter 11 plans. Because the postpetition actions of the exculpated parties is transparent, as transactions by the Debtors that are out of the ordinary course of business are taken on notice to parties in interest and ratified by the Bankruptcy Court, the likelihood is remote that there would be

1 Capitalized terms used but not defined herein have the meanings given them in the Disclosure Statement. Unless otherwise noted, exhibits referenced herein refer to exhibits to the Disclosure Statement.

2 The Debtors' responses are not intended to convey that the corresponding objection is properly brought pursuant to section 1125 of the Bankruptcy Code, or that such objection should be considered in advance of the Confirmation Hearing. Confirmation objections responded to herein are noted as such.

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	iv. whether or not there would be similar releases for professionals in a Chapter 7 case, and whether liability of professionals may provide a possible recovery for the estate.	postpetition liability for any of the parties exculpated under Section 14.5 of the Plan, absent gross negligence, willful misconduct, intentional fraud or criminal conduct, which are specifically carved out of the exculpation. In addition, there have been no specific assertions of claims that would give rise to liability that is exculpated under the Plan. Mere differences of opinion relating to legal strategy do not give rise to liability for the exculpated parties. Because of this, the Debtors believe that the presence of the exculpation provision in the Plan, and the absence of exculpation in a chapter 7 bankruptcy, is in no way detrimental to the recovery of creditors. As shown by the Liquidation Analysis, the Debtors believe that a liquidation under chapter 7 of the Bankruptcy Code would produce substantially smaller recoveries for creditors, regardless of the exculpation provision.
	B. The Disclosure Statement does not contain mathematical predictions for the future recoveries of the LES Exchange Customers.	The Debtors filed an amended Disclosure Statement on October 2, 2009, which contains a chart of estimated recoveries to be distributed to holders of Claims in different Classes. In addition, the Disclosure Statement contains graphs that illustrate incremental recovery improvements for the holders of Claims in Classes LES 4, LES 5, LES 6 and LFG 3 based on proceeds, if any, that may be realized from the ARS Litigation and the Other Litigation. As expected proceeds of the ARS Litigation and Other Litigation cannot be estimated with mathematical certainty, the graphs depict various recovery scenarios based on each additional $10 million of proceeds that may be collected from such litigation. See Disclosure Statement, Article II.
	C. The Disclosure Statement is misleading because it ascribes the cause of LES's bankruptcy to "market conditions" rather than to the alleged criminal conduct of LandAmerica.	Allegations do not relate to the adequacy of the Disclosure Statement pursuant to section 1125 of the Bankruptcy Code.
	D. The Disclosure Statement does not adequately disclose the benefits of the channeling injunction, which provides that the LFG Trust will prosecute all Claims and Causes of Actions against the officers and directors of LFG and LES.	**To the extent this is an objection to the temporary injunction provided in Section 14.4(b) of the Plan, it is a confirmation objection and is premature at this time.** However, Section 6.3(d) of the Disclosure Statement explains that the purpose of the temporary injunction is to ensure that any insurance proceeds are equitably distributed among the Debtors' creditors and to avoid interference with, and diminution of, the Causes of Action brought by the Debtors' estates.

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	E. The exculpation clause that releases counsel to the Official Committee of Unsecured Creditors in the case of LES from any liability for ordinary negligence is inappropriate. The Debtors should provide disclosure of every bankruptcy case that involves a 1031 exchange company, where the professionals were given an exculpation clause.	**This is a confirmation objection.** Objections related to the propriety of releases and exculpations are confirmation objections. Nonetheless, as detailed in Section 6.3 of the Disclosure Statement, the Debtors believe that the releases are necessary and warranted by the facts and circumstances of these Chapter 11 Cases. Furthermore, exculpation clauses are routinely included for the professionals who work towards the confirmation of a plan. See In re 1031 Tax Group, LLC, Case No. 07-11448 (MG) (Bankr. S.D.N.Y., Oct. 7, 2009) (plan confirmed which includes exculpation of certain professionals from all liability, not just postpetition liability, with respect to the Chapter 11 case, other than acts or omissions that constitute willful misconduct, gross negligence, or breach of fiduciary duty).
	F. No current members of the LES Creditors Committee should be selected to serve as the LES Trustee.	**This is a confirmation objection.** As set forth in Section 6.2(d)(1) of the Disclosure Statement, the LES Creditors Committee, with the Debtors' consent, has selected Gerard A. McHale, Jr. to serve as the LES Trustee. Mr. McHale is not one of the current members of the LES Creditors Committee.
Meyerstein Trust (the "**Meyerstein Trust Objection**") Docket No. 2114	A. The Disclosure Statement does not treat Exchange Customers who have Claims associated with an Exchange Agreement that included a note or similar instrument (the "**Note Exchangers**") on an individual basis pursuant to the terms agreed upon in the mediation.	**To the extent this objection is an objection to the classification or treatment of the Note Exchange Claims under the Plan, this is a confirmation objection.** Whether or not the Plan comports with the results of the mediation is not a valid disclosure statement or confirmation objection. The mediation term sheets are confidential, and the results of the mediation are not at issue at confirmation. The issue that will be addressed at the Confirmation Hearing is whether the Plan comports with the provisions of section 1129 of the Bankruptcy Code, and can be otherwise confirmed as a matter of law. Nevertheless, because the recovery for each of the Note Exchangers depends on the amount that is ultimately collected from each note, the Plan mechanism provides for individualized treatment of such Claims.
	B. The Disclosure Statement does not contain a provision for Note Exchangers that wish to preserve their rights to require LES to litigate ownership of the notes received as consideration for their Exchange Agreements. The Plan cannot be a substitute for adversary proceedings.	**This is a confirmation objection.** As discussed in Article IV of the Disclosure Statement, the LES mediation was designed to resolve the treatment of Claims of Exchange Customers as part of a negotiated settlement, so that the Estates may begin to distribute Plan Consideration to holders of Claims in a prompt and orderly manner. Allowing hundreds of parties in interest to pursue their own legal theories in adversary proceedings would only serve to delay distributions and bleed the Estates dry of funds. If all such adversary proceedings were allowed to continue, only the professionals in these cases would likely receive any meaningful recovery.

