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9 IN THE UNITED STATES BANKRUPTCY COURT
10 FOR THE DISTRICT OF OREGON

11 In re

12 The Marshall Group, LLC,

13 Debtor.
14
15

Case No. 08-34585-rld11

TRUSTEE'S FIRST AMENDED
DISCLOSURE STATEMENT

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1 **I. INTRODUCTION**

2 Conrad Myers, Chapter 11 Trustee ("Trustee" or "Proponent") for The Marshall
3 Group, LLC ("Debtor"), is seeking acceptance of Trustee's Plan of Reorganization (the "Plan")
4 by the creditors of the Debtor's estate. This disclosure statement (the "Disclosure Statement")
5 describes:

- 6 • Historical information regarding the Debtor and the events leading to its
7 bankruptcy filing.
- 8 • Significant events since the bankruptcy filing.
- 9 • How the Plan proposes to treat claims of the type you hold (*i.e.*, what you
10 will receive on your claim if the Plan is confirmed).
- 11 • Who can vote on or object to the Plan.
- 12 • What factors the Bankruptcy Court (the "Court") will consider when
13 deciding whether to confirm the Plan.
- 14 • Why the Proponent believes the Plan is feasible, and how the treatment of
15 your Claim under the Plan compares to what you would receive on your Claim in liquidation.
- 16 • The effect of confirmation of the Plan.

17 **BRIEF SUMMARY OF PLAN FOR UNSECURED CREDITORS**

18 This Plan is filed under Chapter 11 of the Bankruptcy Code and proposes to pay
19 unsecured creditors who are owed more than \$100.00 from excess cash flow from operation of
20 the Reorganized Debtor's business, after certain other payments to creditors are made. In
21 addition, the Trustee anticipates unsecured creditors will receive the net proceeds from the
22 ultimate sale of the Clinics. Although the amount payable to creditors is very difficult to
23 estimate, the Trustee anticipates there being between \$1 million and \$1.5 million available to pay
24 creditors over a period of 24 to 60 months. Trustee estimates this will lead to a distribution of
25 between 10%-20% (without a discount for the time value of money) to each unsecured creditor.

26 Due to the large number of unsecured creditors with potential claims of less than

1 \$100.00 ("Class 5 Claimants"), Trustee proposes to send an abbreviated disclosure statement and
2 form of ballot attached hereto as Exhibit 1. Class 5 Claimants may either receive (1) a cash
3 payment of 20% of their claim within 30 days of the Effective Date of the Plan, or (2) receive a
4 voucher for services equal to the greater of 50% of their claim or \$15.00. Such election must be
5 made within 90 days of the Effective Date or the claim will be deemed waived.

6 The proposed distributions to the Claimants are discussed in Article III of the
7 Plan. The Plan also provides for the payment of Administrative and Priority Claims.

8 All Creditors should refer to the Plan for information regarding the precise
9 treatment of their Claims. This Disclosure Statement also provides detailed information
10 regarding the terms for payment of the Debtor's Creditors and other information designed to
11 assist Creditors in determining whether to accept the Plan. Your rights may be affected. You
12 should read these papers carefully and discuss them with your attorney, if you have one. If you
13 do not have an attorney, you may wish to consult one.

14 This Disclosure Statement has been approved by the United States Bankruptcy
15 Court for the District of Oregon (the "Court") as containing adequate information to permit
16 parties in interest to make informed judgments about whether to vote to accept or reject the Plan.
17 The Court is not permitted to recommend how parties in interest should vote on the Plan, and the
18 approval of this Disclosure Statement by the Court does not indicate that the Court recommends
19 either acceptance or rejection of the Plan. The Court has ruled only that this Disclosure
20 Statement complies with the requirements of the Bankruptcy Code, 11 USC § 101 *et. seq.* (the
21 "Bankruptcy Code").

22 THE PROPONENT SUPPORTS THE PLAN AND RECOMMENDS THAT
23 YOU VOTE TO ACCEPT IT, IF YOU ARE ENTITLED TO VOTE. IN HIS OPINION, THE
24 TREATMENT OF CREDITORS UNDER THE PLAN PROVIDES GREATER RECOVERY
25 THAN THAT WHICH IS LIKELY UNDER A CHAPTER 7 LIQUIDATION.
26 ACCORDINGLY, THE PROPONENT BELIEVES THAT APPROVAL OF THE PLAN IS IN

1 THE BEST INTERESTS OF ALL CREDITORS.

2 Please note that terms not specifically defined in this Disclosure Statement shall
3 have the meanings ascribed to them in the Plan.

4 **II. BACKGROUND**

5 **A. Description of Debtor's Business and Corporate Structure.**

6 1. Brief Description of Business.

7 The Debtor and its predecessor entities are developer/owners of commercial
8 property and also operate urgent care medical centers in McMinnville and Redmond, Oregon.
9 These urgent care clinic businesses are hereafter referred to as the "McMinnville Clinic" and
10 "Redmond Clinic" or collectively as the "Clinics." The Debtor's real estate interests consist of a
11 multi-parcel commercial property with frontage on Oregon Route 99W in McMinnville's central
12 business district. The property encompasses a new two-story office structure, an older office
13 building, a home and a restaurant property, plus parking and developable areas ("McMinnville
14 Property"). The McMinnville Clinic operates at the McMinnville Property.

15 The Redmond Clinic operates out of real property allegedly owned by David
16 Mazzocco ("Mazzocco"). The ownership of the property and the estate's leasehold interest in
17 Redmond is an issue of dispute among the Trustee, Mazzocco and Mark Marshall. The Debtor
18 also formerly operated an urgent care center in Lincoln City, Oregon, which was closed in
19 December 2007. The Lincoln City property is also owned by Mazzocco, and was the subject of a
20 transaction between Mazzocco and an affiliate of the Debtor. The Trustee does not claim any
21 interest in the real property in Lincoln City. For a detailed description of the Debtor's businesses,
22 see the Trustee's Initial Report filed on July 31, 2009 (Docket Number 209). A copy can be
23 obtained from Peter C. McKittrick, attorney for the Trustee.

24 2. Corporate Structure.

25 The Debtor is a limited liability company which is the surviving entity under a
26 roll up agreement entered into in contemplation of the filing of this Case. The parties to that

1 agreement were: The Marshall Group, LLC, Marshall Medical, LLC, Lincoln City Immediate
2 Health Care, LLC, Redmond Immediate Health Care, LLC, McMinnville Immediate Health
3 Care, LLC, Marshall Properties, LLC, Marshall McMinnville, LLC, and M & CJ, LLC. The
4 Debtor's membership interests are held by Mark Marshall and his wife, Kathy Jo Marshall
5 ("Marshalls"). Mark Marshall is a successful State Farm Insurance Agent in McMinnville. His
6 insurance agency operates out of the McMinnville Property. Until the appointment of the
7 Trustee, Marshall was the manager and CEO of the Clinics and drew a salary of \$20,000 per
8 month.

9 **B. Events Leading to the Filing of this Case and Significant Events Since**
10 **the Filing**

11 1. Events Leading Up to the Bankruptcy Filing.

12 The Trustee does not have a significant amount of information on the events
13 leading up the filing of this Case, so this section will contain limited detail. The Clinics were
14 suffering from issues with accounts receivable management and cash flow. The Debtor was
15 behind on its payroll tax obligations, and Marshall claims the Debtor owes private lenders a
16 significant amount of money. The Debtor was also involved in an arbitration with Keeton-King
17 Construction, Inc. ("Keeton-King") over the construction costs associated with the construction
18 of the buildings in Lincoln City and the McMinnville Property. The combination of these
19 financial strains led the Debtor to file this Case.

20 2. Events Since the Filing of This Case.

21 a. Case filing.

22 On September 4, 2008, the Debtor filed this Chapter 11 case. The case was filed
23 by McEwen Gisvold, the attorneys who also represented the Marshalls in the Keeton-King
24 arbitration. Shortly after the case was filed, the Debtor hired Gary Scharff to substitute in and
25 become the attorney for the Debtor and Debtor-in-Possession. The U.S. Trustee appointed a
26 committee of unsecured creditors ("Committee"). The following serve on the Committee: Miles

1 Newmark, Randy McCreith, H.E. Winters, and Advantage Nurse Staffing, Inc.

2 b. Keeton-King Litigation.

3 On February 24, 2009, a stipulation was entered into granting Keeton-King relief
4 from stay to continue with the arbitration. Although the Debtor did not continue as a direct party
5 to the arbitration, a predecessor entity (Lake Plaza, LLC) was a party, as were the Marshalls
6 individually. The arbitration resolved numerous construction related claims and counterclaims
7 between Keeton-King and the Marshalls, but did not address other claims of Keeton-King
8 against the Marshalls and the Debtor. In order to resolve those other claims, Keeton-King
9 commenced Adversary Proceeding Case No. 09-03012-rld7. Debtor and co-defendants have
10 asserted counterclaims seeking \$1 million and attorney fees in the adversary proceeding, which
11 is still pending.

12 In September 2009, Keeton-King obtained an award for approximately \$2.2
13 million plus interest and attorney fees on its claims in the arbitration proceeding. The Adversary
14 Proceeding shall be resolved as follows, subject to Court approval:

15 (1) Keeton-King shall be allowed \$4.5 million as a secured claim;

16 (2) Trustee shall convey the McMinnville Property to Keeton-King free and clear
17 of liens as set forth in Trustee's Motion and Notice of Intent to Sell Real Property;

18 (3) Trustee and Keeton-King shall enter into a lease agreement regarding the
19 McMinnville Property with Keeton-King as landlord and Debtor as tenant as set forth in
20 Trustee's Motion for Authority to Enter into Lease Agreement;

21 (4) Keeton-King shall be allowed an unsecured claim in an amount to be
22 determined by the parties or the court; and

23 (5) the estate and Keeton-King will enter into a settlement agreement and mutual
24 lease consistent with the terms outlined above.

25 c. Chapter 11 Trustee Appointment.

26 In April, 2009, the Office of the US Trustee filed a motion for appointment of a

1 Chapter 11 Trustee. The Chapter 11 Trustee appointment, which was stipulated to by the Debtor,
2 grew out of concerns of the United States Trustee (*see* United States Trustee's motion and
3 supporting memorandum of April 15, 2009 regarding appointment of a Chapter 11 Trustee)
4 about the financial and business administration of the Debtor, its accounting and recordkeeping,
5 its poor performance in collecting accounts receivable, the timeliness of Rule 2015 reporting and
6 a conflict of interest involving the Owners, principals of the Debtor-in-Possession, whose State
7 Farm insurance office (an entity separate from the Debtor) was occupying a significant portion of
8 the Debtor's property without paying rent to the estate, and other concerns. The Court had also
9 voiced repeatedly its concerns over the Debtor's tardiness in filing its federal tax returns.

10 On May 7, 2009, the Court entered an order appointing Conrad Myers as Chapter
11 11 Trustee. Myers is an experienced turn around consultant who often serves as a Trustee, a
12 Receiver and in other fiduciary capacities. Myers initial charge was to determine if there was a
13 viable business to reorganize. He spent the first two months of his appointment familiarizing
14 himself with the business and its financial and accounting issues. Trustee retained Farleigh Wada
15 Witt, PC to act as legal counsel to the Trustee. On May 18, 2009, the Court entered an order
16 authorizing the employment of Performance Improvement Resources LLC ("PIR") as
17 professional health care management company. Steve Rallison, the principal of PIR has acted as
18 CEO and managed the operation of the Clinics and worked to resolve the accounts receivable
19 problems.

20 On July 31, 2009, Trustee filed his initial report. This report spans 23 pages and
21 contains significant detail about the Clinics, and the Trustee's recommendations for moving them
22 forward in a positive direction. Trustee concluded that the Clinics, if stabilized and managed in a
23 professional manner, were likely viable and would be able to repay some of the debts incurred to
24 the taxing authorities and other creditors.

25 d. Mazzocco Adversary Proceeding

26 On September 15, 2009, Trustee filed Adversary Proceeding Case No. 09-03294

1 against Mark Marshall and David Mazzocco to resolve disputes related to ownership and leasing
2 of the Redmond Property. This Adversary Proceeding shall be resolved as follows, subject to
3 court approval:

4 (1) Trustee agrees that Mazzocco is the rightful owner of the Redmond Property;

5 (2) Trustee and Mazzocco shall enter into a lease agreement regarding the
6 Redmond Property with Mazzocco as landlord and Debtor as tenant in the form as agreed upon
7 between the parties. The details are included in the Trustee's Motion for Authority to Enter into
8 Lease Agreement;

9 (3) Mazzocco will have an allowed unsecured claim in this case in the amount of
10 \$459,528.00, and Trustee will withdraw his objection to claim with prejudice;

11 (4) Trustee will pay to Mazzocco the sum of \$14,062.78 within 7 days of approval
12 of this settlement. This sum represents accrued rents from May 1, 2009 through February 28,
13 2010, minus a credit for utilities paid by the estate, an abatement for closure due to water
14 damage, and a credit for repairs for water damage advanced by the estate; and

15 (5) The estate and Mazzocco will enter into a settlement agreement and mutual
16 release consistent with the terms outlined above. Trustee anticipates the claims against Mark
17 Marshall will be dismissed.

18 e. Miscellaneous Events

19 In October 2009 the Committee retained the services of Jeanette Thomas of
20 Perkins Coie to act as legal counsel to the Committee.

21 In early December 2009, a pipe burst at the Redmond Clinic, forcing its closure.
22 The Redmond Clinic reopened on February 9, 2010 after an almost two month closure. Trustee
23 is in the process of settling a loss of business profits claim with State Farm Insurance, with the
24 total proceeds of such claim estimated to be in the range of \$170,000-\$200,000. State Farm
25 Insurance has made an interim payment on the total claim amount of \$70,000.

26 Since his appointment, the Trustee and PIR have been successful in starting the

1 turnaround process. The Clinics had \$8,000.00 of cash in the bank upon his appointment, and
2 owed significant post-petition taxes and vendor invoices. The Clinics have brought all post-
3 petition taxes and vendor obligations current and have generated funds in the bank of
4 approximately \$170,000.00, exclusive of Medicare collections which are segregated as IRS's
5 collateral. The accounts receivable continue to be a major problem, and collection of the old
6 accounts has been slower than projected.

7 **C. Disclosure Statement Enclosures.**

8 1. Accompanying this Disclosure Statement are copies of:

- 9 a. Trustee's proposed Abbreviated Disclosure Statement and
10 Ballot for Class 5 Claimants (Exhibit 1);
11 b. the Plan (Exhibit 2);
12 c. the Trustee's projections showing the viability of the Plan
13 (Exhibit 3); and
14 d. the Trustee's liquidation analysis (Exhibit 4).

15 **D. Disclaimers.**

16 THE COURT'S APPROVAL OF THIS DISCLOSURE STATEMENT DOES
17 NOT CONSTITUTE EITHER A GUARANTY OF THE ACCURACY OF THE
18 INFORMATION CONTAINED HEREIN NOR AN ENDORSEMENT OF THE PLAN BY
19 THE COURT. THE FINANCIAL INFORMATION WAS PREPARED BY THE TRUSTEE
20 AND HIS COUNSEL. THIS DISCLOSURE STATEMENT IS THE ONLY DOCUMENT
21 AUTHORIZED BY THE COURT TO BE USED IN CONNECTION WITH THE
22 SOLICITATION OF VOTES ACCEPTING THE PLAN. NO REPRESENTATIONS OTHER
23 THAN THOSE EXPLICITLY SET FORTH IN THIS DISCLOSURE STATEMENT ARE
24 AUTHORIZED CONCERNING THE DEBTOR, INCLUDING WITH RESPECT TO THE
25 VALUE OF ITS ASSETS, OR THE CLAIMS OF ITS CREDITORS. THE INFORMATION
26 CONTAINED IN THIS DISCLOSURE STATEMENT IS INCLUDED HEREIN FOR

1 PURPOSES OF SOLICITING ACCEPTANCES OF THE PLAN AND MAY NOT BE RELIED
2 UPON FOR ANY PURPOSE OTHER THAN TO DETERMINE HOW TO VOTE ON THE
3 PLAN.

