Gertler Law Group, LLC
Attorneys for Debtors and
Debtors in Possession
Richard G. Gertler, Esq.
Kevin R. Toole, Esq.
90 Merrick Avenue
East Meadow, New York 11554
Tel: (516) 228-3553
Fax: (516) 228-3396
gertler@gertlerlawgroup.com
ktoole@gertlerlawgroup.com

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

---x

In re:	**Chapter 11**
LAURENCE V. LUBIN and SUSAN D. LUBIN,	**Case No.: 16-22376 (rdd)**
Debtors.	

---x

DISCLOSURE STATEMENT OF LAURENCE V. LUBIN AND SUSAN D. LUBIN
FOR THEIR JOINT PLAN OF REORGANIZATION DATED JULY 17, 2016

I. INTRODUCTION

This is the disclosure statement (the "Disclosure Statement") in the individual joint chapter 11 case of Laurence V. Lubin and Susan D. Luban (the "Debtors"). This Disclosure Statement contains information about the Debtors and describes their filed plan of reorganization dated July 17, 2016 (the "Plan"). A full copy of the Plan is attached to this Disclosure Statement as Exhibit A. ***Your rights may be affected. You should read the Plan and this Disclosure Statement carefully and discuss them with your attorney. If you do not have an attorney, you may wish to consult one.***

The proposed distributions under the Plan are discussed in this Disclosure Statement. The Plan contemplates the payment in full of all allowed claims, both secured and unsecured (however, without interest) as well as administrative expenses incurred during the chapter 11 case.

A. Purpose of This Document

This Disclosure Statement describes:

(1) The Debtors and any significant events during the bankruptcy case;
(2) How the Plan proposes to treat claims of the type you hold (*i.e.*, what you will receive on your claim or equity interest if the plan is confirmed);

(3) Who can vote on or object to the Plan;
(4) What factors the Bankruptcy Court (the "Court") will consider when deciding whether to confirm the Plan;
(5) Why the Debtors believe the Plan is feasible, and how the treatment of your claim or equity interest under the Plan compares to what you would receive on your claim or equity interest in liquidation; and
(6) The effect of confirmation of the Plan.

Be sure to read the Plan as well as the Disclosure Statement. This Disclosure Statement describes the Plan, but it is the Plan itself that will, if confirmed, establish your rights.

B. **Deadlines for Voting and Objecting; Date of Plan Confirmation Hearing**

The Court has not yet confirmed the Plan described in this Disclosure Statement. This section describes the procedures pursuant to which the Plan will or will not be confirmed.

1. *Time and Place of the Hearing to Finally Approve This Disclosure Statement and] Confirm the Plan*

The hearing at which the Court will determine whether to [finally approve this Disclosure Statement and] confirm the Plan will take place on [Date to be Determined], at [Time to be Determined], in Courtroom of the Hon. Robert D. Drain, at the United States Bankruptcy Court for the Southern District of New York, White Plains Division, at the Federal Building and Courthouse, First Floor, 300 Quarropas Street, White Plains, New York 10601.

2. *Deadline for Voting by Creditors to Accept or Reject the Plan*

If you are entitled to vote to accept or reject the Plan, vote on the enclosed ballot and return the ballot in the enclosed envelope to the Debtors' counsel, the Gertler Law Group, LLC at the address of the firm at the end of this Disclosure Statement. See section IV.A. below for a discussion of voting eligibility requirements.

Your ballot must be received by [Date to be Determined] or it will not be counted.

3. *Deadline for Objecting to the Adequacy of Disclosure Statement and Confirmation of the Plan*

Objections to this Disclosure Statement or to] the confirmation of the Plan must be filed with the Court and served upon the Debtors, by their counsel, the Gertler Law Group, LLC by [Date to be Determined].

4. *Identity of Person to Contact for More Information*

If you want additional information about the Plan, you should contact Vanessa Masri at the Gertler Law Group, LLC, 90 Merrick Avenue, Suite 400, East Meadow, New york 11554, tel. no. 516-228-3553.