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William McIllwaine Thompson, Trustee of the W.M. Thompson, Jr. Revocable Trust (the "**Thompson Trust Objection**") Docket No. 2115	A. The Disclosure Statement does not disclose the terms of the Inter-Trust Agreement between the LES Trust and the LFG Trust.	The Debtors will file the Inter-Trust Agreement as part of the Plan Supplement at a later date, at least five days prior to the Voting Deadline.
	B. The Disclosure Statement does not discuss what will happen if either Trust is unable to effectively prosecute an action against the officers and directors of LFG or LES. The Disclosure Statement also does not address whether the statute of limitations will expire before Exchange Customers can bring such actions on their own behalf.	Section 11.2(d) of the Disclosure Statement discusses the risks associated with the Other Litigation. In addition, Section 6.3(f) of the Disclosure Statement plainly states: "any statute of limitation relating to an Enjoined Action brought against a Tolling Party is tolled in accordance with the terms of the Tolling Agreements . . . . The Tolling Agreements are meant to ensure that parties who wish to bring Causes of Action against the Tolling Parties, but who are temporarily enjoined from doing so pursuant to Section 14.4(b) of the Plan, will be able bring such Enjoined Actions upon the expiration of the injunction under Section 14.4(b) of the Plan, even if the statute of limitations for bringing such Cause of Action would have otherwise expired."
Harvey Family Limited Partnership (the "**Harvey Objection**") Docket No. 2116	A. The Disclosure Statement fails to contain adequate information because it lacks the agreed upon terms of the LES Mediation that Note Exchangers will be treated on an individualized basis.	See response to the Meyerstein Trust Objection set forth above.
	B. The Disclosure Statement fails to describe the characteristics of the Note Exchangers to allow the Objector to discern whether it is a proper member of the Note Exchanger class and whether all Note Exchangers should be included in the same class.	**To the extent this objection is an objection to the classification of Claims under the Plan, this is a confirmation objection.** Section 1.149 of the Plan defines Note Exchange Collectible Claim to as Principal Claim arising from a note or similar debt instrument that is set forth on Schedule 1.149 of the Plan made payable to LES by the purchaser of a relinquished property associated with an Exchange Agreement to the extent that such amounts are actually received by the LES Trust or LES, net of the costs associated with collection.

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		The Objector argues that it is not properly a member of LES Class 5 because of certain distinguishing characteristics relating to its note. Upon information and belief, the Objector and LES are parties to an operative Exchange Agreement and, therefore, the Objector is properly a holder of a Claim in Class LES 5.
	C. The Plan is forbidden by law and is patently unconfirmable because it purports to convert and transfer assets that are not property of the Debtors' estates to the LES Trust.	Pursuant to an order dated May 7, 2009, the Bankruptcy Court held that Exchange Funds and Notes are property of LES's bankruptcy estate under section 541 of the Bankruptcy Code. Although the Bankruptcy Court reserved judgment on other legal theories, the Plan embodies a Global Settlement of all Lead Cases and is meant to avoid litigation of issues addressed in the Global Settlement. The Debtors believe that the Plan is not patently unconfirmable and complies with provisions of the Bankruptcy Code.
Matthew B. Luxenberg Revocable Family Trust (the "**Luxenberg Objection**") Docket Nos. 2117, 2160	A. The objection asserts that Debtors did not provide sufficient time to object to the Disclosure Statement.	The objecting party later supplemented its objection.
	B. The Plan, as filed on October 2, 2009, deviates, in one material respect, from the term sheet that was executed at the conclusion of the mediation. Due to confidentiality reasons, Objector has refrained from disclosing the deviation.	**Whether or not the Plan comports with the results of the mediation is not a valid disclosure statement or confirmation objection.** The mediation term sheets are confidential, and the results of the mediation are not at issue at confirmation. The issue that needs to be addressed at the Confirmation Hearing, is whether the Plan comports with the provisions of section 1129 of the Bankruptcy Code, and can be otherwise confirmed as a matter of law.
	C. The Disclosure Statement and the Plan are too long and hard to understand, and the summary in Article 2 of the Disclosure Statement is likewise too long. The Objector recommends the Debtor be required to submit a one (1) page summary along	The Debtors submit that the Disclosure Statement was prepared in a manner to make the Plan accessible to creditors and by no means to intentionally confuse creditors. The various provisions of the Plan, and the fact that it applies to multiple entities, does not give rise to a quick one page summary. However, Article VI of the Disclosure Statement summarizes the salient terms of the Plan in approximately 20 pages. It is ironic that the