4 THIS DISCLOSURE STATEMENT CONTAINS SUMMARIES OF CERTAIN
5 PROVISIONS OF THE PLAN, CERTAIN STATUTORY PROVISIONS, CERTAIN
6 DOCUMENTS RELATED TO THE PLAN, CERTAIN EVENTS IN THE CASE AND
7 CERTAIN FINANCIAL INFORMATION. ALTHOUGH THE PROPONENT BELIEVES
8 THAT THIS DISCLOSURE STATEMENT AND RELATED DOCUMENT SUMMARIES
9 ARE FAIR AND ACCURATE, THEY ARE QUALIFIED TO THE EXTENT THAT THEY
10 DO NOT SET FORTH THE ENTIRE TEXT OF THE PLAN, OR ANY STATUTORY
11 PROVISIONS. THE TERMS OF THE PLAN GOVERN IN THE EVENT OF ANY
12 INCONSISTENCY WITH THIS DISCLOSURE STATEMENT. ALL EXHIBITS TO THIS
13 DISCLOSURE STATEMENT ARE INCORPORATED INTO AND ARE A PART OF THIS
14 DISCLOSURE STATEMENT AS IF SET FORTH IN FULL HEREIN. THE STATEMENTS
15 CONTAINED IN THIS DISCLOSURE STATEMENT ARE MADE AS OF THE DATE
16 HEREOF UNLESS OTHERWISE SPECIFIED, AND THE PROPONENT DISCLAIMS ANY
17 OBLIGATION TO UPDATE ANY SUCH STATEMENTS AFTER THE HEARING ON
18 CONFIRMATION OF THE PLAN. THE PROPONENT IS UNABLE TO WARRANT OR
19 REPRESENT THAT THE INFORMATION CONTAINED HEREIN, INCLUDING THE
20 FINANCIAL INFORMATION, IS WITHOUT ANY INACCURACY OR OMISSION.

21 EXCEPT IF SPECIFICALLY NOTED, THE FINANCIAL INFORMATION
22 CONTAINED HEREIN HAS NOT BEEN AUDITED BY A CERTIFIED PUBLIC
23 ACCOUNTANT AND HAS NOT NECESSARILY BEEN PREPARED IN ACCORDANCE
24 WITH GENERALLY ACCEPTED ACCOUNTING PRINCIPLES.

25 ALL PARTIES IN INTEREST ARE ENCOURAGED TO READ THIS ENTIRE
26 DISCLOSURE STATEMENT CAREFULLY, INCLUDING THE PLAN AND OTHER

1 EXHIBITS, BEFORE DECIDING TO VOTE EITHER TO ACCEPT OR REJECT THE PLAN.
2 HOLDERS OF CLAIMS AND EQUITY INTERESTS SHOULD, HOWEVER, NOT
3 CONSTRUE THE CONTENTS OF THE DISCLOSURE STATEMENT AS PROVIDING ANY
4 LEGAL, BUSINESS, FINANCIAL OR TAX ADVICE AND SHOULD CONSULT WITH
5 THEIR OWN ADVISORS.

6 **III. DESCRIPTION OF PLAN**

7 **A. What is the Purpose of the Plan of Reorganization?**

8 As required by the Code, the Plan places Claims in various classes and describes
9 the treatment each class will receive. Claims against the Estate consist of Administrative
10 Expense Claims, Priority Tax Claims, Secured Claims, Unsecured Claims (consisting primarily
11 of refund claims), and Membership Interests. If the Plan is confirmed, your recovery will be
12 limited to the amount provided by the Plan.

13 **B. Explanation of Classes of Claims.**

14 1. Classes of Secured Claims.

15 Allowed Secured Claims are Claims secured by property of the Debtor's
16 bankruptcy estate (or that are subject to setoff) to the extent allowed as Secured Claims under 11
17 USC ("Code") § 506. If the value of the collateral or setoffs securing the Creditor's Claim is less
18 than the amount of the Creditor's Allowed Claim, the deficiency will be classified as a General
19 Unsecured Claim.

20 2. Classes of Priority Unsecured Claims.

21 Certain Priority Claims that are referred to in Code § 507(a) are required to be
22 placed in classes. The Code requires that each holder of such a Claim receive cash on the
23 Effective Date of the Plan equal to the allowed amount of such Claim. However, a class of
24 holders of such Claims may vote to accept different treatment. The Proponent does not believe
25 that any such Claims exist.

26

1 3. Classes of General Unsecured Claims.

2 General Unsecured Claims are not secured by property of the estate and are not
3 entitled to priority under Code § 507(a).

4 **C. Treatment of Claims Under the Plan.**

5 1. Unclassified Claims.

6 Administrative Expense Claims and Priority Tax Claims are not classified. They
7 are not considered impaired, and holders of such Claims do not vote on the Plan. They may,
8 however, object if, in their view, their treatment under the Plan does not comply with that
9 required by the Code.

10 a. Administrative Expenses.

11 The following is a list of the estimated administrative expenses and their
12 treatment under the Plan:

13 i. Expenses Arising in the Ordinary Course of Business After
14 the Petition Date.

15 These will be paid in full on the Effective Date of the Plan, or according to terms
16 of the obligation, if later.

17 ii. Professional Fees.

18 Trustee estimates the following Professional Fees will be owed as of the
19 Confirmation Date:

- 20 • Farleigh Wada Witt, attorneys for the Chapter 11 Trustee -
21 \$125,000.00.
- 22 • Perkins Coie, attorneys for the Unsecured Creditors
23 Committee - \$40,000.00.
- 24 • Gary Scharff, former attorney for the Debtor, shall receive
25 approximately \$24,000.00 in addition to the \$29,406.37 he was previously awarded by the Court
26 and has already been paid.

- 1 • Trustee - approximately \$210,000.00.

2 These fees shall be paid within six (6) months following the Effective Date, as
3 follows: (i) Trustee, Farleigh, and Perkins shall receive the lesser of 50% of their Professional
4 Fees on the Effective Date, or such amount as can be paid such that sufficient cash exists in order
5 to make all payments due under Plan on the Effective Date plus retaining a sufficient working
6 reserve, with the remaining balance of such Professional Fees paid in six (6) monthly payments
7 following the Effective Date; and (ii) Scharff shall receive the unpaid balance of his Professional
8 Fees in four (4) equal monthly payments beginning on the third month following the Effective
9 Date and ending on the sixth month following the Effective Date. To the extent there is not
10 sufficient Free Cash Flow, Trustee and Farleigh shall defer such payments as may be necessary
11 to maintain the minimum working capital reserve projected.

12 iii. Other Administrative Expense Claims.

13 These will be paid in full on the Effective Date of the Plan, or according to
14 separate written agreement.

15 iv. Office of the U.S. Trustee Fees.

16 These fees are estimated to be \$4,875.00 and will be paid in full on the Effective
17 Date of the Plan to the extent that any pre-confirmation fees remain unpaid. Additionally,
18 payment of such fees to the U.S. Trustee continues until the case is closed.

19 b. Priority Tax Claims.

20 Taxing authorities IRS, ODR, and Oregon Employment Department ("OED")
21 have filed proofs of claim for taxes and penalties. Treatment of these claims under the Plan is as
22 follows:

- 23 i. IRS filed a proof of claim for \$592,727.62. The penalty
24 portion of the IRS claim of approximately \$65,000 shall be treated as an Unsecured Claim and
25 subordinated. The secured portion of the claim shall be placed in Class 1 and treated as set forth
26 below and in the Plan. The remainder of the claim shall be treated as an Allowed Priority Tax

1 Claim.

2 ii. ODR filed a proof of claim in the amount of \$54,567.71.
3 Trustee objected to the ODR claim and it has been disallowed.

4 iii. OED has filed a proof of claim in the amount of
5 \$27,112.36, which amount shall be treated as an Allowed Priority Tax Claim.

6 Once the Allowed Administrative Expense Claims are paid in full, the Priority
7 Tax Claim amounts due shall be amortized over the period beginning with the commencement
8 date of payments as set forth below and ending September 8, 2013. The payment of such Priority
9 Tax Claims, including simple interest at the applicable statutory rate, shall be made in equal
10 monthly payments (i) beginning in the first full month following the payment in full of all
11 Allowed Administrative Expense Claims as set forth in Section 2.1.2; and (ii) ending no later
12 than September 8, 2013.

13 2. **Classified Claims.**

14 a. Class 1 – Allowed Secured Claim of IRS.

15 The IRS has an Allowed Secured Claim arising from offset rights on the Medicare
16 Receivables from the Clinics. The Trustee estimates the amount of the IRS' Allowed Secured
17 Claim will be approximately \$32,000.00 on the Effective Date. IRS will receive \$10,000.00
18 within 10 days of the Effective Date, and the balance shall be paid in six equal monthly
19 installments with interest at the statutory rate of interest commencing on the 60th day after the
20 Effective Date.

21 b. Class 2 – Allowed Secured Claim of Keeton-King.

22 Keeton King holds a secured claim against the McMinnville Property arising out
23 of a series of secured notes in addition to the judgment entered in its favor in the arbitration
24 proceeding. Trustee anticipates that a motion to sell the McMinnville Property free and clear of
25 liens under Code § 363(f) will be filed prior to the Confirmation Hearing. If the sale is approved
26 and the transaction is consummated, then Keeton-King will have no further Allowed Secured

1 Claim. If the sale has not been approved, the confirmation of the Plan shall constitute approval of
2 the sale of the McMinnville Property to Keeton-King free and clear of all monetary liens and
3 encumbrances other than real estate taxes and any other lien of superior priority to Keeton-King's
4 lien on the McMinnville Property. After transfer of the McMinnville Property to Keeton-King,
5 the Debtor or the Reorganized Debtor will enter into a lease of the McMinnville Property on
6 terms mutually acceptable to Keeton-King and the Trustee, subject to Court approval.

7 c. Class 3 – Allowed Secured Claim of Summit Leasing.

8 Class 3 consists of the Allowed Secured Claim of Summit Leasing arising from
9 expired leases for the Leased Equipment. Debtor has returned certain Leased Equipment to
10 Summit Leasing. Trustee proposes either of the following three alternatives with respect to the
11 Leased Equipment that remains in Debtor's possession:

12 (A) Summit Leasing shall receive \$24,500 on the Effective Date;

13 (B) Summit Leasing shall receive 20 monthly payments of \$1,500
14 commencing on the Effective Date; or

15 (C) Summit Leasing shall be entitled to recover the Leased Equipment in
16 Debtor's possession.

17 d. Class 4 – General Unsecured Claims.

18 Debtor's Amended Schedules list Unsecured Nonpriority Claims totaling
19 approximately \$5 million. It is difficult to determine the actual amount of Allowed Unsecured
20 Claims for two primary reasons. If the motion to sell the McMinnville Property to Keeton-King
21 for \$4.5 million is approved, Trustee estimates Keeton-King's asserted unsecured claim will be
22 between \$5.5 and \$6.5 million. Trustee has agreed to allow an unsecured claim to David
23 Mazzocco in the amount of \$459,528.00, subject to Court approval. Trustee has agreed to allow
24 an unsecured claim to Charles Winters in the amount of \$300,000 and an unsecured claim to
25 Colin Gregory in the amount of \$50,000, subject to Court approval.

26 Second, Debtor's Schedule F contains over 170 pages of creditors who may be

1 entitled to refunds from the Clinics, many of which Trustee anticipates will participate in Class 5
2 for Allowed Convenience Claims.

3 Trustee estimates that Class 4 claims will range from a low amount of \$3.4
4 million up to a high amount of \$10 million. Trustee further estimates there will be a distribution
5 of between 10%-20% (without a discount for the time value of money) to each unsecured
6 creditor. Unsecured creditors will be paid from two sources:

7 i. Payments From Free Cash Flow: To the extent the Clinics
8 generate Free Cash Flow during the Operating Period, the Reorganized Debtor shall make
9 disbursements to the Class 4 creditors on a periodic basis, but not more often than every 3
10 months. No such payments shall be made until all Administrative Claims are paid in full and
11 Priority Tax Claimants have received at least three (3) monthly payments on account of their
12 Allowed Priority Tax Claims as set forth in Section 2.2; and

13 ii. Net Proceeds from Sale of Business: After the Allowed IRS
14 Secured Claim, Allowed Administrative Expense Claims, Allowed Priority Tax Claims, Allowed
15 Summit Leasing Secured Claim and Costs of Sale have been paid in full, the remaining Net
16 Proceeds from the Sale of Business shall be paid to holders of Allowed Unsecured Claims on a
17 Pro Rata basis.

18 e. Class 5 – Allowed Convenience Claims.

19 Debtor's Schedule F contains over 170 pages of creditors with Unsecured
20 Nonpriority Claims who may entitled to refunds from the Clinics, many of which Trustee
21 anticipates will elect to participate in Class 5 for Allowed Convenience Claims. Most of these
22 refund claims are less than \$100.00. A reserve fund in the amount of \$8,000.00 shall be set aside
23 for payment of Allowed Convenience Claims. Each Person holding an Allowed Unsecured
24 Claim in an amount equal to or less than \$100.00, or holding an Allowed Unsecured Claim in
25 excess of \$100.00 who wishes to reduce such claim to \$100.00, must elect to assert such
26 Allowed Convenience Claim on or before 90 days from the Effective Date by following the

1 process set forth below.

2 Distributions shall be made as follows: (a) each Person holding an Allowed
3 Convenience Claim may elect to receive in complete settlement, satisfaction and discharge of its
4 Claim a cash payment equal to 20% of such Allowed Convenience Claim, such payment to be
5 made within 30 days of the date the election is received by the Liquidating Trustee; or (b)
6 alternatively, each Person holding an Allowed Convenience Claim may choose to receive a
7 certificate for medical services at the Redmond Facility or McMinnville Facility equivalent to
8 the greater of 50% of their Allowed Convenience Claim or \$15.00. An election to reduce an
9 Allowed Unsecured Claim is irrevocable and the Person who made such election may not seek
10 treatment or vote as a member of Class 4. All Claimants holding Unsecured Claims that elect to
11 reduce their Class 4 Claims as described herein are members of Class 5 for voting and
12 distribution purposes. Notwithstanding anything to the contrary, no distribution shall be made on
13 any claim of less than \$5.00.

14 The Class 5 claimants must provide the Liquidating Trustee with the Convenience
15 Claim election by either (1) going to the Redmond Facility or McMinnville Facility, showing
16 identification and receiving a certificate for medical services or refund; or (2) mailing a signed
17 copy of the letter, with a signature notarized requesting a certificate for medical services or
18 refund. Any such election must be made within 90 days of the Effective Date or the claim shall
19 be deemed waived.

20 f. Class 6 – Interest Holders.

21 The Marshalls each hold a 50% membership interest in Debtor. On the Effective
22 Date, the Interests of the Marshalls shall be cancelled and re-issued to the Liquidating Trust. As
23 of the Effective Date, the sole member of Debtor shall be the Liquidating Trust. The Marshalls
24 shall receive no payment for their Interests. The membership unit shall be reissued to the
25 Liquidating Trust for the benefit of priority and unsecured claims.

26

1 **IV. ALLOWANCE AND DISALLOWANCE OF CLAIMS**

2 **A. Disputed Claims.**

3 A Disputed Claim is a Claim that has not been allowed or disallowed by a Final
4 Order, and as to which either: (i) a proof of claim has been filed or deemed filed, and the Debtor
5 or another party in interest has filed an objection; or (ii) no proof of claim has been filed, and the
6 Debtor has scheduled such Claim as disputed, contingent, or unliquidated.