C. **Disclaimer**

The Court has not yet conditionally approved this Disclosure Statement as containing adequate information to enable parties affected by the Plan to make an informed judgment about

its terms. The Court has not yet determined whether the Plan meets the legal requirements for confirmation, and the fact that the Court has approved this Disclosure Statement does not constitute an endorsement of the Plan by the Court, or a recommendation that it be accepted. The Court's approval of this Disclosure Statement is subject to final approval at the hearing on confirmation of the Plan. Objections to the adequacy of this Disclosure Statement may be filed until [Date to be Determined].

II. BACKGROUND

A. The Debtors

The Debtors are husband and wife. Laurence D. Lubin's professional career has been in the marketing business. Susan D. Lubin is not employed at this time or engaged in any business. The Debtors own and reside at residential real property located at 5 Woodland Road, Mount Kisco, New York 10549.

Laurence V. Lubin is a 50% equity owner in Lawrence Lubin, Inc. located in New York City. Lawrence Lubin Inc. was founded by Lubin and his partner in 1990. Lawrence Lubin Inc. is in the marketing field with the main focus of strategic planning to assist companies and businesses in obtaining and sustaining growth and market share. Its clients include Disney, Lowes, Godiva, KFC/Pizza Hut, PepsiCo. and Proctor & Gamble.

B. Events Leading to Chapter 11 Filing

Lawrence Lubin, Inc. performed well and generally grew from its inception in 1990 through the mid 2000's. The financial downturn and follow on recession that started in 2008 had a significant adverse impact on the business. Several of its smaller clients either went out of business or completely stopped marketing efforts, and many of its larger clients curtailed spending in this area as the recession lingered through 2009 and later.

As a result, the company's revenues declined with a corresponding reduction in Laurence Lubin's salary and draw. Correspondingly, the Debtors incurred income tax liabilities to the federal and state governments that they were not able to pay as the liabilities were assessed.

This situation continued through 2015 and though Lawrence Lubin Inc.'s business stabilized and has seen recovery, it has not been sufficient to allow the Debtors to pay the outstanding tax liabilities. In 2015 and early 2016, the Internal Revenue Service began levying assets of the Debtors. These attachments are what caused the Debtors to file this chapter 11 case in March 2016, so as to prevent the seizure of bank accounts, retirement investments and potential execution on the liens against their residence.

C. Significant Events During the Bankruptcy Case

The Debtors have conducted themselves as debtors-in-possession during the chapter 11 case and have been able to meet all of their post-filing date obligations in a timely manner from the income derived from Lawrence Lubin Inc. They have not incurred any new debt or obligations that would impair their ability to consummate the terms and provisions of the Plan. There have been no adverse situations, such as a medical condition or damage to their residential property that would render either of them unable to perform under the Plan.

The Debtors have been assisted in the administration of the chapter 11 estate and this case by their Court approved retained attorneys, the Gertler Law Group, LLC. As of this time, the Debtors have not retained other professionals, such as accountants or brokers. Because of his business and financial background Laurence V. Lubin has been able to prepare the required monthly operating reports that are filed with the Court.

As noted, there have been no adverse events during the chapter 11 case. The debtors have been focusing on the business of Lawrence Lubin Inc. and the possible subdivision of their residential property in Mount Kisco. The concept for subdividing would be to allow the Debtors to separate the undeveloped part of the property for separate residential development. The potential value received from the sale/development of the subdivided lot(s) could be the basis for funding the Plan. The Debtors' property is comprised of approximately three acres. Of this total, about one half is cleared and used as the residence with the house upon it. The balance of the property is mainly wooded and "raw."

The Debtors have done preliminary due diligence for the purpose of ultimately determining if subdividing is viable and would generate sufficient revenue to fund the Plan. The process of subdividing residential property is governed by local code and ordinances and is quite involved. The subdivision application process incudes appraisals, a detailed written application, septic and related environmental plans, meetings with local planning board and municipal personnel during the review and approval phase, engaging professionals to assist in the foregoing. The application to approval process is likely to take about 0ne year. However, the Debtors will be in a position either before confirmation of the Plan or no later than three months thereafter to make a decision on whether to proceed. This will be based almost solely on the costs of the process and the net value the Debtors could anticipate from the sale and development of the subdivided portion of their real property. There would have to be sufficient funds to cover the obligations under the Plan.