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	with the solicitation materials.	Objector complains about the length of the Disclosure Statement, but then provides a laundry list of questions he wishes were also discussed in the Disclosure Statement. The Debtors agree that even in 130 plus pages, it is difficult to include information to answer every question of every creditor and to explain each detail of the Plan. Regardless, the Disclosure Statement does contain adequate information regarding the Plan. If a particular creditor has a specific question about a term of the Plan, such creditor is strongly encouraged to read the Plan itself.
	D. Prior to the filing of the Disclosure Statement, Objector's counsel submitted questions and suggested revisions to the Disclosure Statement and Plan. No questions were addressed and no revisions were incorporated in the filing of October 2, 2009.	This is not a legal objection to the adequacy of the information contained in the Disclosure Statement. The Debtors received the Objector's comments to the Plan and the Disclosure Statement several hours before re-filing the Disclosure Statement on October 2, 2009, reviewed and incorporated some of those comments. The Debtors submit that the Disclosure Statement meets the standard under section 1125 of the Bankruptcy Code and provides "adequate information" to allow creditors to vote on the Plan.
	E. The scope of the proposed channeling injunction contained in the Disclosure Statement is unclear. Specifically, it is unclear whether the injunction extends to actions against the directors and officers of non-Debtor affiliates of the Debtors. Furthermore, it is unclear whether the directors and officers of non-Debtor affiliates are covered by the Debtors' insurance policies, and if so whether claims against the non-Debtor affiliate's directors and officers deplete those insurance policies. Lastly, it is unclear whether the Tolling Agreements bind all necessary parties, including the insurance carriers.	**To the extent this objection challenges the propriety and scope of the temporary injunction, the scope of Enjoined Actions and the Tolling Agreements contained in Section 14.4 of the Plan, this is a confirmation objection.** The Debtors believe that no parties' rights are prejudiced by the Debtors' filing the Tolling Agreements as part of the Plan Supplement five (5) days prior to the Voting Deadline. If the Objector has a question about the scope of the temporary injunction, the Debtors encourage the Objector to review the definition of Enjoined Action in the Plan.
	F. The Disclosure Statement does not contain enough information about the LES Trust Agreement and the Inter-Trust Agreement. The Plan contemplates that the LES Trust Agreement and the Inter-Trust Agreement will not be filed until 5 calendar days prior to the Voting Deadline, and this is insufficient time to review these documents.	See response to the Thompson Trust Objection, Part A.

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	G. The Disclosure Statement should contain some discussion of the multi district litigation (the "**MDL**") currently pending against SunTrust Bank and certain officers and directors of the Debtors in the United States District Court for the District of South Carolina. The discussion should address why the MDL should be stayed.	**To the extent this objection challenges the temporary injunction provided for in Section 14.4 of the Plan, this is a confirmation objection.** The Debtors believe that the Disclosure Statement contains adequate information to allow creditors to vote on the Plan, which Plan was a product of a negotiated settlement between various creditor constituencies and includes agreed upon provisions of who should bring litigation against SunTrust Bank and officers and directors. For the avoidance of doubt, neither the injunction provided for in Section 14.4(a) or 14.4(b) of the Plan purports to enjoin litigation against SunTrust Bank or the Former Underwriting Subsidiaries. In response to the Luxenberg Objection, the Debtors have supplemented the disclosure in Section 4.6 of the Disclosure Statement, including the following: *"The MDL complaint alleges that the funds deposited by members of the purported class were used by LES after the collapse of the ARS market in February 2008 to pay off older exchanges instead of to purchase replacement properties. The MDL Plaintiffs assert claims against SunTrust for (a) aiding and abetting breach of fiduciary duty, (b) conversion of trust funds, (c) aiding and abetting conversion of trust funds, and (d) common law civil conspiracy. The MDL Plaintiffs assert claims against the Individual Defendants for (e) breach of fiduciary duty, (f) negligence, (g) fraud, (h) fraudulent concealment, and (i) constructive fraud. The MDL Action is still in its early stages. To date, neither SunTrust nor any of the Individual Defendants has responded to the MDL Complaint.* *Pursuant to Section 14.4(b) of the Plan, after the Effective Date, the MDL Action will be temporarily stayed as to the Individual Defendants (but not as to SunTrust). Because the Individual Defendants are named insureds under the Debtors' insurance policies, any insurance proceeds that are expended in connection with the Individual Defendants' defense in the MDL Action, or in paying a judgment or settlement, if any, against the Individual Defendants from the MDL Action, will reduce the total proceeds available to the Estates and their creditors under the Debtors' insurance policies. In addition, if the MDL Plaintiffs are successful in obtaining a judgment against the Individual Defendants, such recovery will inure entirely to the benefit of the MDL Plaintiffs instead of being equitably distributed among all of the creditors of the Debtors' estates. In contrast, the Plan provides a mechanism to pursue such litigation in a manner that would benefit all of the unsecured creditors of LFG and LES. Specifically, the LFG Trust is charged with pursuing the Other Litigation, which encompasses all prepetition claims and Causes of Action against, among others, the officers and directors of LFG,*