7 No distribution will be made on account of a Disputed Claim until such claim is
8 allowed by a Final Order.

9 **B. Settlement of Disputed Claims.**

10 The Trustee will have the power and authority to settle and compromise a
11 Disputed Claim with Court approval and compliance with Rule 9019 of the Federal Rules of
12 Bankruptcy Procedure.

13 **V. PROVISIONS FOR EXECUTORY CONTRACTS AND UNEXPIRED LEASES**

14 **A. Assumed Executory Contracts and Unexpired Leases.**

15 The Trustee shall not assume any of the Debtor's executory contracts and
16 unexpired leases (including all amendments, extensions or renewals and replacements thereof).

17 **B. All Other Executory Contracts and Unexpired Leases Rejected.**

18 Except as otherwise provided in the Plan or in the Confirmation Order, effective
19 as of the Effective Date, all other executory contracts and unexpired leases of Debtor (excluding
20 only those executory contracts and unexpired leases that are assumed pursuant to Court order
21 entered prior to the Confirmation Date and those that are the subject of separate motions to
22 assume filed by Debtor prior to the Confirmation Date including but not limited to leases with
23 Keeton-King and Mazzocco) will be deemed to be automatically rejected as of the Confirmation
24 Date.

25 **C. Avoidance Actions.**

26 The Trustee has not done an analysis of possible preference or fraudulent

1 conveyance actions. The Trustee has not budgeted legal or accounting fees to pursue preference
2 claims, but has also not budgeted for any recovery. If any such claims exist, the fees would be
3 presumably be covered by any recoveries. The Trustee will complete a preference analysis
4 before the hearing date on Confirmation. The Plan preserves all avoidance actions to the extent
5 any exist.

6 **D. Claims for Rejection Damages.**

7 Claims for damages arising because of the rejection of executory contracts or
8 unexpired leases will be classified and treated as Allowed General Unsecured Claims (Class 4);
9 provided, however, that any such Claims will be deemed disallowed, barred forever and not
10 enforceable against Debtor or any property of the Estate unless a proof of claim is filed with the
11 Court and served on the Trustee and his attorneys within 30 days after the Confirmation Date
12 (except that if a different date for filing proof of any particular such Claim has been fixed by a
13 Court order entered prior to the Confirmation Date, then by the date so fixed in such Court
14 order). Objections to any such proof of claim must be filed by the Trustee not more than 60 days
15 after such proof of claim is filed and served or it will be deemed allowed as filed.

16 **VI. POST-CONFIRMATION OPERATION AND IMPLEMENTATION**
17 **OF THE PLAN**

18 **A. Post-Confirmation Operations.**

19 Reorganized Debtor shall be managed by the Manager, who will be supervised by
20 the Liquidating Trustee. An Advisory Committee consisting of the three largest unsecured
21 creditors, or their designees, who choose to serve shall have powers of oversight over the
22 Manager and Liquidating Trustee. The Reorganized Debtor will continue operations for a period
23 of not less than 12 months following the Confirmation Date. The precise duration of the
24 Operating Period is flexible, and the Management Committee and Liquidating Trustee shall
25 exercise reasonable business judgment to determine when to sell Reorganized Debtor's business
26 to a third party.

1 **B. Liquidating Trust.**

2 On the Effective Date, the Debtor's membership units will be issued in the name
3 of the Liquidating Trust. The Liquidating Trust shall be managed by the Liquidating Trustee and
4 administered in accordance with the Liquidating Trust Agreement, to be filed with the Court
5 prior to the Confirmation Hearing.

6 **C. Management of Reorganized Debtor.**

7 1. Manager.

8 The Manager shall continue to be Performance Improvement Resources, whose
9 management services were previously approved by the Court in this Case, on the same terms as
10 provided for under its current contract or as mutually agreed in a modified contract. Thereafter,
11 the Liquidating Trustee shall have the right to select and employ a different manager and/or
12 engage an employee of Manager or Reorganized Debtor as manager as he deems appropriate.

13 2. Advisory Committee.

14 An Advisory Committee shall be appointed for Reorganized Debtor and shall
15 consist of the three (3) largest unsecured creditors, or their designee, who choose to serve. The
16 Advisory Committee shall meet quarterly with the Liquidating Trustee to review the
17 Reorganized Debtor's operations. The Advisory Committee will have authority to act as an
18 advisory board of directors, and shall have powers of oversight of the Liquidating Trustee and
19 Manager.

20 3. Liquidating Trustee.

21 The Liquidating Trustee shall be empowered and directed to exercise such powers
22 which the Liquidating Trustee in his discretion deems reasonably necessary to effectuate this
23 Plan and to directly supervise the Manager. The Liquidating Trustee must obtain Advisory
24 Committee approval (by a majority vote of the Advisory Committee) for the following:
25
26

- 1 a. The sale of the Business to a third party;
- 2 b. Compromise of any Claims over \$20,000.00;
- 3 c. Compromise of any Avoidance Claims if the proposed
- 4 settlement in excess of \$20,000.00;
- 5 d. Capital expenditures over \$10,000.00;
- 6 e. Relocation of Reorganized Debtor or opening of new
- 7 business; and
- 8 f. Decision to change manager or engage an employee as
- 9 manager.

10 Myers shall be engaged as Liquidating Trustee of the Liquidating Trust on the
11 Effective Date. Myers shall receive compensation of \$3,000.00 per month and shall serve as
12 Liquidating Trustee until the Administrative Expense Claims are paid in full. Upon payment of
13 the Administrative Expense Claims in full, (a) the Advisory Committee may choose to elect a
14 new Liquidating Trustee; or (b) Myers may resign as Liquidating Trustee by providing ten (10)
15 days notice to the Advisory Committee.

16 **D. Leases.**

17 1. McMinnville Property.

18 Reorganized Debtor will enter into a lease with Keeton-King prior to the
19 Confirmation Date for tenancy in the McMinnville Property, which lease shall be fully
20 assignable to Buyer upon Sale of Business.

21 2. Redmond Property.

22 Reorganized Debtor will enter into a lease with David Mazzocco for tenancy in
23 the Redmond Property, which lease shall be fully assignable to Buyer upon Sale of Business.

24 **E. Sale of Business.**

25 It is anticipated that Reorganized Debtor's business shall be sold within 24 - 48
26 months, at the discretion of the Liquidating Trustee and Advisory Committee. The Sale Proceeds

1 received upon Sale of Business shall be used to pay outstanding Claims.

2 **VII. VOTING REQUIREMENTS**

3 The Bankruptcy Court may confirm the Plan only if it determines the Plan meets
4 the technical requirements of Chapter 11 of the Code. In order to confirm the Plan, the Code
5 requires the Court to find, among other things, that the Plan has been accepted by the requisite
6 votes of all Classes of Impaired Claims unless approval will be sought under Section 1129(b) of
7 the Code in respect of one or more dissenting Classes, which may be the case under the Plan.

8 **A. Voting Deadline.**

9 This Disclosure Statement and the appropriate Ballot are being distributed to all
10 holders of Claims who are entitled to vote on the Plan.

11 **In accordance with the Disclosure Statement Approval Order, in order to be**
12 **considered for purposes of accepting or rejecting the Plan, all Ballots must be actually**
13 **received by Farleigh Wada Witt; Attn: Diane Fallon (the "Voting Agent") no later than**
14 **4:30 p.m. (Pacific Daylight Time) on _____ (the "Voting Deadline"). Only those**
15 **Ballots actually received by the Voting Deadline will be counted as either accepting or**
16 **rejecting the Plan.**

17 **B. Holders of Claims Entitled to Vote.**

18 Under Section 1124 of the Code, a class of claims or interests is deemed to be
19 "impaired" under a plan unless (1) the plan leaves unaltered the legal, equitable and contractual
20 rights to which such claim or interest entitled the holder thereof, or (2) notwithstanding any legal
21 right to an accelerated payment of such claim or interest, the plan (a) cures all existing defaults
22 (other than defaults resulting from the occurrence of events of bankruptcy), (b) reinstates the
23 maturity of such claim or interest as it existed before the default, (c) compensates the holder of
24 such claim or interest for any damages resulting from such holder's reasonable reliance on such
25 legal right to an accelerated payment, and (d) does not otherwise alter the legal, equitable, or
26 contractual rights to which such claim or interest entitles the holder of such claim or interest.

1 In general, a holder of a claim or interest may vote to accept or reject a plan if (1)
2 the claim or interest is "allowed," which means that it is not disputed, contingent, or unliquidated
3 and (2) the claim or interest is impaired by a plan. If the holder of an impaired claim or interest
4 will not receive any distribution under the Plan, the Code deems such holder to have rejected the
5 Plan and provides the holder of such claim or interest is not entitled to vote. If the claim or
6 interest is not impaired, the Code conclusively presumes that the holder of such claim or interest
7 has accepted the Plan and provides that the holder is not entitled to vote.

8 The holder of a Claim against the Debtor that is "impaired" under the Plan is
9 entitled to vote to accept or reject the Plan if (1) the Plan provides a distribution in respect of
10 such Claim and (2)(a) the Claim has been scheduled by Debtor in his bankruptcy schedules filed
11 with the Court and such Claim is not scheduled as disputed, contingent or unliquidated, or (b) the
12 holder has timely filed a Proof of Claim pursuant to Sections 502(a) and 1126(a) of the Code and
13 Rules 3003 and 3018 and that Claim is not the subject of an objection, unless temporarily
14 allowed by the Court.

15 A vote may be disregarded if the Court determines, pursuant to Section 1126(e) of
16 the Code that it was not solicited or procured in good faith or in accordance with the provisions
17 of the Code.

18 Holders of Claims in Classes 1 through 6 are impaired by the Plan and are entitled
19 to vote on the Plan.

20 **C. Vote Required for Acceptance by a Class.**

21 As a condition to confirmation, the Code requires that each Class of impaired
22 Claims vote to accept the Plan, except under certain circumstances.

23 Section 1126(c) of the Code defines acceptance of a plan by a class of impaired
24 claims as acceptance by holders of at least two-thirds in dollar amount and more than one-half in
25 number of claims in that class, but for that purpose, counts only those who actually vote to
26 accept or reject the Plan. Thus, a class of claims will have voted to accept their Plan only if two-

1 thirds in dollar amount and a majority in number actually voting cast their ballots in favor of
2 acceptance. Holders of claims who fail to vote are not counted as either accepting or rejecting a
3 plan.

4 **D. Voting Procedures.**

5 1. Ballots.

6 All votes to accept or reject the Plan with respect to any Class of Claims must be
7 cast by properly submitting the duly completed and executed form of Ballot. Holders of impaired
8 Claims voting on the Plan should complete and sign the Ballot in accordance with the
9 instructions thereon, being sure to check the appropriate box entitled "ACCEPT the Plan" or
10 "REJECT the Plan."

11 Any Ballot received which does not indicate either an acceptance or rejection of
12 the Plan or which indicates both acceptance and rejection of the Plan shall not be counted.

13 Any Ballot received which is not signed or which contains insufficient
14 information to permit the identification of the claimant shall be an invalid Ballot and shall not be
15 counted for purposes of determining acceptance or rejection of the Plan.

16 Ballots must be delivered to the Voting Agent, at the address set forth on the
17 Ballot form, and received by the Voting Deadline. Faxed Ballots will only be counted if the
18 faxed Ballot is received before the Voting Deadline and the original Ballot is postmarked by the
19 Voting Deadline and received within three (3) business days. The method of such delivery is at
20 the election and risk of the holder. If such delivery is by mail, it is recommended that holders use
21 an air courier with a guaranteed next day delivery or registered mail, properly insured, with
22 return receipt requested. In all cases, sufficient time should be allowed to assure timely delivery.

23 In accordance with Rule 3018(c) of the Bankruptcy Rules, the Ballots are based
24 on Official Form No. 14, but have been modified to meet the particular needs of this case. Please
25 carefully follow the directions contained on the enclosed Ballot.

26

1 The confirmation hearing has been scheduled to begin on _____, 2010 at ____
2 a.m./p.m. (prevailing Pacific Time) before the Honorable Randall L. Dunn, United States
3 Bankruptcy Court, District of Oregon, 1001 SW Fifth Avenue, Suite 700, Portland, Oregon
4 97204. The confirmation hearing may be adjourned from time to time by the Bankruptcy Court
5 without further notice, except for an announcement of the adjourned date made at the
6 confirmation hearing.

7 **B. Deadline for Objecting to Confirmation.**

8 Any objection to the confirmation of the Plan must be made in writing, specify in
9 detail (i) the name and address of the objector, (ii) all grounds for the objection, and (iii) the
10 amount of the Claim held by the objector. Any such objection must be filed with the Bankruptcy
11 Court, with a copy to Judge Dunn's chambers, and served so that it is actually received by the
12 Bankruptcy Court, chambers, and the following parties on or before _____: (i) counsel for
13 Trustee, Farleigh Wada Witt, 121 SW Morrison Street, Suite 600, Portland, Oregon 97204, Attn:
14 Tara J. Schleicher, Esq.; and (ii) Office of the United States Trustee, 620 SW Main Street, Room
15 213, Portland, Oregon, 97205.

16 **C. Requirements for Confirmation of the Plan.**

17 Among the requirements for confirmation of the Plan are that the Plan (i) is
18 accepted by all impaired Classes of Claims or, if rejected by an impaired Class, that the Plan
19 "does not discriminate unfairly" and is "fair and equitable" as to such Class, (ii) is feasible, and
20 (iii) is in the "best interests" of creditors and interest holders that are impaired under the Plan.

21 1. Requirements of Section 1129(a) of the Bankruptcy Code.

22 Confirmation of a Chapter 11 Plan centers around Section 1129 of the Bankruptcy
23 Code. Please refer to 11 USC § 1129(a) for the requirements. Because the statutory provisions
24 are extensive and complicated, you are encouraged to consult with your legal advisor concerning
25 the applicable law.

26 The Proponent believes that the Plan meets all the applicable requirements of

1 Section 1129(a) of the Bankruptcy Code other than those pertaining to voting which has not yet
2 taken place.

3 2. Acceptance by Impaired Classes.

4 Classes 1 through 6 are impaired under the Plan and entitled to vote or accept or
5 reject the Plan. The Proponent reserves the right to seek nonconsensual confirmation of the Plan
6 with respect to any Class of Claims that is entitled to vote to accept or reject the Plan if such
7 Class rejects the Plan under Section 1129(b) of the Bankruptcy Code.

8 3. Best Interests of Creditors and Liquidation Analysis.

9 Section 1129(a)(7) of the Bankruptcy Code requires that any holder of an
10 impaired claim or interest voting against a proposed Plan must be provided in the Plan with a
11 value, as of the effective date of the Plan, at least equal to the value that the holder would receive
12 if the Debtor's assets were liquidated under Chapter 7 of the Bankruptcy Code. To determine
13 what the holders of Claims in each impaired Class would receive if Debtor's assets were
14 liquidated, the Bankruptcy Court must determine the dollar amount that would be generated from
15 a liquidation of his assets in the context of a hypothetical liquidation. Such determination must
16 take into account the fact that secured Claims, and any costs and expenses resulting from the
17 original Chapter 11 case and from the Chapter 7 case would have to be paid in full from the
18 liquidation proceeds before the balance of those proceeds were made available to pay the
19 unsecured Claims. In addition, in a Chapter 7, certain "priority" unsecured claims must be paid in
20 full (without post-petition interest or penalties) before other unsecured claims.