Alternative to a subdividing of the real property would be a straight sale of the property through a broker listing. The Debtors are certain that such a sale would generate sufficient funds for use under the Plan as the property has a value of approximately $1.2 million, as is. However, as the property is their primary (only) residence, the Debtors want to explore the subdivide option before determining to sell with its intendant relocation costs and impact on their lives.

D. **Projected Recovery of Avoidable Transfers**

The Debtors do not intend to pursue preference, fraudulent conveyance, or other avoidance actions. The Debtors and their counsel do not believe such actions exists, or would be economically viable.

Also, the Debtors do not have any other claims or right of recovery form anyone, such as breach of contract, personal injury or property damage.

E. Claims Objections

Except to the extent that a claim is already allowed pursuant to a final non-appealable order, the Debtors reserves the right to object to claims. The preliminary review of the filed proofs of claim (there has been no claims filing bar date set yet) does not indicate that there will be objections filed by

the Debtors as to those claims. However, upon the filing of all proofs of claim, the Debtors will conduct a final review to determine if any objections are warranted.

Therefore, even if your claim is allowed for voting purposes, you may not be entitled to a distribution if an objection to your claim is later upheld. The procedures for resolving disputed claims are set forth in Article V of the Plan.

F. Current Financial Status

As noted above, the Debtors' residential real property has an approximate value of $1,200,000. The other assets of the Debtors consist of one owned motor vehicle, a 2008 Lexus LS 460 in fair condition and with approximately 69,000 miles with a value of $21,000, home furniture, fixtures and furnishings, home and personal use electronics (TV's, computers, etc.) that have an estimated total value of $10,000, personal clothing, apparel, jewelry and personal items with a total value estimated at $15,000 and a qualified retirement investment fund of approximately $90,000. The equity value of Lawrence Lubin Inc. is undetermined. The Debtors also maintain a personal checking account at a local bank branch with average monthly balances under $5,000.

III. SUMMARY OF THE PLAN OF REORGANIZATION AND TREATMENT OF CLAIMS

A. The Purpose of the Plan of Reorganization

The Plan is the proposal of the Debtors to settle, pay and dispose of the claims against them. As required by the Code, the Plan places claims in various classes and describes the treatment each will receive. The Plan also states whether each class of claims is impaired or unimpaired. If the Plan is confirmed, your recovery will be the amount provided by the Plan.

B. Unclassified Claims

Certain types of claims are automatically entitled to specific treatment under the Code. They are not considered impaired, and holders of such claims do not vote on the Plan. They may, however, object if, in their view, their treatment under the Plan does not comply with that required by the Code. As such, the Plan Proponent has *not* placed the following claims in any class:

1. *Administrative Expenses*

Administrative expenses are costs or expenses of administering the Debtors' chapter 11 case which are allowed under Code section 507(a)(2). The Code requires that all administrative expenses be paid on the effective date of the Plan, unless a particular claimant agrees to a different treatment.

At this time, the Debtors anticipate that the only administrative expense claims will be for the professional fees and expenses of their counsel, Gertler Law Group, LLC, as same are approved by the Court upon application by the firm, and any quarterly fees due to the Office of the U.S. Trustee at the time of confirmation of the Plan or the effective date of the Plan. These administrative expenses shall be paid in full from the Debtors' income and will not be paid from the sale of the Debtors' real property. These expenses are not anticipated to be greater than $25,000.

2. *Priority Tax Claims*

Priority tax claims are unsecured income, employment, and other taxes described by Code section 507(a)(8). Unless the holder of such a priority tax claim agrees otherwise, it must receive the present value of such claim, in regular installments paid over a period not exceeding 5 years from the order of relief.