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		LES and the Former Underwriter Subsidiaries. In addition, the LES Trust is charged with pursuing the ARS Litigation, including all claims and Causes of Action against third parties involved in the underwriting, offering, marketing and/or sale of the ARS, and otherwise relating to the ARS' purchase, sale, value and/or liquidity. Under the terms of the Plan, any proceeds from the Other Litigation and the ARS Litigation will be distributed equitably among the creditors of LFG's and LES's estates."
Grunstead Family Limited Partnership	A. The Disclosure Statement does not describe pending adversary proceedings to which LES is a party.	Section 4.4 of the Disclosure Statement discloses, among other things, (a) that numerous adversary proceedings were filed against LES, (b) that the Bankruptcy Court entered the Protocol Order that provided for the creation of the Lead Cases, (c) the developments that occurred in the prosecution of the Lead Cases, (d) the Bankruptcy Court's subsequent approval of the Mediation Protocol, and (e) the resolution of the Inter-Estate Mediation and the LES Mediation, which ultimately resulted in the Plan. See Disclosure Statement, Section 4.4. However, in response to the Grunstead Objection, the Debtors included the italicized language in Section 4.4 of the Disclosure Statement and a list of the pending adversary proceedings, including the causes of action asserted therein, as Exhibit 5 to the Disclosure Statement: "Within weeks of the Initial Petition Date, the LES Chapter 11 Case was inundated with adversary proceedings brought by Exchange Customers asserting causes of action including breach of contract and fraud, and seeking, among other things, compensatory and punitive damages and injunctive relief. To date, more than one hundred (100) adversary proceedings have been filed *involving virtually the same fact pattern -- the failure of LES to pay certain funds or turnover certain property to the various plaintiffs in connection with contemplated 1031 transactions for which LES had served as a "qualified intermediary." At their core, these adversary proceedings seek, under a variety of theories, the return of the Exchange Funds (whether cash or other property) held by LES associated with Exchange Agreements on the grounds that the Exchange Funds held by LES are not property of the LES Estate. Generally, the plaintiffs allege that the proceeds held by LES were held in an express, resulting, or constructive trust for their benefit and/or that LES received only nominal or bare legal title to the Exchange Funds, and, therefore, the Exchange Funds are not assets of the LES estate under section 541 of the Bankruptcy Code. Attached as Exhibit 5 is a complete list of the pending adversary proceedings, including the causes of action asserted therein.*"

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	B. The Disclosure Statement inappropriately combines into one class those Exchange Customers who have instituted adversary proceedings on the grounds that funds turned over to LES are not property of Debtors' estates, and those Exchange Customers whose Exchange Agreements have lapsed or terminated.	**This is a confirmation objection.** The Debtors believe that the Plan properly classifies all Claims or Interests that are "substantially similar" to other Claims or Interests in such Class in accordance with section 1122 of the Bankruptcy Code. Issues related to proper classification of Claims will be dealt with at the time of confirmation.
	C. The Disclosure Statement contains no provision as to the impact of a reversal on appeal by the District Court as to the Bankruptcy Court's June 29, 2009 Order, which stayed the adversary proceeding filed by Grunstead. The Disclosure Statement should disclose what effect a reversal of such order would have on the feasibility of the Plan and the need to have a separate class of creditors, which consists of customers of LES who claim that funds provided to LES prior to the Petition Date are not property of LES's estate.	See response to the Meyerstein Trust Objection set forth above.
	D. The Disclosure Statement does not warn Exchange Customers that a vote against the Plan does not preserve the right to file or to continue with the prosecution of an adversary proceeding, and that such rights are subject to a permanent injunction.	Page i of the Disclosure Statement states in capital letters, "IF THE PLAN IS CONFIRMED BY THE BANKRUPTCY COURT AND THE EFFECTIVE DATE OCCURS, ALL HOLDERS OF CLAIMS AGAINST, AND HOLDERS OF INTERESTS IN, THE DEBTORS (INCLUDING, WITHOUT LIMITATION, THOSE HOLDERS OF CLAIMS OR INTERESTS WHO DO NOT SUBMIT BALLOTS TO ACCEPT OR REJECT THE PLAN OR WHO ARE NOT ENTITLED TO VOTE ON THE PLAN) WILL BE BOUND BY THE TERMS OF THE PLAN AND THE TRANSACTIONS CONTEMPLATED THEREBY. Section 14.4(a) of the Plan permanently enjoins all holders of Claims against, and holders of Interests in, the Debtors or the Estates, from "commencing, conducting, or continuing in any manner, directly or indirectly, any suit, action or other proceeding of any kind (including, without limitation, any proceeding in a judicial, arbitral, administrative or other forum) against or affecting the Debtors, the Post-Effective Date Entities, Post-