21 To determine if a Plan is in the best interests of each impaired Class, the present
22 value of the distributions from the proceeds of the hypothetical liquidation of the assets (after
23 subtracting the amount attributable to secured claims, administrative costs of the Bankruptcy
24 Case and unclassified priority unsecured claims) must be compared with the present value of the
25 consideration offered to such classes under the Plan.

26 After consideration of the effect that a Chapter 7 liquidation would have on the

1 ultimate proceeds available to Debtor's creditors (including (i) increased cost and expenses of
2 liquidation under Chapter 7 arising from fees payable to the Chapter 7 trustee and the attorneys
3 and other professional advisors to such trustee, including those fees necessitated by the Chapter 7
4 trustee's professionals having to educate themselves regarding the basic facts and circumstances
5 to the Chapter 11 case; (ii) the fees and expenses associated with motions and other pleadings
6 regarding sales of the property that would require approval by the bankruptcy court; (iii) the
7 relatively lower prices at which a Chapter 7 trustee would be pressured to take for the assets
8 without the ability to generate cash flow pending ultimate sale; and (iv) the inflexibility of a
9 Chapter 7 trustee to entertain sales involving land sale contracts or other financing
10 arrangements), the Proponent has determined that confirmation of the Plan will provide each
11 holder of a Claim in an impaired Class entitled to vote on the Plan with a greater recovery than
12 such holder would receive under a Chapter 7 liquidation of the Debtor's assets.

13 The Proponent estimates that in liquidation under Chapter 7 holders of non-
14 priority unsecured Claims (Classes 4 and 5) would receive nothing (0%) on account of their
15 Claims. In fact, the Trustee estimates that only Chapter 7 administrative claims would be paid in
16 full, and Chapter 11 administrative claims will receive only a pro rata recovery. Priority tax
17 claims would also receive nothing in a Chapter 7 case. In contrast, under the Plan, Priority tax
18 claims are projected to be paid in full, and holders of Claims in Class Four and Five may receive
19 10% to 20% of their allowed claims over a period of 2-5 years. Attached hereto as Exhibit 2 is a
20 liquidation analysis demonstrating that general unsecured creditors would receive 0% in a
21 hypothetical Chapter 7 liquidation case.

22 4. Feasibility of the Plan.

23 The Proponent believes that the Plan meets the Bankruptcy Code's feasibility
24 requirement. The projections attached as Exhibit 2 demonstrate that the payments provided for
25 under this Plan are achievable. Further, the Plan Confirmation is not likely to be followed by a
26 liquidation or the need for further financial reorganization of the Debtor. The Plan contemplates

1 orderly liquidation through the stabilization of operations and the ultimate sale of the Clinics.
2 Therefore the Proponent has met this requirement.

3 5. Requirements of Section 1129(b) of the Bankruptcy Code.

4 The Bankruptcy Code permits confirmation of a plan even if it is not accepted by
5 all impaired classes, so long as (a) the plan otherwise satisfies the requirements for confirmation,
6 (b) at least one impaired class of claims has accepted it without taking into consideration the
7 votes of any insiders in such class, and (c) the plan is "fair and equitable" and does not
8 "discriminate unfairly" as to any impaired class that has not accepted the plan. These are the so
9 called "cramdown" provisions and are set forth in § 1129(b) of the Bankruptcy Code.

10 6. Fair and Equitable.

11 The Bankruptcy Code establishes different "cramdown" tests for determining
12 whether a plan is "fair and equitable" to dissenting impaired classes of secured creditors,
13 unsecured creditors, and equity interest holders.

14 The Proponent believes that the Plan and the treatment of all Classes of Claims
15 under the Plan satisfy the requirements of Section 1129(b) of the Bankruptcy Code for
16 nonconsensual confirmation of the Plan.

17 7. Unfair Discrimination.

18 A plan of reorganization does not "discriminate unfairly" if a dissenting class is
19 treated substantially equally with respect to other classes similarly situated and no class receives
20 more than it is legally entitled to receive for its claims or interests. The Proponent believes that
21 the Plan does not discriminate unfairly against any impaired Class of Claims.

22 **D. Effect of Confirmation.**

23 Under § 1141 of the Bankruptcy Code, the Debtor is not entitled to and will not
24 receive a discharge of certain debts. Generally, all debts and associated Claims will be
25 discharged. Holders of Claims which are discharged will be barred from seeking payment from
26 Debtor or property of the Estate. Confirmation of the Plan shall act as a permanent injunction

1 applicable to all entities against any actions to collect Claims. Creditors should review section 6
2 of the Plan regarding the effect of entry of the Confirmation Order.

3 **E. Conditions to Confirmation.**

4 The following conditions must occur and be satisfied for the Plan to become
5 effective and the Effective Date to occur unless waived by the Proponent:

6 1. The Bankruptcy Court shall have entered the Confirmation Order,
7 in form and substance reasonably satisfactory to Proponent.

8 2. No stay of the Confirmation Order shall be in effect at the time the
9 other conditions precedent are satisfied or waived.

10 **F. Alternatives to the Plan.**

11 The Proponent believes the Plan gives holders of Claims the greatest possible
12 value that could be realized on their Claims. The Proponent also believes the Plan is fair to and
13 reasonable in its treatment of all concerned. Possible alternatives to the Plan which might arise if
14 the Plan is rejected or if the Court refuses to confirm the Plan include: (a) dismissal of this
15 Chapter 11 case; (b) conversion of this Chapter 11 case to a case under Chapter 7 of the
16 Bankruptcy Code, which would entail the mandatory appointment of a chapter 7 panel trustee; or
17 (c) submission of an alternative Plan.

18 **IX. RISK FACTORS**

19 **A. Scope of Discussion.**

20 The following discussion is a nonexclusive summary of certain risks involved
21 with consummation of the Plan, and are set forth for purposes of example only. Other risk factors
22 may exist. Holders of Claims are encouraged to supplement this summary with their own
23 analyses and evaluation of the Plan. Nevertheless, Debtor believes the Plan is feasible.

24 **B. Risks.**

25 The Clinics are still in the process of turnaround and stabilization. The Clinics
26 have very little working capital. General economic uncertainties, changes in regulatory controls,

1 the inability to increase the collection of accounts receivable (both pre petition and post petition)
2 could limit the cash available to pay creditors, and put the ongoing operations at risk. However,
3 the Trustee believes the Plan projections are reasonable and the Clinics can achieve the financial
4 performance projected by the Trustee. The Trustee's estimate of the sale value of the Clinics has
5 not been verified by any specific market analysis or appraisal. The Clinics may not bring the
6 prices projected and they may take longer to sell than expected.

7 **X. CERTAIN TAX CONSEQUENCES OF THE PLAN**

8 **A. Scope of Discussion.**

9 The following discussion summarizes certain federal income tax consequences of
10 the implementation of the Plan. This summary does not address the federal income tax
11 consequences of the Plan to holders of Priority or Secured Claims, nor does it address any state,
12 local or foreign tax matters or the federal income tax consequences to certain types of creditors
13 (including financial institutions, life insurance companies, tax exempt organizations and foreign
14 taxpayers) to which special rules may apply. No rulings or opinions have been or will be
15 requested from the IRS with respect to any of the tax aspects of the Plan.

16 The Proponent is not making any representations regarding the particular tax
17 consequences of the Plan's confirmation and consummation to holders of Claims, nor are they or
18 their professionals rendering any form of legal opinion or tax advice. The tax laws applicable to
19 corporations in bankruptcy are complex and are subject to significant uncertainties. Each holder
20 of a Claim should consult his, her or its own tax advisor.

21 **B. Tax Consequences to Debtor.**

22 Debtor is a limited liability Company, and is a "pass through" entity for tax
23 purposes. Therefore, the Reorganized Debtor will file returns but will not pay any income tax,
24 other than the minimum \$10.00 tax required by the State of Oregon. The Liquidating Trust may
25 be taxed on the amounts distributed to it for disbursements to creditors under the Plan. This issue
26 is still being researched and is not reflected in the budget. Other than as described above, the

1 Proponent does not anticipate any tax consequences to the Estate as a result of the confirmation
2 of the Plan.

3 **C. Tax Consequences to Holders of General Unsecured Claims.**

4 Pursuant to the Plan, holders of Allowed Claims will receive one or more Cash
5 distributions in satisfaction of their Claims. Holders may have tax consequences and should
6 consult their own tax professional.

7 **XI. CONCLUSION AND RECOMMENDATION**

8 The Proponent believes that confirmation and implementation of the Plan is
9 preferable to any alternative because it will provide the greatest recoveries to holders of Claims.
10 The Proponent urges all holders of impaired Claims entitled to vote on the Plan to complete and
11 return their Ballots accepting the Plan before the Voting Deadline.

12 DATED: March 23, 2010.

13 /s/ Conrad Myers
14 Conrad Myers, Chapter 11 Trustee

15 FARLEIGH WADA WITT

16

17

18 By: /s/ Peter C. McKittrick
19 Peter C. McKittrick, OSB #852816
20 PMcKittrick@fwwlaw.com
21 Christopher L. Parnell, OSB #054352
22 CParnell@fwwlaw.com
23 (503) 228-6044
24 Of Attorneys for Conrad Myers, Chapter 11 Trustee

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IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF OREGON

In re

The Marshall Group, LLC,
Debtor.

Case No. 08-34585-rld11

TRUSTEE'S ABBREVIATED DISCLOSURE
STATEMENT AND BALLOT FOR
ACCEPTING OR REJECTING PLAN (CLASS
5 CLAIMANTS)

Conrad Myers, Chapter 11 Trustee ("Trustee") for The Marshall Group, LLC ("Debtor"), is seeking acceptance of Trustee's Amended Plan of Reorganization (the "Plan") by the creditors of the Debtor's estate. This abbreviated disclosure statement and ballot for accepting or rejecting the Plan contains information regarding how the Plan proposes to treat claims of the type you hold (*i.e.*, what you will receive on your claim if the Plan is confirmed). You may obtain a complete copy of the Plan and Disclosure Statement by contacting Farleigh Wada Witt as set forth below.

Debtor operates urgent care clinics in McMinnville and Redmond, Oregon and formerly in Lincoln City, Oregon ("Clinics"). You are receiving this notice because you are listed in Debtor's bankruptcy schedules as potentially having an unsecured claim for less than \$100.00 related to a refund for payments to the Clinics. The Plan proposes that unsecured creditors owed less than \$100.00 ("Class 5 Claimants") may either receive (1) a cash payment of 20% of their claim within 30 days of the Effective Date of the Plan; or (2) a voucher for services at the Clinics equal to the greater of 50% of their claim or \$15.00. Cash payments will not be made for less than \$5.00. A reserve fund in the amount of \$8,000 shall be set aside for payment of Class 5 claims.

The Trustee supports the Plan and recommends that you vote to accept it. If the Plan is not confirmed or if this case were a Chapter 7 liquidation, it is not likely that Class 5 Claimants would receive any payment. The Trustee believes that approval of the Plan is in the best interests of all creditors.

The Plan can be confirmed by the Court and thereby made binding on you if it is accepted by the holders of two-thirds in dollar amount and more than one-half in number of claims in each class voting on the Plan. In the event the requisite acceptances are not obtained, the Court may nevertheless confirm the Plan if the Court finds that the Plan accords fair and equitable treatment to the class or classes rejecting it and otherwise satisfies requirements of 11 U.S.C. § 1129(b) of the Code. To have your vote count, you must complete and return this ballot as set forth below:

///

[SEE OTHER SIDE]

As a Class 5 Claimant, you are entitled to vote to accept or reject the Plan. In order to have your vote count and your claim allowed, a completed and signed ballot must be received by 4:30 p.m. PDT on _____ by Farleigh Wada Witt at the following address, email, or fax number:

Diane Fallon, Paralegal
Farleigh Wada Witt
121 SW Morrison, Suite 600
Portland, OR 97204
Telephone: 503-228-6044
Fax Number: 503-228-1741
E-Mail (PDF): DFallon@fwwlaw.com

The undersigned, a Class 5 Claimant (Convenience Claims)

[Check one box] ACCEPTS the Plan REJECTS the Plan

Name of Claimant _____

Signature _____

Name and Title _____

Address _____

Telephone _____

1 Peter C. McKittrick, OSB #852816
PMcKittrick@fwwlaw.com
2 Christopher L. Parnell, OSB #054352
CParnell@fwwlaw.com
3 Farleigh Wada Witt
121 SW Morrison Street, Suite 600
4 Portland, Oregon 97204-3136
Telephone: (503) 228-6044

5 Attorneys for Conrad Myers, Chapter 11 Trustee
6
7

8
9 IN THE UNITED STATES BANKRUPTCY COURT
10 FOR THE DISTRICT OF OREGON

11 In re

12 The Marshall Group, LLC,

13 Debtor.
14

Case No. 08-34585-rld11

TRUSTEE'S FIRST AMENDED PLAN OF
REORGANIZATION

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1 Conrad Myers, Chapter 11 Trustee ("Trustee") for The Marshall Group, LLC
2 ("Debtor") proposes the following first amended plan of reorganization ("Plan") pursuant to
3 Chapter 11 of the Code, 11 U.S.C. §§ 1101 *et seq.*

4 **ARTICLE I**

5 **DEFINITIONS**

6 1.1 Scope of Definitions; References to Plan; Rules of Construction.

7 For purposes of this Plan, except as expressly otherwise provided or unless the
8 context otherwise requires, all capitalized terms not otherwise defined shall have the meanings
9 assigned to them in this Article I. Whenever the context requires, such terms shall include the
10 plural number as well as the singular and the female gender as well as the male. All references
11 in this Plan to an "*Article*," "*Section*" or "*Exhibit*" shall, unless otherwise indicated, be deemed
12 to refer to the indicated Article or Section or Exhibit to this Plan. Terms defined in the Code and
13 not otherwise defined in this Plan shall have the meanings given to them in the Code. The rules
14 of construction contained in Section 102 of the Code shall apply to the construction of this Plan.
15 The headings in this Plan are for convenience of reference only and shall not limit or otherwise
16 affect the provisions of this Plan.

17 1.2 Definitions.

18 "*Administrative Bar Date*" means and refers to the deadline, 60 days after the
19 Effective Date, established in Section 2.1.3 for the filing of (i) applications for compensation or
20 expense reimbursement by Professional Persons or other Persons claiming to have made a
21 substantial contribution to the Case pursuant to section 503(b) of the Code and (ii) Claims for
22 any other Administrative Expenses (other than for Claims of Administrative Expenses incurred
23 in the ordinary course of business and Claims under 28 U.S.C. § 1930).

24 "*Administrative Expense*" means and refers to a Claim for payment of an
25 administrative expense of the kind specified in section 503(b) of the Code and referred to in
26 section 507(a)(1) of the Code, including, without limitation, the actual, necessary costs and

1 expenses of preserving the Debtor's estate and operating the Debtor's business, including wages,
2 salaries, and commissions for services rendered after the commencement of the Case,
3 compensation for legal and other services and reimbursement of expenses awarded under section
4 330(a) of the Code in respect of the Debtor's Case, and all fees and charges assessed against the
5 Debtor's estate under chapter 123 of Title 28 of the United States Code; provided, however, that
6 Administrative Expense shall not include any interest earned on a Secured Claim during the
7 period from the Petition Date through the Effective Date.

8 "**Advisory Committee**" means the advisory committee for the Reorganized Debtor
9 consisting of Arland Keeton, Randy McCreith, and Miles Newmark, or their respective
10 designees.

11 "**Allowed Claim**" means and refers to the amount of a Claim owed by the Debtor
12 or with respect to which (1) no proof of claim has been filed that is listed by the Debtor in the
13 Schedules as not being disputed, contingent, or unliquidated, (2) if a proof of claim has been
14 filed (i) the amount of the Claim as set forth on the proof of claim if no objection has been
15 interposed within any period of limitation fixed by the Code or the rules or orders of the Court;
16 (ii) if an objection has been interposed, (x) the amount determined by a Final Order with respect
17 to such Claim or (y) the amount set forth in this Plan as the allowed amount of such Claim or
18 (3) a Final Order allowing such Claim in such amount has been entered.