Both the Internal Revenue Service and the New York State Department of Taxation and Finance have filed proofs of claim asserting priority tax claims. These are the same taxing authorities that the Debtors listed in their Schedules of Liabilities.

The IRS filed claim totals $324,748.75. This amount is broken down in the proof of claim as follows: Secured - $170,412.18; Priority - $23,717.20; and Unsecured General - $130,619.37.

The New York State filed claim totals 94,034.85. This amount is broken down in the proof of claim as follows: Tax - $57,370.66; Interest – 21,422.10; and Penalty -$15,242.09.

These claims will be paid from the proceeds of the sale of Debtors' real property or over a period of not more than five (5) years from the commencement date of this chapter 11 case, March 23, 2016.

C. **Classes of Claims**

The following are the classes set forth in the Plan, and the proposed treatment that they will receive under the Plan:

1. *Classes of Priority Claims*

The Debtors do not anticipate any claims subject to priority under Code section 507, other than the administrative expenses and tax claims that are addressed under the Plan (see Section B above).

2. *Classes of Secured Claims*

Allowed Secured Claims are claims secured by property of the Debtors' bankruptcy to the extent allowed as secured claims under Code section 506. If the value of the collateral securing the creditor's claim is less than the amount of the creditor's allowed claim, the deficiency will be classified as a general unsecured claim.

The following are the filed and/or scheduled Secured Claims:

a. Class 2A - Wells Fargo Bank, N.A.: $796,207.13 – First position mortgage against Debtors' real property.

b. Class 2B - JPMorgan Chase Bank, N.A.: $32,500.00 – Second position mortgage against Debtors' real property.

c. Class 2C - Internal Revenue Service: - $170,412.18 -Tax warrant recorded against the Debtors' real property (*see* IRS claim in Section B. 2. above).

The Wells Fargo and Chase claims will be paid from the proceeds of the sale of Debtors' real property and the IRS claim will be paid as provided in Section 2. B. above.

3. *Class of General Unsecured Claims*

Class 3. The remaining claims against the Debtors that are not categorized as secured or priority comprise the class of unsecured claims. These claims, as filed or scheduled are primarily consumer based debt, such as credit cards or vehicle lease liquidation deficiency amount, household maintenance or upkeep charges (landscaping), medical expenses and local water charges. The total estimated amount of these claims based on filed proofs of claim and as listed in the Debtors' Schedules of Liability is approximately $105,000.

D. **Means to Implement the Plan**

As discussed in Section II. B above, the means to fund the Plan will be derived from the sale of the Debtors' real property in Mount Kisco, New York, either as it is presently, or subdivided. Additionally, the Debtors' income from Laurence Lubin's business will also be utilized as needed.

E. **Risk Factors**

The Debtors are confident that the Plan is feasible and that they will be able to consummate its terms and provisions utilizing the real property and income from Laurence's business. The Debtors believe there is little risk to creditors under the Plan as the Debtors are providing for the sale of all or a subdivided portion of their residential real property as the primary source of funding. This is the Debtors' primary asset, and were the Debtors to convert to a chapter 7 liquidation case, the appointed trustee would likely be able to only sell the property, subject however, to the Debtors' homestead exemption that would be asserted in a chapter 7 sale scenario. This would have the effect of reducing the total proceeds of sale available for distribution to creditors. If the real property generates less than anticipated in a fair market sale environment (at a minimum $1.2 million) in this chapter 11 case, it would likely generate even less in a liquidation sale process in a chapter 7 case. Therefore, the Debtors believe the Plan is the best avenue for the payment to creditors.

F. **Executory Contracts and Unexpired Leases**

The Debtors have one automobile lease. It is with Toyota Motor Credit Corporation – Toyota Lease Trust. The vehicle is a 2015 Lexus RX350. The Debtors are current on the monthly lease payments for this vehicle lease and accordingly, there is no lease payment cure amounts due as a condition to assumption of the lease. The Debtors are assuming this lease and shall continue to comply with the terms and conditions of the vehicle lease post-Plan effective date.