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		Effective Date LFG, the Estates, the Trusts and any of their property . . . ." In contrast, Section 14.4(b) of the Plan provides for a temporary injunction on third party lawsuits that may implicate the Debtors' insurance policies to ensure, among other things, that insurance proceeds can be equitably distributed among the Debtors' creditors. For the avoidance of doubt, nothing in Sections 14.4(a) or 14.4(b) will affect the rights of holders of Claims against, or Interests in, the Debtors from participating in the claims reconciliation process, which will be controlled by the Trusts.
Louis J. De Maio Docket No. 2136	A. The Objector requests that the Bankruptcy Court withhold payment to the IRS under Claim Nos. 368 and 154, and direct payment to the Objector because the Objector has a valid claim against the IRS for an income tax refund.	**This is a confirmation objection.** This is not a proper legal objection to the Disclosure Statement. Pursuant to section 1129(a)(9)(C) of the Bankruptcy Code, the Debtors must pay Allowed Claims of the IRS to the extent they are priority claims, in full, in cash.
Arthur Declaration of Trust; Leapin Eagle, LLC; Vivian R. Hays; Denise J. Wilson; Gerald R. Terry; Ann T. Robbins; Jane T. Evans (the "**Leapin Eagle Objection**") Docket No. 2146	A. The release of Exchange Customer Claims against LFG renders the Plan facially defective and non-confirmable because the release arguably could extend to third party non-contract claims of the Exchange Customers against officers and directors of LFG. Such a release, in the absence of unusual circumstances, must demonstrate significant contribution of funds toward the Plan by officers and directors and full payment of creditors. In the absence of disclosures of such circumstances, the Plan is insufficient on its face and non-confirmable.	**To the extent this objection challenges the release provisions contained in the Plan, this is a confirmation objection.** Pursuant to its terms, Section 14.8 of the Plan only applies to LFG, and does not apply to any third parties.
	B. The characterization of the channeling injunction in the Disclosure Statement is patently misleading and fraudulent because it fails to disclose that the lawsuits which will be pursued under the Plan will be pursued by the Debtor. Furthermore, the representation that the insurance	**To the extent this objection challenges the temporary injunction provisions contained in the Plan, this is a confirmation objection.** Despite the Objectors' assertions, the Other Litigation and the ARS Litigation will be brought by the Trusts, not by the Debtors, and the Disclosure Statement clearly discloses this. Section 6.2(d) of the Disclosure Statement states "[t]he LES Trust . . . will be charged with pursuing (a) the ARS Litigation" and that "[t]he LFG Trust will also be divided into two sub-trusts, the Other Litigation Sub-Trust, which will be responsible for pursuing the Other

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	policy proceeds *will be* recovered is fraudulent. The statement in the Disclosure Statement that decentralized litigation would deplete available recoveries for all but a few creditors is false and therefore facially inadequate.	Litigation . . ." The Trusts will be governed by Trustees and Trust Committees appointed by the Creditors Committees, not the Debtors, and such Trust Committees will be charged with making litigation decisions for the Trusts. In addition, the Debtors do not assert that proceeds from insurance policies *will* be recovered pursuant to the Other Litigation. Section 11.2(d) of the Disclosure Statement states that ". . . there can be no assurance that any such Causes of Action will produce recoveries . . ." However, since the Other Litigation will be brought by the Trusts and not the Debtors, to the extent that the Objectors assert that there will be no recovery from the insurance policy due to an exclusion, or the theory of *in pari delicto*, the Debtors disagree as a matter of law. In addition, the Objectors fail to note that upon final adjudication of the ARS Litigation and the Other Litigation, the injunction under Section 14.4(b) of the Plan is lifted. Therefore, the objecting parties both mischaracterize the injunction as a permanent injunction, and fail to note that if any exclusion to an insurance policy does apply, then insurance proceeds may still be available for holders of Claims against directors and officers once the temporary injunction is lifted. Despite the risk factors found in Section 11.2 of the Disclosure Statement that make abundantly clear the inherent risks associated with the Other Litigation and the ARS Litigation that may impact actual recoveries for creditors, the Debtors have inserted the italicized language below regarding potential recoveries from the Debtors' insurance policies in Section 6.3(d) of the Disclosure Statement: " . . . the proceeds from the insurance policies, *if any*, will be distributed equitably among creditors, rather than to individual creditors who may obtain judgments or settlements."
	C. The Disclosure Statement is inadequate because it proposes to subordinate and indefinitely suspend litigation by Exchange Customers, in favor of litigation to be pursued by LES and LFG themselves, and does not explain the strategy behind such an approach. Moreover, the injunction provision is broad enough to enjoin all third party actions. If Debtor's intent is only to enjoin litigation	To ensure that creditors of LES and LFG receive fair and equitable proceeds from the Other Litigation and ARS Litigation, the Plan provides that such litigation will be pursued by the LES Trust and the LFG Trust and that proceeds will be distributed through the Waterfall. See Plan Article 8. The definition of Enjoined Action contained in Section 1.60 of the Plan plainly states that an Enjoined Action is "any suit, action, investigation or other proceeding of any kind (including, without limitation, any proceeding in a judicial, arbitral, administrative, or

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	involving LES and LFG's current and former officers and directors, then the Plan should so state.	other forum) *against a prepetition officer or director of a Debtor* to the extent that prosecution of such suit, action, investigation or other proceeding may deplete any insurance policy owned or purchased by one or more of the Debtors (or their predecessors)." (emphasis added) Therefore, the Disclosure Statement is not misleading.
	D. The Plan is facially defective and non-confirmable because the requirement that Commingled Exchange Customers consent to a permanent injunction to their valuable third party direct claims in order to receive a distribution under the Plan violates the "best interest test." It forces creditors to "consent" to obtain benefits to which they are already statutorily entitled. Each non-accepting creditor must receive at least as much as it would get in a Chapter 7 case.	**To the extent this objection challenges the injunction provided for in the Plan, this is a confirmation objection.** However, to be abundantly clear, Section 14.4(b) of the Plan gives rise to a temporary injunction, not a permanent injunction, as the objecting party constantly and incorrectly asserts. As disclosed in the liquidation analysis, the Plan satisfies the requirement that each creditor receive as much as it would in a Chapter 7 liquidation.
	E. The Disclosure Statement is inadequate because it fails to disclose that: applicable statutes of limitations may bar actions by Exchange Customers by the time they are no longer enjoined; adverse findings in the Other Litigation and ARS Litigation pursued by the Debtors may foreclose potential actions that otherwise could have been brought by Exchange Customers; the resolution of those litigations pursued by the Debtors will likely require releases of such claims as held by the Exchange Customers; and it may take years before the Exchange Customers' actions are no longer enjoined.	**To the extent this objection challenges the injunction provided for in Section 14.4 of the Plan, this is a confirmation objection.** In response to some of the Objector's challenges, Section 6.3(d) of the Disclosure Statement explains the purpose of the injunction, which is to ensure that any proceeds from the Debtors' insurance policies, under which policies the directors and officers are insureds, are not depleted by lawsuits brought by various individual creditors. The Plan specifically contemplates that Tolling Agreements will be executed by directors and officers.
	F. The Exchange Customers are entitled to specific information concerning the claims, causes of action, defenses, likelihood of success, quantification of potential success, possible litigation timetables, and risks relating to the Other Litigation. The Disclosure Statement should also detail each and every specific claim of individual Exchange	See response to the Paul Busse Objection set forth above.