19 "**Allowed [_____] Claim**" means a Claim of the indicated Class or type that
20 is or has become an Allowed Claim.

21 "**Business Day**" means and refers to any day except Saturday, Sunday, and any
22 other day on which commercial banks in Portland, Oregon are authorized by law to close.

23 "**Case**" means the Debtor's case under Chapter 11 pending in the Court.

24 "**Cash**" means cash, cash equivalents and other readily marketable direct
25 obligations of the United States of America.

26 "**Chapter 7**" means and refers to chapter 7 of the Code.

1 "**Chapter 11**" means and refers to chapter 11 of the Code.

2 "**Claim**" means and refers to any claim as defined in section 101(5) of the Code,
3 whether or not asserted, against the Debtor.

4 "**Claimant**" means and refers to the holder of a Claim.

5 "**Class**" means and refers to a class of Claims or Interests described in Article III.
6 Within certain Classes, certain Claims are classified into sub-classes.

7 "**Clinics**" means the McMinnville Clinic and the Redmond Clinic.

8 "**Code**" means and refers to Title I of the Bankruptcy Reform Act of 1978, Public
9 Law 95 598, codified in Title 11 of the United States Code, as amended, 11 U.S.C. §§ 101 *et seq.*

10 "**Collateral**" means, with respect to any Allowed Secured Claim, the property
11 that secures such claim.

12 "**Committee**" means and refers to the Official Committee of Unsecured Creditors
13 appointed by the U.S. Trustee in the Case, as constituted from time to time.

14 "**Confirmation Date**" means and refers to the date of entry of the Confirmation
15 Order.

16 "**Confirmation Hearing**" means and refers to the hearing at which the Court is
17 asked to enter the Confirmation Order, as the same may be continued from time to time.

18 "**Confirmation Order**" means the Court order confirming the Plan pursuant to
19 Section 1129 of the Code.

20 "**Convenience Claim**" means and refers to (i) any Allowed Unsecured Claim in an
21 amount equal to or less than \$100.00, and (ii) any Allowed Unsecured Claim in an amount in
22 excess of \$100.00, the holder of which elects to reduce its Claim to \$100.00 prior to the Voting
23 Deadline by completing the appropriate space on its ballot to accept or reject this Plan.

24 "**Court**" means and refers to the United States Bankruptcy Court for the District
25 of Oregon and any court having competent jurisdiction to hear appeals or certiorari proceedings
26 therefrom, or any successor thereto that may be established by any act of Congress, or otherwise,

1 and which has competent jurisdiction over the Case or this Plan.

2 "**Debtor**" means and refers to The Marshall Group, LLC, whether as Debtor or as
3 Debtor-in-Possession.

4 "**Disallowed Claim**" means and refers to any Claim or portion thereof that has
5 been disallowed pursuant to a Final Order.

6 "**Disclosure Statement**" means and refers to the Trustee's Disclosure Statement
7 for Plan of Reorganization (including all exhibits and schedules thereto), together with any
8 modifications which may be made from time to time.

9 "**Disputed Claim**" means and refers to any Claim against the Debtor that is not an
10 Allowed Claim or a Disallowed Claim.

11 "**Distribution Record Date**" means and refers to the close of business on the
12 Confirmation Date.

13 "**Effective Date**" means the fourteenth day after the Confirmation Date, provided
14 no order has been entered staying, vacating or reversing the Confirmation Order.

15 "**Estate**" means the estate of the Debtor created by Section 541 of the Code.

16 "**Farleigh**" means Farleigh Wada Witt.

17 "**Final Order**" means an order or judgment of the Court that has not been
18 reversed, stayed, modified or amended and as to which the time to appeal or seek review,
19 rehearing, reargument or certiorari has expired and as to which no appeal or petition for review,
20 rehearing, reargument, stay or certiorari is pending, or as to which any right to appeal or to seek
21 certiorari, review or rehearing has been waived, or if an appeal, reargument, petition for review
22 or certiorari or rehearing has been sought, the order or judgment of the Court has been affirmed
23 by the highest court to which the order was appealed or from which the reargument, review or
24 rehearing was sought, or certiorari has been denied, and as to which the time to take any further
25 appeal, or seek further reargument, review or certiorari or rehearing has expired.

26 "**Free Cash Flow**" means the Reorganized Debtor's surplus working capital such

1 that the operating account contains not less than \$60,000.00 or such greater sum as is reasonably
2 necessary in the Liquidating Trustee's discretion for protection against disruption of the
3 Reorganized Debtor's operations.

4 "**Impaired Claims**" means and refers collectively to Claims in Classes 1 through
5 6.

6 "**Interest Holder**" means any Person holding an Interest.

7 "**Interests**" mean all equity interests in the Debtor (including common and
8 preferred stock, membership interests, options to purchase such stock or interests or any unpaid
9 dividends or distributions thereon).

10 "**IRS**" means the Internal Revenue Service.

11 "**Keeton-King**" means Keeton-King Construction, Inc., Arland Keeton, and Jean
12 Keeton.

13 "**Leased Equipment**" means certain medical equipment leased from Summit
14 Leasing, Inc. pursuant to two expired commercial leases where the Debtor was lessee.

15 "**Liquidating Trust**" means the liquidating trust created on the Effective Date.

16 "**Liquidating Trustee**" means the trustee of the Liquidating Trust.

17 "**Manager**" means Performance Improvement Resources, and any successor
18 manager of the Reorganized Debtor from time to time.

19 "**Marshalls**" means Mark and Cathy Jo Marshall.

20 "**McMinnville Property**" means that certain real property owned by the Debtor
21 located in McMinnville, Oregon at which the McMinnville Clinic is operated.

22 "**McMinnville Clinic**" refers to the urgent care clinic owned and operated by the
23 Debtor in McMinnville, Oregon.

24 "**Medicare Receivables**" means receivables that the Debtor was owed by the
25 Federal Government (primarily Medicare) as of the Petition Date.

26 "**Myers**" means Conrad Myers.

1 "**ODR**" means the Oregon Department of Revenue.

2 "**Perkins**" means Perkins Coie LLP.

3 "**Person**" means an individual, corporation, partnership, limited liability
4 company, joint venture, association, joint stock company, trust, estate, unincorporated
5 organization, government (or agency or political subdivision thereof) or other entity.

6 "**Petition Date**" means September 4, 2008.

7 "**Plan**" means this plan of reorganization and all exhibits hereto, which are
8 incorporated by reference, together with any modifications which may be made from time to
9 time in accordance with 11 U.S.C. §1127.

10 "**Priority Claim**" means a claim having priority as defined in 11 U.S.C. § 507,
11 other than a Claim entitled to priority pursuant to section 507(a)(1), 507(a)(2) or 507(a)(8) of the
12 Code.

13 "**Priority Tax Claim**" means an unsecured Claim of a governmental unit entitled
14 to priority under section 507(a)(8) of the Code. Priority Tax Claims shall include only such
15 Claims for penalties that are related to a Claim specified in section 507(a)(8) of the Code and
16 that seek compensation for actual pecuniary loss.

17 "**Professional Persons**" means and refers to all attorneys, accountants, financial
18 advisors, investment bankers, appraisers, consultants, and other professionals retained or to be
19 compensated pursuant to an order of the Court entered under section 327, 328, 330, 331, 503(b)
20 or 1103 of the Code.

21 "**Pro Rata**" means and refers to a proportionate distribution, or to the ratio of the
22 amount of proceeds on account of a particular Allowed Claim to the total amount of all Allowed
23 Claims of the Class in which the particular Claim is included.

24 "**Reorganized Debtor**" means the Debtor after the Effective Date.

25 "**Redmond Clinic**" means the urgent care clinic owned and operated by the
26 Debtor in Redmond, Oregon.

1 2.1.2 Professional Fee Claims.

2 Trustee shall pay Allowed Administrative Expense Claims for Professional Fees
3 within six (6) months following the Effective Date, as follows: (i) Trustee, Farleigh, V&R and
4 Perkins shall receive the lesser of 50% of their Professional Fees within 5 business days after
5 such Professional Fees have been approved by the Court, or such amount as can be paid from
6 Free Cash Flow, with the remaining balance of such Professional Fees paid in six (6) subsequent
7 monthly payments following the date such fees were approved to extent there is sufficient Free
8 Cash Flow; and (ii) Scharff shall receive the unpaid balance of his Professional Fees in four (4)
9 equal monthly payments beginning on the third month following the Effective Date and ending
10 on the sixth month following the Effective Date to the extent there is sufficient Free Cash Flow.
11 To the extent there is not sufficient Free Cash Flow, Trustee and Farleigh shall defer such
12 payments as may be necessary to maintain the minimum working capital reserve projected.

13 2.1.3 Bar Date for Administrative Expense Claims.

14 All applications for final compensation of Professional Persons for services
15 rendered and reimbursement of expenses incurred on or before the Effective Date and all other
16 requests for payment of administrative costs and expenses incurred on or before the Effective
17 Date under section 507(a)(1) or 507(b) of the Code (except for Claims for Administrative
18 Expenses incurred in the ordinary course of business and Claims under 28 U.S.C. § 1930) shall
19 be filed by the Administrative Bar Date or shall forever be barred from recovery against the
20 Debtor, the Reorganized Debtor, any property of the Reorganized Debtor, or any distributions
21 under this Plan.

22 2.2 Priority Tax Claims.

23 Priority Tax Claims shall be paid in full to IRS and ODR over a period not to
24 exceed five (5) years after the Petition Date as provided in Section 1129(a)(9)(C) of the Code.
25 Once the Allowed Administrative Expense Claims are paid in full as set forth in Section 2.1.2,
26 the Priority Tax Claim amounts due shall be amortized over the period beginning with the

1 commencement date of payments as set forth below and ending September 4, 2013. The
2 payment of such Priority Tax Claims, including simple interest at the applicable statutory rate,
3 shall be made in equal monthly payments (i) beginning in the first full month following the
4 payment in full of all Allowed Administrative Expense Claims as set forth in Section 2.1.2; and
5 (ii) ending no later than September 4, 2013. The IRS's Secured Tax Claim shall be treated as set
6 forth in Section 3.2.

7 **ARTICLE III**

8 **CLASSIFICATION AND TREATMENT OF CLAIMS AND INTERESTS**

9 3.1 Classification and Treatment.

10 All Claims (except those treated under Article 2 of this Plan) and Interests are
11 placed in the following classes for all purposes, including voting, confirmation and distribution
12 pursuant to this Plan. A Claim is classified in a particular Class only to the extent that the Claim
13 qualifies within the description of that Class and is classified in other Classes only to the extent
14 that any remainder of the Claim qualifies within the description of such other Classes. A Claim
15 is in a particular Class only to the extent that the Claim is an Allowed Claim in that Class and has
16 not been paid or otherwise satisfied prior to the Effective Date. The treatment of and
17 consideration to be received by Persons holding Allowed Claims pursuant to this Plan shall be in
18 full settlement, release, and discharge of their respective Allowed Claims unless otherwise
19 specified herein.

20 3.2 Class 1 – Allowed Secured Claim of IRS.

21 Class 1 consists of the Allowed Secured Claim of IRS. The IRS has an Allowed
22 Secured Claim arising from offset rights on the Medicare Receivables. The Trustee estimates the
23 amount of the IRS' Allowed Secured Claim will be approximately \$32,000.00 on the Effective
24 Date. IRS will receive \$10,000.00 within 10 days of the Effective Date, and the balance shall be
25 paid in six equal monthly installments with interest at the statutory rate of interest commencing
26 on the 60th day after the Effective Date.

1 3.3 Class 2 – Allowed Secured Claim of Keeton-King.

2 A motion to sell the McMinnville Property free and clear of liens under Code
3 Section 363(f) has been filed seeking approval to sell the McMinnville Property to Keeton King
4 on a credit bid basis under Section 363(k). If the sale is approved and the sale transaction is
5 consummated then Keeton King will have no further Allowed Secured Claim. If the sale has not
6 been approved the confirmation of the Plan shall constitute approval of the sale of the
7 McMinnville Property to Keeton-King free and clear of all monetary liens and encumbrances
8 other than real estate taxes and any other lien of superior priority to Keeton-King's lien on the
9 McMinnville Property. After approval of the sale of the McMinnville Property free and clear,
10 Debtor shall lease the portion of the McMinnville Property it occupies pursuant to the terms of a
11 written lease as approved by the Court. The essential terms of the lease are set out in the
12 Debtor's Motion for Authority to Enter into Lease Agreement filed in this case on March 22,
13 2010.

14 3.4 Class 3 – Allowed Secured Claim of Summit Leasing.

15 Class 3 consists of the Allowed Secured Claim of Summit Leasing arising from
16 expired leases for the Leased Equipment. Debtor has returned certain Leased Equipment to
17 Summit Leasing. Trustee proposes one of the following three alternatives with respect to the
18 Leased Equipment that remains in Debtor's possession:

19 (A) Summit Leasing shall receive \$24,500 on the Effective Date;

20 (B) Summit Leasing shall receive 20 monthly payments of \$1,500
21 commencing on the Effective Date; or

22 (C) The Debtor shall surrender the Leased Equipment to Summit Leasing.
23 Summit Leasing's remaining claim shall be treated as a Class 4 Unsecured Claim.

1 3.5 Class 4 – General Unsecured Claims.

2 Class 4 consists of all Allowed Unsecured Claims other than those set forth in
3 Class 5. Unsecured Claimants will be paid as follows:

4 To the extent the Clinics generate Free Cash Flow after payment of all Allowed
5 Administrative Expense Claims, the Reorganized Debtor shall make Pro Rata disbursements to
6 the Class 4 Claimants on a periodic basis, but not more often than every 3 months. No such
7 payments shall be made until all Administrative Expense Claims are paid in full and Priority Tax
8 Claimants have received at least three (3) monthly payments on account of their Allowed Priority
9 Tax Claims as set forth in Section 2.2.

10 The Liquidating Trustee may determine that it is in the best interests of the
11 beneficiaries of the Liquidating Trust to sell one or more of the Clinics. In such event, after
12 payment of all Allowed Administrative Expense Claims, Priority Claims, Priority Tax Claims
13 and claims in Classes 1-3 and 5 have been paid in full, the remaining proceeds from any such
14 sale, after taking into account all costs of such sale, shall be distributed to holders of Allowed
15 Unsecured Claims on a Pro Rata basis.

16 3.6 Class 5 – Allowed Convenience Claims.

17 Class 5 consists of all Allowed Convenience Claims. Trustee has attached a
18 proposed abbreviated disclosure statement and ballot (“Letter”) to the Disclosure Statement to be
19 mailed to potential claimants listed in (a) the Debtor’s Schedule F who are owed \$100.00 or less,
20 or (b) in the Debtor’s Account Receivable Records as being entitled to a refund, to apprise them
21 of the following: A reserve fund in the amount of \$8,000.00 shall be set aside for payment of
22 Allowed Convenience Claims. Each Person potentially holding an Allowed Convenience Claim
23 may vote to accept or reject the Plan by returning the Letter as instructed.