There are no other executory contracts or unexpired leases that the Debtors are parties to.

G. **Tax Consequences of the Plan**

There may be certain tax related consequences to creditors from the treatment and disposition of claims under the Plan. The Debtors are not making any generalizations or specific representations to creditors concerning any such potential tax ramifications. The Debtors recommend that all creditors consult with their legal or tax professionals if they have any questions or concerns in this regard.

IV. CONFIRMATION REQUIREMENTS AND PROCEDURES

To be confirmable, the Plan must meet the requirements listed in Code sections 1129(a) or (b). These include the requirements that the Plan must be proposed in good faith; at least one impaired class of claims must accept the plan, without counting votes of insiders; the Plan must distribute to each creditor and equity interest holder at least as much as the creditor or equity interest holder would receive in a chapter 7 liquidation case, unless the creditor or equity interest holder votes to accept the Plan; and the Plan must be feasible. These requirements are not the only requirements listed in section 1129, and they are not the only requirements for confirmation.

A. Who May Vote or Object

Any party in interest may object to the confirmation of the Plan if the party believes that the requirements for confirmation are not met.

Certain parties in interest, however, are not entitled to vote to accept or reject the Plan. A creditor has a right to vote for or against the Plan only if that creditor has a claim that is both (1) allowed or allowed for voting purposes and (2) impaired.

In this case, the Plan Proponents believe that the unsecured class is impaired as there will not be any interest paid on their principal claim amounts. Therefore, the Class 3 unsecured creditors are entitled to vote to accept or reject the Plan.

1. *What Is an Allowed Claim?*

Only a creditor with an allowed claim has the right to vote on the Plan. Generally, a claim is allowed if either (1) the Debtors have scheduled the claim schedules, unless the claim has been scheduled as disputed, contingent, or unliquidated, or (2) the creditor has filed a proof of claim or equity interest, unless an objection has been filed to such proof of claim or equity interest. When a claim or equity interest is not allowed, the creditor or equity interest holder holding the claim or equity interest cannot vote unless the Court, after notice and hearing, either overrules the objection or allows the claim or equity interest for voting purposes pursuant to Rule 3018(a) of the Federal Rules of Bankruptcy Procedure.

2. *What Is an Impaired Claim?*

As noted above, the holder of an allowed claim has the right to vote only if it is in a class that is *impaired* under the Plan. As provided in Code section 1124, a class is considered impaired if the Plan alters the legal, equitable, or contractual rights of the members of that class.

3. *Who is Not Entitled to Vote*

The holders of the following five types of claims and equity interests are *not* entitled to vote:

(a) holders of claims that have been disallowed by an order of the Court;

(b) holders of other claims that are not "allowed claims" (as discussed above), unless they have been "allowed" for voting purposes.

(c) holders of claims in unimpaired classes;

(d) holders of claims entitled to priority pursuant to Code sections 507(a)(2), (a)(3), and (a)(8);

(e) holders of claims or equity interests in classes that do not receive or retain any value under the Plan; and

(f) administrative expenses.

Even If You Are Not Entitled to Vote on the Plan, You Have a Right to Object to the Confirmation of the Plan and to the Adequacy of the Disclosure Statement.

4. *Who Can Vote in More Than One Class*

A creditor whose claim has been allowed in part as a secured claim and in part as an unsecured claim, or who otherwise hold claims in multiple classes, is entitled to accept or reject a Plan in each capacity, and should cast one ballot for each claim.

B. Votes Necessary to Confirm the Plan

If impaired classes exist, the Court cannot confirm the Plan unless (1) at least one impaired class of creditors has accepted the Plan without counting the votes of any insiders within that class, and (2) all impaired classes have voted to accept the Plan, unless the Plan is eligible to be confirmed by a cram-down on non-accepting classes, as discussed later in Section B.2. below.

1. *Votes Necessary for a Class to Accept the Plan*

A class of claims accepts the Plan if both of the following occur: (1) the holders of more than one-half (1/2) of the allowed claims in the class, who vote, cast their votes to accept the Plan, and (2) the holders of at least two-thirds (2/3) in dollar amount of the allowed claims in the class, who vote, cast their votes to accept the Plan.