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	Customers that is sought to be enjoined with a similar analysis.	
	G. The Disclosure Statement does not contain sufficient information on the Tolling Agreements with LES and LFG officers and directors. First, the Debtors propose to disclose the Tolling Agreements on five (5) days prior to the Voting Deadline, which is inadequate and cannot satisfy due process requirements. Second, although the Debtors' insurers have been put on notice of the Tolling Agreements, the insurers have not consented to the Tolling Agreements and may assert defenses to coverage. Third, the Tolling Agreements lack information regarding the status of direct claims against SunTrust Bank or pre-petition professionals.	**To the extent this objection challenges the propriety and scope of the Tolling Agreements, this is a confirmation objection.** The Debtors believe that Section 6.3(f) of the Disclosure Statement provides adequate disclosure relating to the Tolling Agreements. The Debtors have fully disclosed the purpose and scope of the Tolling Agreements. Consequently, no parties' rights are prejudiced by the Debtors' filing the Tolling Agreements as part of the Plan Supplement five (5) days prior to the Voting Deadline.
	H. The Disclosure Statement speaks in positive and affirmative terms about insurance proceeds that "will" be generated by the ARS Litigation and Other Litigation, which suggests a guarantee of success. The Debtors must temper each assertion by replacing the use of the word "will" with "if" and the like.	See response to Leaping Eagle Objection B. The Disclosure Statement is replete with reservations and risk factors relating to estimated proceeds of litigation. For example, Section 11.2(d) of the Disclosure Statement clearly states that "there can be no assurance that any such Causes of Action will produce recoveries that will enhance Plan Distributions or that such recoveries will equal the amounts estimated by the Debtors." Page ii of the Disclosure Statement states in capital letters, "THE FORWARD-LOOKING EVENTS AND CIRCUMSTANCES DISCUSSED IN THIS DISCLOSURE STATEMENT MAY NOT OCCUR, AND ACTUAL RESULTS COULD DIFFER MATERIALLY FROM THOSE ANTICIPATED IN THE FORWARD LOOKING STATEMENTS. CONSEQUENTLY, THE PROJECTED FINANCIAL INFORMATION AND OTHER FORWARD-LOOKING STATEMENTS CONTAINED HEREIN SHOULD NOT BE REGARDED AS PRESENTATION BY ANY OF THE DEBTORS, THEIR ADVISORS, OR ANY OTHER PERSON THAT PROJECTED THE FINANCIAL CONDITIONS."
	I. The Disclosure Statement is inadequate because it does not clearly explain that the exculpation provision will apply to law firms, attorneys and consultants involved in the Bankruptcy Proceeding, and will prospectively cover Jenner and	Section 6.3(e) of the Disclosure Statement clearly explains the slope of the exculpation provision. To the extent the Objector objects to the validity of the exculpation provision, that is a confirmation objection. Moreover, exculpation provisions for professionals are routine in chapter 11 cases.