24 Treatment of Class 5 Claims shall be as follows: (a) each Person holding an
25 Allowed Convenience Claim may elect to receive in complete settlement, satisfaction and
26 discharge of its Claim a cash payment equal to 20% of such Allowed Convenience Claim, such

1 payment to be made within 30 days of the Effective Date; or (b) alternatively, each Person
2 holding an Allowed Convenience Claim may choose to receive a certificate for medical services
3 at the Redmond Clinic or McMinnville Clinic equivalent to the greater of 50% of their Allowed
4 Convenience Claim or \$15.00. An election to be treated as a Convenience Claim is irrevocable
5 and the Person who made such election may not seek treatment or vote as a member of Class 4.
6 All Claimants holding Unsecured Claims that elect to reduce their Class 4 Claims as described
7 herein are members of Class 5 for voting and distribution purposes. Notwithstanding anything to
8 the contrary, no Cash distribution shall be made on any Claim of less than \$5.00 although
9 certificates will be issued for such Claims.

10 The Class 5 Claimants must provide the Liquidating Trustee with the
11 Convenience Claim election by either (1) going to the Redmond Facility or McMinnville
12 Facility, showing identification and receiving a certificate for medical services or refund; or (2)
13 mailing a signed copy of the letter, with a signature notarized requesting a certificate for medical
14 services or refund. Any such election must be made within 90 days of the Effective Date or the
15 claim shall be deemed waived. Any letter making such election must be postmarked no later than
16 the 90th day following the Effective Date.

17 3.7 Class 6 – Subordinated Tax Claim.

18 Class 6 consists of the Subordinated Tax Claim. The Subordinated Tax Claim
19 will be paid only after all amounts owed to Claimants holding Class 5 Claims have been paid in
20 full.

21 3.8 Class 7 - Interest Holders.

22 Class 7 consists of the Interests in the Debtor. On the Effective Date, the Interests
23 of the Marshalls shall be cancelled and re-issued to the Liquidating Trust. As of the Effective
24 Date, the sole member of the Debtor shall be the Liquidating Trust. The Marshalls shall receive
25 no payment for their Interests. The membership unit shall be reissued to the Liquidating Trust for
26 the benefit of priority and unsecured claims.

1 3.9 Impairment of Classes.

2 3.9.1 Unimpaired Classes.

3 There are no unimpaired classes.

4 3.9.2 Impaired Classes.

5 Classes 1 through 6 are impaired by this Plan and the Claimants holding
6 such Claims are entitled to vote to accept or reject this Plan. Holders of Interests (Class 7) is
7 impaired and are deemed to reject this Plan and therefore their votes will not be solicited

8 3.9.3 Confirmation Notwithstanding Rejection by a Class.

9 In the event that an impaired Class of Claims fails to accept this Plan in
10 accordance with Section 1129(a) of the Code, Proponents may request that the Court confirm
11 this Plan in accordance with Section 1129(b) of the Code.

12 **ARTICLE IV**

13 **TREATMENT OF EXECUTORY CONTRACTS AND UNEXPIRED LEASES**

14 4.1 Assumption.

15 The Trustee shall not assume any of the Debtor's executory contracts and
16 unexpired leases (including all amendments, extensions or renewals and replacements thereof).

17 4.2 Rejection.

18 All executory contracts and unexpired leases to which the Debtor is a party are
19 rejected pursuant to the provisions of Code Sections 365 and 1123(b)(2), except those which
20 have been assumed by Court order prior to the entry of the Confirmation Order, including but not
21 limited to leases with Keeton-King and Mazzocco. Any claim for damages arising by reason of
22 the rejection of any executory contract or lease shall be treated as a Class 4 claim; any such claim
23 shall be disallowed unless proof of which is filed with the Court within sixty (60) days after the
24 Effective Date of the Plan or such claim shall be forever barred.

1 **ARTICLE V**

2 **MEANS FOR IMPLEMENTATION OF THE PLAN**

3 5.1 Post-Confirmation Operations.

4 After the Effective Date, the Reorganized Debtor shall operate its business subject
5 to its obligations under this Plan, with all corporate powers allowed under applicable state law,
6 without prejudice to any right to alter or terminate such existence (whether by merger or
7 otherwise) under such applicable law. Except as otherwise expressly provided in this Plan, on
8 the Effective Date the Reorganized Debtor will be vested with all of the property of its estate free
9 and clear of all claims, liens, encumbrances, charges and other interests of Claimants, and may
10 operate its business free of any restrictions imposed by the Code or by the Court.

11 5.2 Liquidating Trust.

12 5.2.1 Transfer of Estate Assets to the Reorganized Debtor.

13 On the Effective Date, all assets of the Estate will vest in the Reorganized
14 Debtor.

15 5.2.2 Issuance of Membership Interests to the Liquidating Trust.

16 On the Effective Date, the Debtor's membership units will be issued in the
17 name of the Liquidating Trust. The Liquidating Trust shall be administered in accordance with
18 the Liquidating Trust Agreement. A copy of the Liquidating Trust Agreement shall be filed with
19 the Court at least 14 days prior to the Hearing.

20 5.3 Management of the Reorganized Debtor.

21 5.3.1 Manager.

22 The Reorganized Debtor will be managed by the Manager. The Manager
23 shall continue to provide management services on the same terms as provided for under its
24 current contract or as mutually agreed in a modified contract. Thereafter, the Liquidating
25 Trustee shall have the right to select and employ a different manager and/or engage an employee
26 of Manager or Reorganized Debtor to serve as manager as he deems appropriate.

1 5.3.2 Advisory Committee.

2 The Advisory Committee shall meet quarterly with the Liquidating
3 Trustee to review the Reorganized Debtor's operations. The Advisory Committee will have
4 authority to act as an advisory board of directors, and shall have powers of oversight of the
5 Liquidating Trustee and Manager. The Liquidating Trustee shall have the powers and duties set
6 forth in Section 5.3.3.

7 5.3.3 Liquidating Trustee Powers and Duties.

8 The Liquidating Trustee shall be empowered and directed to exercise such
9 powers which the Liquidating Trustee in his discretion deems reasonably necessary to effectuate
10 this Plan and to directly supervise the Manager. The Liquidating Trustee must obtain Advisory
11 Committee approval (by a majority vote of the Advisory Committee) for the following:

- 12 (a) The sale of the Business to a third party;
13 (b) Compromise of any Claims over \$20,000.00;
14 (c) Compromise of any Avoidance Claims if the proposed
15 settlement in excess of \$20,000.00;
16 (d) Capital expenditures over \$10,000.00;
17 (e) Relocation of the Reorganized Debtor or opening of new
18 business; and
19 (f) Decision to change manager or engage an employee as
20 manager.

21 5.3.4 Liquidating Trustee Engagement.

22 Myers shall be engaged as Liquidating Trustee of the Liquidating Trust on
23 the Effective Date. Myers shall receive compensation of the lesser of (i) the average of
24 \$3,000.00 per month calculated on an annual basis, or (ii) his hourly rate. In no event shall a
25 sum greater than \$3,000.00 be disbursed to Myers in any month. Myers shall serve as
26 Liquidating Trustee until the Administrative Expense Claims are paid in full. Upon payment of

1 the Administrative Expense Claims in full, (a) the Advisory Committee may choose to elect a
2 new Liquidating Trustee; or (b) Myers may resign as Liquidating Trustee by providing ten (10)
3 days notice to the Advisory Committee. The full powers and duties of the Liquidating Trustee
4 shall be set forth in the Liquidating Trust Agreement.

5 5.3.5 Membership Interests.

6 On the Effective Date, the Interests of the Marshalls shall be cancelled and
7 re-issued to the Liquidating Trust, which shall be the Debtor's sole member.

8 5.4 Leases.

9 5.4.1 McMinnville Property.

10 Subject to court approve, Reorganized Debtor will enter into a lease with
11 Keeton-King prior to the Confirmation Date for tenancy in the McMinnville Property, which
12 lease shall be fully assignable in the event the McMinnville Clinic is sold.

13 5.4.2 Redmond Property.

14 Subject to court approval, The Reorganized Debtor will enter into a lease
15 (or receive an assignment by operation of law from the Debtor if already approved and in effect)
16 with David Mazzocco for tenancy in the Redmond Property, which lease shall be fully
17 assignable in the event the Redmond Clinic is sold.

18 5.5 Sale of Business.

19 It is anticipated that the Liquidating Trustee will analyze whether a sale of the
20 Reorganized Debtor's business is advisable within 24-48 months, at the discretion of the
21 Liquidating Trustee.

22 5.6 General Account.

23 The Debtor shall maintain its existing bank accounts, but following the Effective
24 Date, the reference to "debtor-in-possession" shall be removed. Such accounts shall be used to
25 pay all ordinary and necessary post-confirmation operating expenses of the Reorganized Debtor,
26 including payment of the Manager and other Professional Persons' reasonable compensation.

1 6.2 Form of Payments.

2 Distributions to be made by the Reorganized Debtor under the Plan will ordinarily
3 be made by check drawn on a domestic bank.

4 6.3 Delivery of Distributions.

5 Distributions to be made by the Reorganized Debtor to holders of Allowed Claims
6 pursuant to the Plan may be delivered by regular mail, postage prepaid, in an envelope addressed
7 as directed in a request served on the Reorganized Debtor as provided in section 10.2 of the Plan,
8 but if no such request is made, to the address shown in the Schedules, or, if a different address is
9 stated in a proof of claim duly filed with the Court, to such address.

10 6.4 Time Bar to Cash Payments.

11 Checks issued by the Reorganized Debtor with respect to Allowed Claims will
12 become null and void if not negotiated within 90 days after the date of issuance thereof.
13 Requests for re-issuance of any check must be made to the Reorganized Debtor within 90 days
14 following the date of the Plan distribution pursuant to which the check was issued. After such
15 date, (i) the holder of any such Claim who has failed to make a timely request for re-issuance of
16 such a voided check will not be entitled to any other or further distribution under the Plan on
17 account of such voided check or such Claim; and (ii) the Unclaimed Property held on account of
18 such voided check or such Claim shall be returned to the Reorganized Debtor.

19 6.5 Minimum Distribution.

20 If a distribution to be made to any holder of an Allowed Claim on any
21 Distribution Date, including the final Distribution Date, is \$5.00 or less in the aggregate, then,
22 notwithstanding any contrary provision in the Plan, the Reorganized Debtor will not be obligated
23 to make such distribution to such holder.

24 6.6 Post-Petition Interest.

25 Except as specifically provided for in the Plan or in the Confirmation Order,
26 interest will not accrue on Claims, either Allowed Claims or Disputed Claims, and no holder of a

1 Claim will be entitled to interest accruing on or after the Petition Date on any Claim.

2 6.7 Disputed, Contingent and Unliquidated Claims.

3 The Trustee or the Liquidating Trustee may dispute some of the Proofs of Claim
4 filed in the Bankruptcy Case even if the Debtor did not list the associated debt as disputed in the
5 Schedules. In addition, the Trustee or the Liquidating Trustee may dispute some of the Claims
6 listed on its Schedules even if it did not list the associated debt as disputed, contingent or
7 unliquidated. Notwithstanding any other provision of the Plan, no Cash or other property will be
8 distributed under the Plan on account of any Disputed Claim, or any Claim that is contingent or
9 unliquidated, until such Claim becomes an Allowed Claim. From and after the Effective Date,
10 only the Liquidating Trustee will have the right (except as to applications or requests for
11 allowances of compensation and reimbursement of expenses in favor of Professional Persons) to
12 make and file objections to Claims. Within 90 days after the Effective Date, unless such period
13 is extended by Court order, all objections to Claims must be served and filed. At such time as a
14 Disputed Claim becomes an Allowed Claim, the holder of such Allowed Claim will receive the
15 distribution, if any, to which such holder is then entitled under the Plan as soon as practicable
16 after the Final Order of the Court allowing such Claim.

17 6.8 Post-Confirmation Date Fees and Expenses of Professional Persons.

18 After the Confirmation Date, the Reorganized Debtor shall, in the ordinary course
19 of business and without the necessity for Court approval, pay the reasonable fees and expenses of
20 the Professional Person or entities it employs in connection with the implementation,
21 consummation and performance of the Plan or with other matters as to which such professionals
22 may be reasonably engaged. Notwithstanding the foregoing, no Post-Confirmation Date fees and
23 expenses, including amounts payable to the Liquidating Trustee, shall be paid unless and until
24 (i) all Allowed Administrative Expense Claims have been paid in full, and (ii) there is sufficient
25 Free Cash Flow. For avoidance of doubt, all such professional fees and expenses to which Court
26 approval was previously required shall still be required for all such fees and expenses up through

1 the Confirmation Date.

2 **ARTICLE VII**

3 **EFFECT OF PLAN CONFIRMATION**

4 7.1 Injunction.

5 Except as otherwise specifically provided in this Plan or in the Confirmation
6 Order, confirmation of the Plan shall act as a permanent injunction applicable to all entities
7 against (i) the commencement or continuation, including the issuance or employment of process,
8 of a judicial, administrative or other action or proceeding against the Debtor that was or could
9 have been commenced before the entry of the Confirmation Order, in each case on account of
10 any Claim (other than actions or proceedings brought to enforce any rights or obligations under
11 this Plan or appeals, if any, from the Confirmation Order or with respect to such Claims); (ii) the
12 enforcement against the Debtor or the Reorganized Debtor of any judgment, award, decree or
13 order obtained before the Petition Date, in each case on account of any Claim; (iii) any act to
14 obtain possession of, or to exercise control over, or to create, perfect or enforce a lien upon, any
15 of the property of the Reorganized Debtor, on account of any Claim; (iv) the assertion of any
16 setoff, right of subrogation, reimbursement or recoupment of any kind, directly or indirectly,
17 against any obligation due the Debtor or the Estate on account of any Claim except in the context
18 of a Disputed Claim and only if allowed by the Court; and (v) the exercise of any provision
19 contained in any contract, lease or instrument which is or was entered into or issued by the
20 Debtor prior to the Petition Date and which is not cancelled or rejected under the Plan that allows
21 a Claimant to declare, or that declares, a default based upon the filing of the petition in this Case,
22 the insolvency or financial condition of the Debtor or the subjective insecurity of such Claimant.

23 7.2 Binding Effect.

24 Except as otherwise specifically provided in this Plan or in the Confirmation
25 Order, on and after the Confirmation Date, the provisions of this Plan shall bind each Holder of a
26 Claim or Interest, and each of their respective successors, heirs, legal representatives and assigns,

1 whether or not the Claim or Interest of such Holder is impaired under this Plan and whether or
2 not such Holder has filed a proof of claim with the Court or has accepted this Plan.

3 **ARTICLE VIII**

4 **DEFAULT**

5 8.1 Default.

6 Except as otherwise provided in the Plan, in the event the Reorganized Debtor
7 shall default in the performance of any of its obligations under the Plan and the Reorganized
8 Debtor fails to cure such default within thirty (30) days after written notice delivered as set forth
9 in paragraph 10.2 below, then a claimant may pursue such remedies as are available at law or in
10 equity. An event of default occurring with respect to one Allowed Claim shall not be an event of
11 default with respect to any other Allowed Claim. Nothing contained in the Plan shall limit the
12 right of any party to reopen this Case or to move to convert this Case to a liquidation case under
13 Chapter 7 of the Code if cause for such relief exists.

14 **ARTICLE IX**

15 **RETENTION OF JURISDICTION**

16 9.1 Jurisdiction.

17 Notwithstanding the entry of the order confirming the Plan, the court shall retain
18 jurisdiction of this Case pursuant to and for the purposes set forth in 11 U.S.C. § 1127(b) and
19 (a) to classify the Claim of any Claimant, reexamine claims which have been allowed for voting
20 purposes and determine any objection that may be filed to claims; (b) to determine requests for
21 payment of claims entitled to priority under 11 U.S.C. § 507(a)(1), including compensation and
22 reimbursement of expenses in favor of Professional Persons; (c) to avoid transfers or obligations
23 and to subordinate claims under Chapter 5 of the Code; (d) to resolve all controversies and
24 disputes regarding the interpretation of the Plan; (e) to implement the provisions of the Plan and
25 enter orders in aid of Confirmation; (f) to adjudicate any and all adversary proceedings and
26 contested matters pending or hereafter commenced in this Case; and (g) to enter a final decree

1 closing this Case.