2. *Treatment of Non-Accepting Classes*

Even if one or more impaired classes reject the Plan, the Court may nonetheless confirm the Plan if the non-accepting classes are treated in the manner prescribed by Code section 1129(b). A plan that binds non-accepting classes is commonly referred to as a cram-down plan. The Code allows the Plan to bind non-accepting classes of claims or equity interests if it meets all the requirements for consensual confirmation except the voting requirements of Code section 1129(a)(8), does not discriminate unfairly, and is fair and equitable toward each impaired class that has not voted to accept the Plan.

You should consult your own attorney if a cram-down confirmation will affect your claim or equity interest, as the variations on this general rule are numerous and complex.

C. Liquidation Analysis

To confirm the Plan, the Court must find that all creditors who do not accept the Plan will receive at least as much under the Plan as such claim and equity interest holders would receive in a

chapter 7 liquidation. Please see the discussion of the value of the Debtors' assets and the likely results of a chapter 7 liquidation as set forth in Section II. F. above and Section III. E. above.

D. **Feasibility**

The Court must find that confirmation of the Plan is not likely to be followed by the liquidation, or the need for further financial reorganization, of the Debtors, unless such liquidation or reorganization is proposed in the Plan.

1. *Ability to Initially Fund Plan*

The Debtors believe that they will have enough cash on hand on the effective date of the Plan to pay all the claims and expenses that are entitled to be paid on that date. The source of the funds will be the income of Laurence V. Lubin.

2. *Ability to Make Future Plan Payments Without Further Reorganization*

The Debtors are confident that the proceeds from the sale of the residential real property or the subdivided portion thereof. As noted elsewhere, the current value of the property is no less than $1.2 million, sold "as is." Alternatively, if the subdivision is determined to provide sale proceeds for the subdivided portion of the property at least equal to the current value of the whole parcel, then there will also be sufficient funds to make the payments under the Plan.

V. EFFECT OF CONFIRMATION OF PLAN

A. **Discharge of the Debtors**

Confirmation of the Plan does not discharge any debt provided for in the Plan until the Court grants a discharge on completion of all payments under the Plan, or as otherwise provided in Code section 1141(d)(5). The Debtors will not be discharged from any debt excepted from discharge under Code section 523, except as provided in Rule 4007(c) of the Federal Rules of Bankruptcy Procedure.

B. **Final Decree**

Once the estate has been fully administered, as provided in Rule 3022 of the Federal Rules of Bankruptcy Procedure, the Debtors, or such other party as the Court shall designate in the Plan Confirmation Order, shall file a motion with the Court to obtain a final decree to close the case. Alternatively, the Court may enter such a final decree on its own motion.

C. **Modification of the Plan**

The Debtors may modify the Plan at any time before confirmation of the Plan. However, the Court may require a new disclosure statement and/or re-voting on the Plan.

Upon request of the Debtors, the United States trustee, or the holder of an allowed unsecured claim, the Plan may be modified at any time after confirmation of the Plan but before the completion of payments under the Plan, to (1) increase or reduce the amount of payments under the Plan on claims of a particular class, (2) extend or reduce the time period for such payments, or (3) alter the amount of

distribution to a creditor whose claim is provided for by the Plan to the extent necessary to take account of any payment of the claim made other than under the Plan.

Dated: July 21, 2016

Respectfully submitted,

Plan Proponents

/s/ Laurence V. Lubin

____
Laurence V. Lubin, Debtor and Debtor-in-Possession

/s/ Susan D. Lubin

____
Susan D. Lubin, Debtor and Debtor-in-Possession

Gertler Law Group, LLC
Attorney for the Plan Proponents
By:

/s/ Richard G. Gertler

____
Richard G. Gertler, Esq.
90 Merrick Avenue
East Meadow, New York 11554
Tel: (516) 228-3553
Fax: (516) 228-3396
gertler@gertlerlawgroup.com