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	Block. Furthermore, those covered by the exculpation clause will be held liable only for conduct that rises to the level of "gross negligence" or "willful, intentional, or criminal," rather than to the standard of ordinary and reasonable care and competence. Furthermore, the Disclosure Statement does not explain that the attorneys seeking exculpation are ethically precluded from seeking such a release and that standards of professionalism dictate that attorneys not shield themselves from liability potentially resulting from carrying out their duties.	**The scope of the Plan's exculpation provision is a confirmation issue, not a disclosure issue.** Moreover, Virginia's ethical rule concerning an agreement to limit an attorney's liability is limited to prospective releases only, and thus is not implicated by any release or exculpation concerning pre-confirmation activities. See Va. R. Prof. Conduct 1.8(h) (addressing prospective releases); see also In re Winn-Dixie Stores, 356 B.R. 239, 261 (Bankr. M.D. Fla. 2006) (finding analogous Florida Rule 1.8(h) to concern prospective releases, not retroactive exculpation of third-party claims against attorneys). Exculpation provisions, such as Section 14.5 of the Plan, are typical and customary in complex chapter 11 cases, and courts in this jurisdiction have approved chapter 11 plans containing similar provisions on numerous occasions. See, e.g., In re Movie Gallery, Inc., Case No. 07-33849, Docket Nos. 2188 and 2191 (Bankr. E.D. Va. April 10, 2008); In re Heilig-Meyers Company, Case No. 00-34533, Docket Nos. 6342 and 6378 (Bankr. E.D. Va. Dec. 31, 2005); In re US Airways Group, Inc., Case No. 02-83984, Docket No. 2986 (Bankr. E.D. Va. March 18, 2003); In re AMF Bowling Worldwide, Inc., Case No. 01-61119, Docket Nos. 751 and 768 (Bankr. E.D. Va. Feb. 2, 2002). Considering the extraordinary number of interested parties involved in complex chapter 11 cases and the substantial dollars at stake, such exculpations provisions are necessary and appropriate to ensure the estate is represented by quality professionals. See In re Enron Corp., 326 B.R. 497, 500 (S.D.N.Y. 2005) (noting that exculpation benefits debtor's estate and encourages plan negotiation). The broad oversight of the U.S. Trustee's office and the Court ensures the integrity of this process. Id. (noting bankruptcy court observed conduct of exculpated professionals).
Rosanna Passantino Docket Nos. 2029, 2073, 2135, 2137, 2138, 2141	A. The Objector reaffirms all of the objections raised in by Paul Busse Objection.	See responses to the Paul Busse Objection set forth above.
	B. The Disclosure Statement is inadequate because there is no way to determine what the Exchange Customers will recover based on the vague generalities and platitudes contained in the Disclosure Statement.	Article 2 of the Disclosure Statement contains a recovery chart representing the estimated recoveries for holders of Claims in each of the Classes under the Plan.
	C. The Exculpation clause is inappropriate because counsel to the LES Creditors Committee has	**To the extent that Objector challenges the appropriateness of the exculpation provided for in Section 14.5 of the Plan, this is a confirmation objection.**

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	mishandled the Chapter 11 Cases.	
Anne V. Martin and Paul D. Hoffman Docket Nos. 2151, 2179	A. The Objectors reaffirm all of objections B, E, and F of the Paul Busse Objection as set forth above.	See responses to the Paul Busse Objection, Parts B, E and F set forth above.
Roy and Susan Tanaka Docket No. 2152	A. The exculpation clause is inappropriate because the Chapter 11 Cases have been mishandled and it is against public policy.	**To the extent that Objector challenges the appropriateness of the exculpation clause provided for in Section 14.5 of the Plan, this is a confirmation objection.** As stated in response to the Leapin Eagle Objection E, exculpation clauses are routinely included for the professionals, including attorneys, who work towards the confirmation of a plan.
	B. The funds held by LES were intended to be held "separately and protected" and should not be an asset of LES' estate.	See the response to the Harvey Objection, Part C set forth above.
Tracy A. Ralphs and Macy G. Ralphs Docket Nos. 2153, 2180	A. The Objectors reaffirm all of the objections of the Paul Busse Objection as set forth above.	See response to the Paul Busse Objection set forth above.
Pension Benefit Guaranty Corporation (the "**PBGC Objection**") Docket No. 2155	A. The Disclosure Statement does not provide adequate information to inform creditors of facts related to potential liability for the Cash Balance Plan that may affect the value of their claims. In particular, the following disclosures are inadequate or missing: i. The Liquidation Analysis assumes that the PBGC Claims are disallowed and extinguished in their entirety, which would be accurate only in the case of a standard termination. ii. The Disclosure Statement fails to disclose the	The Debtors believe that the Disclosure Statement contains adequate information to inform creditors regarding the potential liability in connection with the Cash Balance Plan. i. The Debtors believe the Liquidation Analysis is full and adequate disclosure. As stated on page 4 of the Liquidation Analysis, the Debtors do not expect the amount and priority or secured status of the PBGC Claims to be different in a chapter 7 case from their treatment under the Plan. In addition, most of the thirty or more duplicative claims filed by PBGC were filed as contingent claims in unliquidated amounts. Just as the Debtors have declined to assign arbitrary values to contingent, unliquidated assets, such as litigation recoveries, it is not appropriate or required to assign values to duplicative, contingent, unliquidated claims, especially when such liabilities are not expected to be materially different between the Plan and a chapter 7 case, and where the Debtors dispute