2 **ARTICLE X**

3 **MISCELLANEOUS**

4 10.1 Headings.

5 The headings in this Plan are for convenience of reference only and shall not limit
6 or otherwise affect meanings of the Plan.

7 10.2 Notices.

8 Unless otherwise agreed to between a Claimant and the Debtor or the
9 Reorganized Debtor, as may be applicable, or otherwise stated in this Plan, all notices required or
10 permitted to be made in accordance with the Plan shall be in writing and shall be delivered
11 personally or by regular or certified mail, return receipt requested. Notice to the Trustee or the
12 Liquidating Trustee shall be sent to Peter C. McKittrick, c/o Farleigh Wada Witt, 121 SW
13 Morrison Street, Suite 600, Portland, Oregon 97204. Notices to the Reorganized Debtor shall be
14 sent to: Pamela Pattani, PO Box 177, McMinnville, Oregon 97128-0177. Notice to a holder of
15 an Allowed Claim shall be directed to the address set forth within its proof of claim filed with the
16 Court, or if none, to its address set forth in the Schedules. Notices shall be deemed given upon
17 delivery, if personally delivered, and upon mailing, if mailed. Any person may change the
18 address at which such person is to receive notices under the Plan by sending written notice,
19 pursuant to the provisions of this section, to the Trustee and the Reorganized Debtor and any
20 other person to be charged with knowledge of such change.

21 10.3 Reservation of Rights.

22 Neither the filing of the Plan nor any statement nor provision contained herein,
23 nor the taking by any Claimant of any action with respect to the Plan, shall, until the Effective
24 Date, (i) be or be deemed to be an admission against interest and (ii) be or be deemed to be a
25 waiver of any rights any Claimants may have against the Debtor or any of its assets or any other
26 Claimant, and, until the Effective Date, all such rights are specifically reserved. In the event that

1 the Effective Date cannot be determined, neither the Plan nor any statement contained herein
2 may be used or relied upon in any manner in any suit, action, proceeding or controversy within
3 or without this Case involving the Debtor.

4 10.4 Computation of Time Periods.

5 In computing any period of time prescribed or allowed by this Plan, the day or
6 month of the act, event or default from which the designated period of time begins to run shall
7 not be included. The last day or month of the period so computed shall be included. In the event
8 that the last day is a Saturday, Sunday, or legal holiday, then the period shall run until the end of
9 the next day that is not a Saturday, Sunday, or legal holiday.

10 10.5 Claimant's Change of Address.

11 Any Claimant who fails to notify in writing of that Claimant's change of address,
12 with the result that the Reorganized Debtor's communications to the Claimant are returned by the
13 United States Postal Service for insufficient or improper address, shall forfeit that Claimant's
14 rights to distributions made during the time of such failure, but will be entitled to amounts to be
15 distributed after notifying the Reorganized Debtor of the new or corrected address. The
16 Reorganized Debtor need not distribute property unclaimed within three (3) months of the final
17 distribution.

18 Dated: March 23, 2010.

19

FARLEIGH WADA WITT

20

21

22 By: /s/ Peter C. McKittrick
Peter C. McKittrick, OSB #852816
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24 (503) 228-6044
25 Of Attorneys for Conrad Myers, Chapter 11
Trustee
26

**Marshall Group
Income and Expense Projections (Summary)
March 2010 - December 2012**

Schedule 1

| | Mar | Apr | May | Jun | Jul | Aug | Sep | Oct | Nov | Dec | |
|---|--|---------|---------|---------|---------|---------|---------|---------|---------|---------|--|
| | Projected Effective Date (4/30/10) --> | | | | | | | | | | |
| Beginning Cash Balance | 166,345 | 267,181 | 280,647 | 52,450 | 50,555 | 51,786 | 51,024 | 51,280 | 51,809 | 59,769 | |
| Total Collections | 276,631 | 181,590 | 187,796 | 182,517 | 182,753 | 181,097 | 181,380 | 196,500 | 199,754 | 196,304 | |
| Beginning Cash & Collections | 442,976 | 448,772 | 468,443 | 234,967 | 233,309 | 232,882 | 232,404 | 247,789 | 251,563 | 256,073 | |
| Operating Expenses | | | | | | | | | | | |
| Labor including Payroll Taxes & Insurance | 97,907 | 97,907 | 97,907 | 92,660 | 90,400 | 90,400 | 90,400 | 95,142 | 95,142 | 94,338 | |
| Billing Services | 12,647 | 13,244 | 13,710 | 11,589 | 11,554 | 11,446 | 11,465 | 12,447 | 12,659 | 12,110 | |
| Management Fees | 10,000 | 10,000 | 10,000 | 8,000 | 8,000 | 8,000 | 8,000 | 8,000 | 8,000 | 8,000 | |
| Occupancy costs including maintenance & utilities | 7,631 | 15,849 | 28,763 | 14,869 | 14,869 | 14,869 | 14,869 | 14,869 | 14,869 | 14,869 | |
| Insurance | 125 | 125 | 125 | 125 | 125 | 125 | 125 | 125 | 125 | 125 | |
| Malpractice Insurance | 4,900 | 3,150 | 3,150 | 3,150 | 3,150 | 3,150 | 3,150 | 3,150 | 3,150 | 3,150 | |
| Office Expenses | 700 | 700 | 700 | 700 | 700 | 700 | 700 | 700 | 700 | 700 | |
| Accounting & Payroll Processing | 5,943 | 7,343 | 4,943 | 6,343 | 3,943 | 3,943 | 2,943 | 4,343 | 2,943 | 2,943 | |
| Tax Preparation (Post Confirmation) | 0 | 5,000 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | |
| Personal Property Taxes | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | |
| Misc Expenses | 5,941 | 4,931 | 5,833 | 4,874 | 4,754 | 4,404 | 4,339 | 5,203 | 6,069 | 4,813 | |
| Marketing and Advertising | 5,000 | 5,000 | 3,000 | 3,000 | 3,000 | 3,000 | 3,000 | 3,000 | 3,000 | 3,000 | |
| Total Operating Expenses | 150,795 | 165,250 | 168,133 | 145,260 | 140,955 | 140,038 | 138,991 | 146,980 | 147,697 | 144,088 | |
| Cash Available after Operating Expenses | 292,181 | 285,522 | 300,310 | 89,708 | 92,814 | 92,844 | 93,413 | 100,799 | 103,866 | 112,006 | |
| Payment of Administrative Expenses & Claims | | | | | | | | | | | |
| Post Confirmation Admin Expenses & USF Fees | 0 | 4,875 | 4,500 | 3,500 | 8,375 | 3,500 | 3,500 | 8,375 | 3,500 | 3,500 | |
| Payment of Secured Claims | | | | | | | | | | | |
| Internal Revenue Service - Claim Payment | 0 | 0 | 10,000 | 0 | 0 | 3,667 | 3,667 | 3,667 | 3,667 | 3,667 | |
| Interest | 0 | 0 | 110 | 111 | 111 | 112 | 92 | 73 | 55 | 37 | |
| Summit Leasing | 23,000 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | |
| Payment of Professional Fees | 0 | 0 | 233,250 | 32,875 | 29,875 | 31,875 | 34,875 | 36,875 | 36,875 | 30,000 | |
| Payment of Priority Unsecured Claims | | | | | | | | | | | |
| Internal Revenue Service - Claim | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 12,119 | |
| Interest | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 10,907 | |
| Oregon Department of Revenue | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 753 | |
| Interest | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 678 | |
| Payment of General Unsecured Claims | | | | | | | | | | | |
| General Unsecured Claims | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | |
| Patent Refund Claims | 0 | 0 | 0 | 2,667 | 2,667 | 2,667 | 0 | 0 | 0 | 0 | |
| Net Increase (Decrease) in Cash | 25,000 | 4,875 | 247,860 | 39,152 | 41,628 | 41,820 | 42,133 | 48,390 | 44,097 | 61,660 | |
| Ending Cash Balance | 267,181 | 280,647 | 52,450 | 50,555 | 51,786 | 51,024 | 51,280 | 51,809 | 59,769 | 50,345 | |

**Marshall Group
Income and Expense Projections (Summary)
March 2010 - December 2012**

| | Q1 2011 | Q2 2011 | Q3 2011 | Q4 2011 | Q1 2012 | Q2 2012 | Q3 2012 | Q4 2012 |
|---|---------|---------|---------|---------|---------|---------|---------|-----------|
| Beginning Cash Balance | 50,345 | 119,083 | 180,729 | 175,520 | 238,430 | 296,838 | 345,405 | 410,772 |
| Total Collections | 616,891 | 590,839 | 488,056 | 591,829 | 591,829 | 591,829 | 591,829 | 591,829 |
| Beginning Cash & Collections | 667,237 | 709,922 | 668,786 | 767,350 | 830,259 | 888,668 | 937,235 | 1,002,601 |
| Operating Expenses | | | | | | | | |
| Labor including Payroll Taxes & Insurance | 317,501 | 316,751 | 290,342 | 315,350 | 316,101 | 316,852 | 315,252 | 314,504 |
| Billing Services | 40,098 | 38,405 | 31,724 | 38,469 | 38,469 | 38,469 | 38,469 | 38,469 |
| Management Fees | 15,000 | 15,000 | 15,000 | 15,000 | 15,001 | 15,002 | 15,003 | 15,004 |
| Occupancy costs including maintenance & utilities | 45,096 | 45,340 | 45,340 | 45,340 | 45,926 | 59,713 | 46,219 | 46,219 |
| Insurance | 375 | 375 | 375 | 375 | 375 | 375 | 375 | 375 |
| Malpractice Insurance | 9,450 | 9,450 | 9,450 | 9,450 | 9,450 | 9,450 | 9,450 | 9,450 |
| Office Expenses | 2,100 | 2,100 | 2,100 | 2,100 | 2,100 | 2,100 | 2,100 | 2,100 |
| Accounting & Payroll Processing | 8,829 | 10,229 | 8,829 | 10,229 | 10,229 | 10,229 | 10,229 | 10,229 |
| Tax Preparation (post Confirmation) | 5,000 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Personal Property Taxes | 0 | 0 | 0 | 1,150 | 0 | 0 | 0 | 1,200 |
| Misc Expenses | 24,854 | 22,554 | 23,773 | 22,792 | 22,792 | 22,792 | 22,792 | 22,792 |
| Marketing and Advertising | 10,000 | 5,000 | 5,000 | 10,000 | 10,000 | 10,000 | 10,000 | 10,000 |
| Total Operating Expenses | 478,302 | 465,183 | 431,953 | 470,254 | 475,442 | 480,981 | 469,889 | 470,541 |
| Cash Available after Operating Expenses | 188,934 | 244,739 | 236,833 | 297,095 | 354,817 | 408,686 | 467,245 | 532,260 |
| Payment of Administrative Expenses & Claims | | | | | | | | |
| Post Confirmation Admin Expenses & UST Fees | 8,500 | 7,000 | 5,000 | 3,000 | 3,000 | 4,000 | 3,000 | 3,000 |
| Payment of Secured Claims | | | | | | | | |
| Internal Revenue Service - Claim Payment | 3,667 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Interest | 18 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Summit Leasing | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Payment of Professional Fees | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Payment of Priority Unsecured Claims | | | | | | | | |
| Internal Revenue Service - Claim | 48,475 | 48,475 | 48,475 | 48,475 | 48,475 | 48,475 | 48,475 | 129,790 |
| Interest | 6,526 | 5,897 | 5,258 | 4,610 | 3,952 | 3,284 | 2,606 | 1,918 |
| Oregon Department of Revenue | 2,260 | 2,260 | 2,260 | 2,260 | 2,260 | 2,260 | 2,260 | 13,864 |
| Interest | 406 | 378 | 350 | 321 | 292 | 262 | 232 | 202 |
| Payment of General Unsecured Claims | | | | | | | | |
| General Unsecured Claims | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Patient refund Claims | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Net Increase (Decrease) in Cash | 69,852 | 64,910 | 61,343 | 58,666 | 57,979 | 58,281 | 56,573 | 148,574 |
| Ending Cash Balance | 119,083 | 180,729 | 175,520 | 238,430 | 296,838 | 345,405 | 410,772 | 532,260 |

Case 08-34585-MJH-11 Doc 287 Filed 03/24/10
 The Marshall Group, LLC
Liquidation Analysis
February 28, 2009

| | Book Value Feb 28, 10 | Ch 7 Liquidation Value |
|--|-----------------------|------------------------|
| ASSETS | | |
| Current Assets | | |
| Cash - unrestricted | 167,097 | 167,097 |
| Cash - Insurance Proceeds | | 103,000 |
| TOTAL CASH | <u>167,097</u> | <u>270,097</u> |
| Accounts Receivable | 632,665 | 150,000 |
| Less IRS Secured Claim | | (11,000) |
| Allowance for Doubtful Accounts | (290,000) | 0 |
| NET ACCOUNTS RECEIVABLE | <u>342,665</u> | <u>139,000</u> |
| Deposits in Transit | 9,205 | 9,205 |
| Prepaid Expenses | 37,000 | 0 |
| Other Current Assets (Medical & Office Supplies) | 35,280 | 1,500 |
| TOTAL CURRENT ASSETS | <u>81,485</u> | <u>10,705</u> |
| Fixed Assets | | |
| Real Property & Buildings | 8,970,000 | 0 |
| Equipment | 180,740 | 7,500 |
| Less Accumulated Depreciation | (149,842) | 0 |
| NET FIXED ASSETS | <u>9,000,898</u> | <u>7,500</u> |
| Other Assets (Goodwill) | 3,000,000 | 0 |
| Book Value of Assets | <u>12,613,005</u> | |
| Liquidation Proceeds from Assets (Ch 7) | | <u>427,302</u> |
| Bankruptcy Administration Costs (Ch 7) | | |
| Chapter 7 Trustee Fees | | 24,615 |
| Chapter 7 Professionals | | 40,000 |
| Wide Up Costs | | 50,000 |
| Total | | <u>114,615</u> |
| Cash Available | | <u>312,687</u> |
| Chapter 11 Administration Costs | | |
| Professional Fees | | 466,500 |
| Priority Unsecured (Tax) Claims | | 463,393 |
| Total Admin Costs, Secured & Priority Claims | | <u>1,357,195</u> |
| Available for Distribution to Unsecured Claimants | | <u>0</u> |

TRUSTEE'S DISCLOSURE STATEMENT – REDLINED VERSION

Document comparison by Workshare Professional on Wednesday, March 24, 2010
9:23:06 AM

| Input: | |
|---------------|--|
| Document 1 ID | file:///H:/Client/Myersc/33286/Disclosure Statement-December version.doc |
| Description | Disclosure Statement-December version |
| Document 2 ID | file:///H:/Client/Myersc/33286/First Amended Disclosure Statement.doc |
| Description | First Amended Disclosure Statement |
| Rendering set | standard |

| Legend: | |
|---------------------------|--|
| <u>Insertion</u> | |
| Deletion | |
| Moved from | |
| Moved to | |
| Style change | |
| Format change | |
| Moved deletion | |
| Inserted cell | |
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| Split/Merged cell | |
| Padding cell | |

| Statistics: | |
|--------------------|-------|
| | Count |
| Insertions | 162 |
| Deletions | 126 |
| Moved from | 2 |
| Moved to | 2 |
| Style change | 0 |
| Format changed | 0 |
| Total changes | 292 |

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6
7
8

9 IN THE UNITED STATES BANKRUPTCY COURT
10 FOR THE DISTRICT OF OREGON

11 In re

12 The Marshall Group, LLC,

13 Debtor.
14

Case No. 08-34585-rld11

15 TRUSTEE'S FIRST AMENDED
16 DISCLOSURE STATEMENT
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I. INTRODUCTION

Conrad Myers, Chapter 11 Trustee ("Trustee" or "Proponent") for The Marshall Group, LLC ("Debtor"), is seeking acceptance of Trustee's Plan of Reorganization (the "Plan") by the creditors of the Debtor's estate. This disclosure statement (the "Disclosure Statement") describes:

- Historical information regarding the Debtor and the events leading to its bankruptcy filing.
- Significant events since the bankruptcy filing.
- How the Plan proposes to treat claims of the type you hold (*i.e.*, what you will receive on your claim if the Plan is confirmed).
- Who can vote on or object to the Plan.
- What factors the Bankruptcy Court (the "Court") will consider when deciding whether to confirm the Plan.
- Why the Proponent believes the Plan is feasible, and how the treatment of your Claim under the Plan compares to what you would receive on your Claim in liquidation.
- The effect of confirmation of the Plan.