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	reasons that the existing Equity Interests in the Debtors will be cancelled on the Effective Date.	the claims in their entirety.
	iii. The Disclosure Statement and the Plan do not identify the entity that will sponsor the Cash Balance Plan after the Effective Date of the Plan.	ii. **This is a confirmation objection**. The Disclosure Statement discloses in detail the prospect of Cash Balance Plan termination and the potential resulting effect on creditor recoveries. See, e.g., Disclosure Statement, pp. 61-66 and 122-23; Liquidation Analysis, p. 4
	iv. The Disclosure Statement fails to explain why the vesting of the Orange County Bancorp Interests in Post-Effective Date LFG would affect any PBGC claim and why a quick sale would be to any creditor's advantage.	iii. **This is a confirmation objection.** To the extent this objection relates to the Disclosure Statement, see response to ii., above. In addition, the Disclosure Statement addresses in detail the basis for extinguishment of the equity interests in the Debtors. See Liquidation Analysis.
	v. The Disclosure Statement and the Plan require clarification with respect to how the PBGC Claim will be satisfied as between LFG and LES.	iv. This objection appears to seek inappropriate discovery regarding the Debtors' strategy for addressing the PBGC's claims and the possible disposition of Orange County Bancorp. For discussion in the Disclosure Statement of possible Cash Balance Plan termination, see references in response to ii., above. In addition, claims that the PBGC may assert against non-Debtors are beyond the scope of the Disclosure Statement.
	vi. The Disclosure Statement implies that the Cash Balance Plan qualifies for distress termination if only one of the sponsors meets the criteria.	v. **This is a confirmation objection not ripe for consideration.** As between the Debtors only, the Plan caps the exposure of LFG to the PBGC at the lesser of $5 million or 25% of any amounts paid to the Cash Balance Plan to effectuate a termination, or to the PBGC as a Plan Distribution. There is no inconsistency between the Plan and Disclosure Statement. The Liquidation Analysis takes into account this inter-debtor settlement and thus discloses to creditors the effect of the settlement on recoveries.
	vii. The Plan's provisions with respect to which post-Effective Date entity assumes the responsibility for the liquidation and winding up of each of the Subsidiary Debtors appear to be inconsistent, and thus require further disclosures.	vi. The Debtors added the following italicized language to Section 4.1(g)(4) of the Disclosure Statement: "In order for the plan to qualify for a distress termination under ERISA §4041(c), the plan administrator must demonstrate to the PBGC that each plan sponsor and all members of the controlled group satisfy one of the following financial distress tests: (1) the sponsor *or controlled group member* is liquidating in a bankruptcy proceeding; (2) the sponsor *or controlled group member* is

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		reorganizing in bankruptcy and the bankruptcy court has determined that the reorganization cannot succeed unless the pension plan is terminated; (3) the sponsor *or controlled group member* will be unable to pay its debts when they become due unless the pension plan is terminated; or (4) pension costs have become unreasonably burdensome as a result of a declining workforce." vii. The SD Trusts will have the responsibility for the liquidation and winding up of each Subsidiary Debtor, other than LES and its subsidiaries. The Debtors have amended the definition of LFG Trust accordingly. Section 1.136 of the Plan defines LFG Trust as a "*liquidating trust, comprised of the Other Litigation Sub-Trust and the LFG Remaining Assets Sub-Trust, to be created on the Effective Date in accordance with the provisions of the LFG Trust Agreement."*
	B. Sections 1.60 and 14.4(b) of the Plan provide that creditors are enjoined from pursuing claims against prepetition officers or directors of the Debtors to the extent such claims will deplete insurance policies of the Debtors. Further, Section 14.5 of the Plan provides that various non-debtors have no liability for most post-petition acts or omissions relating to the Chapter 11 Cases. These provisions could result in persons escaping liability arising from breaches of fiduciary duty to the Cash Balance Plan. The Disclosure Statement fails to disclose why non-Debtor releases are warranted in these Chapter 11 Cases.	**To the extent that Objector challenges the appropriateness of the exculpation clause provided for in Section 14.5 of the Plan, this is a confirmation objection.** Nonetheless, as detailed in Section 6.3 of the Disclosure Statement, the Debtors believe that the releases are necessary and warranted by the facts and circumstances of these Chapter 11 Cases. See response to the Paul Busse Objection, A(iv) above.
Chino Spectrum LLC, et al. Docket No. 2158	A. The Disclosure Statement is not clear on the scope of the injunction with respect to directors and officers who do not sign a Tolling Agreement and other employees of the Debtors.	**To the extent this objection challenges the injunction provided for in Section 14.4 of the Plan, or the definition of Enjoined Action contained in Section 1.60 of the Plan, or the propriety and scope of the Tolling Agreements, this is a confirmation objection.**
	B. The definition of Segregated Exchange	**This is a confirmation objection.** However, the Plan Supplement will be filed prior to

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	Principal Claim in Section 1.192 of the Plan allows the Debtor to amend the Allowed Principal Claims of certain Exchange Customers after the Plan is voted on but before it is confirmed.	the Voting Deadline. In addition, Debtors routinely disallow Claims before and after confirmation.
John Chiang, Controller of the State of California Docket No. 2159	A. The Disclosure Statement does not provide adequate information on the nature of the Intercompany Claims and why they will be treated as Allowed General Unsecured Claims.	**This is a confirmation objection.** As explained in Sections 6.2(g) and 11.1(g) of the Disclosure Statement, the Debtors believe that Section 2.2 of the Plan is appropriate since the Plan does not provide for the substantive consolidation of the Estates and the Intercompany Claims evidence actual liabilities between and among LFG and its Subsidiaries.
	B. If an additional affiliate of the Debtors files for chapter 11 relief on or near the Voting Deadline, the Plan does not provide the Objector with enough time to fully investigate the Intercompany Claims. The Objector may be left with only five (5) calendar days to investigate the Intercompany Claims among the Debtors and to prepare an appropriate objection.	**To the extent that Objector takes issue with the notice provided, that is a confirmation objection and is more appropriately addressed at the confirmation hearing.** Sections 4.7(c), 6.2(g), 6.3(g) and 11.1(g) of the Disclosure Statement contain adequate information regarding the treatment of Intercompany Claims.
Ming C. Wong Docket No. 2181	A. The Objectors reaffirm all of the objections of the Paul Busse Objection as set forth above.	See response to the Paul Busse Objection set forth above.
David Chen and DCRE Investments, LLC Docket No. 2182	A. The Objectors reaffirm all of the objections of the Paul Busse Objection as set forth above.	See response to the Paul Busse Objection set forth above.