BRIEF SUMMARY OF PLAN FOR UNSECURED CREDITORS

This Plan is filed under Chapter 11 of the Bankruptcy Code and proposes to pay unsecured creditors who are owed more than \$100.00 from excess cash flow from operation of the Reorganized Debtor's business, after certain other payments to creditors are made. In addition, the Trustee anticipates unsecured creditors will receive the net proceeds from the ultimate sale of the Clinics. Although the amount payable to creditors is very difficult to estimate, the Trustee anticipates there being between \$1 million and \$1.5 million available to pay creditors over a period of 24 to 60 months. Trustee estimates this will lead to a distribution of between 10%-20% (without a discount for the time value of money) to each unsecured creditor. Unsecured Due to the large number of unsecured creditors owed with potential claims of less than \$100.00 ("Class 5 Claimants"), Trustee proposes to send an abbreviated disclosure statement and form of ballot

1 [attached hereto as Exhibit 1. Class 5 Claimants](#) may either receive (1) a cash payment of 20% of
2 their claim within 30 days of the Effective Date of the Plan, or (2) receive a voucher for services
3 equal to the greater of 50% of their claim or \$15.00. ~~YOU MUST CONTACT ONE OF THE~~
4 ~~CLINICS IN ORDER TO RECEIVE YOUR VOUCHER OR REFUND WITHIN 90~~
5 ~~DAYS OF THE EFFECTIVE DATE OF THIS PLAN OR YOUR CLAIM WILL BE~~
6 ~~BARRED~~ [Such election must be made within 90 days of the Effective Date or the claim will be](#)
7 [deemed waived.](#)

8 The proposed distributions to the Claimants are discussed in Article III of the Plan. The Plan also
9 provides for the payment of Administrative and Priority Claims.

10 All Creditors should refer to the Plan for information regarding the precise treatment of their
11 Claims. This Disclosure Statement also provides detailed information regarding the terms for
12 payment of the Debtor's Creditors and other information designed to assist Creditors in
13 determining whether to accept the Plan. Your rights may be affected. You should read these
14 papers carefully and discuss them with your attorney, if you have one. If you do not have an
15 attorney, you may wish to consult one.

16 This Disclosure Statement has been approved by the United States Bankruptcy Court for the
17 District of Oregon (the "Court") as containing adequate information to permit parties in interest
18 to make informed judgments about whether to vote to accept or reject the Plan. The Court is not
19 permitted to recommend how parties in interest should vote on the Plan, and the approval of this
20 Disclosure Statement by the Court does not indicate that the Court recommends either
21 acceptance or rejection of the Plan. The Court has ruled only that this Disclosure Statement
22 complies with the requirements of the Bankruptcy Code, 11 USC § 101 *et. seq.* (the "Bankruptcy
23 Code").

24 THE PROPONENT SUPPORTS THE PLAN AND RECOMMENDS THAT YOU VOTE TO
25 ACCEPT IT, IF YOU ARE ENTITLED TO VOTE. IN HIS OPINION, THE TREATMENT OF
26 CREDITORS UNDER THE PLAN PROVIDES GREATER RECOVERY THAN THAT

1 WHICH IS LIKELY UNDER A CHAPTER 7 LIQUIDATION. ACCORDINGLY, THE
2 PROPONENT BELIEVES THAT APPROVAL OF THE PLAN IS IN THE BEST INTERESTS
3 OF ALL CREDITORS.

4 Please note that terms not specifically defined in this Disclosure Statement shall have the
5 meanings ascribed to them in the Plan.

6 II. BACKGROUND

7 A. Description of Debtor's Business and Corporate Structure.

8 1. Brief Description of Business.

9 The Debtor and its predecessor entities are developer/owners of commercial property and also
10 operate urgent care medical centers in McMinnville and Redmond, Oregon. These urgent care
11 clinic businesses are hereafter referred to as the "McMinnville Clinic" and "Redmond Clinic" or
12 collectively as the "Clinics." The Debtor's real estate interests consist of a multi-parcel
13 commercial property with frontage on Oregon Route 99W in McMinnville's central business
14 district. The property encompasses a new two-story office structure, an older office building, a
15 home and a restaurant property, plus parking and developable areas ("McMinnville Property").
16 The McMinnville Clinic operates at the McMinnville Property.

17 The Redmond Clinic operates out of real property allegedly owned by David Mazzocco
18 (["Mazzocco"](#)). The ownership of the property and the estate's leasehold interest in Redmond is
19 an issue of dispute among the Trustee, Mazzocco and Mark Marshall. The Debtor also formerly
20 operated an urgent care center in Lincoln City, Oregon, which was closed in December 2007.
21 The Lincoln City property is also owned by Mazzocco, and was the subject of a transaction
22 between Mazzocco and an affiliate of the Debtor. The Trustee does not claim any interest in the
23 real property in Lincoln City. For a detailed description of the Debtor's businesses, see the
24 Trustee's Initial Report filed on July 31, 2009 (Docket Number 209). A copy can be obtained
25 from Peter C. McKittrick, attorney for the Trustee.

1 for the Debtor and Debtor-in-Possession. The ~~USU.S.~~ Trustee appointed a committee of
2 unsecured creditors ("Committee"). The following serve on the Committee: Miles Newmark,
3 Randy McCreith, H.E. Winters, and Advantage Nurse Staffing, Inc.

4 b. Keeton-King Litigation.

5 On February 24, 2009, a stipulation was entered into granting Keeton-King relief from stay to
6 continue with the arbitration. Although the Debtor did not continue as a direct party to the
7 arbitration, a predecessor entity (Lake Plaza, LLC) was a party, as were the Marshalls
8 individually. The arbitration resolved numerous construction related claims and counterclaims
9 between Keeton-King and the Marshalls, but did not address other claims of Keeton-King
10 against the Marshalls and the Debtor. In order to resolve those other claims, Keeton-King
11 commenced Adversary Proceeding Case No. 09-03012-rld7. Debtor and co-defendants have
12 asserted counterclaims seeking \$1 million and attorney fees in the adversary proceeding, which
13 is still pending.

14 In September 2009, Keeton-King obtained an award for approximately \$2.2 million plus interest
15 and attorney fees on its claims in the arbitration proceeding. The Adversary Proceeding ~~is still~~
16 ~~pending, and the Trustee anticipates that the case will be settled by the treatment of Keeton-King~~
17 ~~as described in this Plan.~~ shall be resolved as follows, subject to Court approval:

18 (1) Keeton-King shall be allowed \$4.5 million as a secured claim;

19 (2) Trustee shall convey the McMinnville Property to Keeton-King free and clear
20 of liens as set forth in Trustee's Motion and Notice of Intent to Sell Real Property;

21 (3) Trustee and Keeton-King shall enter into a lease agreement regarding the
22 McMinnville Property with Keeton-King as landlord and Debtor as tenant as set forth in
23 Trustee's Motion for Authority to Enter into Lease Agreement;

24 (4) Keeton-King shall be allowed an unsecured claim in an amount to be determined by the
25 parties or the court; and

1 [\(5\) the estate and Keeton-King will enter into a settlement agreement and mutual lease consistent](#)
2 [with the terms outlined above.](#)

3 c. Chapter 11 Trustee Appointment.

4 In April, 2009, the Office of the US Trustee filed a motion for appointment of a Chapter 11
5 Trustee. The Chapter 11 Trustee appointment, which was stipulated to by the Debtor, grew out of
6 concerns of the United States Trustee (*see* United States Trustee's motion and supporting
7 memorandum of April 15, 2009 regarding appointment of a Chapter 11 Trustee) about the
8 financial and business administration of the Debtor, its accounting and recordkeeping, its poor
9 performance in collecting accounts receivable, the timeliness of Rule 2015 reporting and a
10 conflict of interest involving the Owners, principals of the Debtor ~~in possession~~ [in-Possession](#),
11 whose State Farm insurance office (an entity separate from the Debtor) was occupying a
12 significant portion of the Debtor's property without paying rent to the estate, and other concerns.
13 The Court had also voiced repeatedly its concerns over the Debtor's tardiness in filing its federal
14 tax returns.

15 On May 7, 2009, the Court entered an order appointing Conrad Myers as Chapter 11 Trustee.
16 Myers is an experienced turn around consultant who often serves as a Trustee, a Receiver and in
17 other fiduciary capacities. Myers initial charge was to determine if there was a viable business to
18 reorganize. He spent the first two months of his appointment familiarizing himself with the
19 business and its financial and accounting issues. Trustee retained Farleigh Wada Witt, PC to act
20 as legal counsel to the Trustee. On May 18, 2009, the Court entered an order authorizing the
21 employment of Performance Improvement Resources LLC ("PIR") as professional health care
22 management company. Steve Rallison, the principal of PIR has acted as CEO and managed the
23 operation of the Clinics and worked to resolve the accounts receivable problems.

24 On July 31, 2009, Trustee filed his initial report. This report spans 23 pages and contains
25 significant detail about the Clinics, and the Trustee's recommendations for moving them forward
26 in a positive direction. Trustee concluded that the Clinics, if stabilized and managed in a

1 professional manner, were likely viable and would be able to repay some of the debts incurred to
2 the taxing authorities and other creditors.

3 d. Mazzocco Adversary Proceeding

4 On September 15, 2009, Trustee filed Adversary Proceeding Case No. 09-03294 against Mark
5 Marshall and David Mazzocco to resolve disputes related to ownership and leasing of the
6 Redmond Property. This Adversary Proceeding shall be resolved ~~through the Plan whereby~~
7 ~~Mazzocco will lease the Redmond Property back to the Reorganized Debtor on terms acceptable~~
8 ~~to the parties.~~ as follows, subject to court approval:

9 (1) Trustee agrees that Mazzocco is the rightful owner of the Redmond Property; _____

10 (2) Trustee and Mazzocco shall enter into a lease agreement regarding the Redmond
11 Property with Mazzocco as landlord and Debtor as tenant in the form as agreed upon between the
12 parties. The details are included in the Trustee's Motion for Authority to Enter into Lease
13 Agreement;

14 (3) Mazzocco will have an allowed unsecured claim in this case in the amount of \$459,528.00,
15 and Trustee will withdraw his objection to claim with prejudice;

16 (4) Trustee will pay to Mazzocco the sum of \$14,062.78 within 7 days of approval of this
17 settlement. This sum represents accrued rents from May 1, 2009 through February 28, 2010,
18 minus a credit for utilities paid by the estate, an abatement for closure due to water damage, and
19 a credit for repairs for water damage advanced by the estate; and

20 (5) The estate and Mazzocco will enter into a settlement agreement and mutual release consistent
21 with the terms outlined above. Trustee anticipates the claims against Mark Marshall will be
22 dismissed.

23 e. Miscellaneous Events

24 In October 2009 the Committee retained the services of Jeanette Thomas of Perkins Coie to act
25 as legal counsel to the Committee.

1 In early December 2009, a pipe burst at the Redmond Clinic, forcing its closure. ~~Trustee~~
2 ~~anticipates that the Redmond Clinic will reopen during the last week of December 2009.~~ The
3 Redmond Clinic reopened on February 9, 2010 after an almost two month closure. Trustee is in
4 the process of settling a loss of business profits claim with State Farm Insurance, with the total
5 proceeds of such claim estimated to be in the range of \$170,000-\$200,000. State Farm Insurance
6 has made an interim payment on the total claim amount of \$70,000.

7 Since his appointment, the Trustee and PIR have been successful in starting the turnaround
8 process. The Clinics had \$8,000.00 of cash in the bank upon his appointment, and owed
9 significant post -petition taxes and vendor invoices. The Clinics have brought all post-petition
10 taxes and vendor obligations current and have generated funds in the bank of approximately
11 ~~\$179,000.00,~~ 170,000.00, exclusive of Medicare collections which are segregated as IRS's
12 collateral. The accounts receivable continue to be a major problem, and collection of the old
13 accounts has been slower than projected.

14 **C. Disclosure Statement Enclosures.**

15 1. Accompanying this Disclosure Statement are copies of:

16 a. Trustee's proposed Abbreviated Disclosure Statement and
17 Ballot for Class 5 Claimants (Exhibit 1);

18 b. ~~a-~~the Plan (Exhibit ~~1~~2);

19 c. ~~b-~~the Trustee's projections showing the viability of the
20 Plan (Exhibit ~~2~~3); and

21 d. ~~e-~~the Trustee's liquidation analysis (Exhibit ~~3~~); and 4).

22 d. ~~the Court's order approving this Disclosure Statement and~~
23 giving notice of the hearing on confirmation of the Plan and related deadlines (Exhibit 4).

24 **D. Disclaimers.**

25 THE COURT'S APPROVAL OF THIS DISCLOSURE STATEMENT DOES NOT
26 CONSTITUTE EITHER A GUARANTY OF THE ACCURACY OF THE INFORMATION

1 CONTAINED HEREIN NOR AN ENDORSEMENT OF THE PLAN BY THE COURT. THE
2 FINANCIAL INFORMATION WAS PREPARED BY THE TRUSTEE AND HIS COUNSEL.
3 THIS DISCLOSURE STATEMENT IS THE ONLY DOCUMENT AUTHORIZED BY THE
4 COURT TO BE USED IN CONNECTION WITH THE SOLICITATION OF VOTES
5 ACCEPTING THE PLAN. NO REPRESENTATIONS OTHER THAN THOSE EXPLICITLY
6 SET FORTH IN THIS DISCLOSURE STATEMENT ARE AUTHORIZED CONCERNING
7 THE DEBTOR, INCLUDING WITH RESPECT TO THE VALUE OF ITS ASSETS, OR THE
8 CLAIMS OF ITS CREDITORS. THE INFORMATION CONTAINED IN THIS DISCLOSURE
9 STATEMENT IS INCLUDED HEREIN FOR PURPOSES OF SOLICITING ACCEPTANCES
10 OF THE PLAN AND MAY NOT BE RELIED UPON FOR ANY PURPOSE OTHER THAN
11 TO DETERMINE HOW TO VOTE ON THE PLAN.

12 THIS DISCLOSURE STATEMENT CONTAINS SUMMARIES OF CERTAIN PROVISIONS
13 OF THE PLAN, CERTAIN STATUTORY PROVISIONS, CERTAIN DOCUMENTS
14 RELATED TO THE PLAN, CERTAIN EVENTS IN THE CASE AND CERTAIN
15 FINANCIAL INFORMATION. ALTHOUGH THE PROPONENT BELIEVES THAT THIS
16 DISCLOSURE STATEMENT AND RELATED DOCUMENT SUMMARIES ARE FAIR AND
17 ACCURATE, THEY ARE QUALIFIED TO THE EXTENT THAT THEY DO NOT SET
18 FORTH THE ENTIRE TEXT OF THE PLAN, OR ANY STATUTORY PROVISIONS. THE
19 TERMS OF THE PLAN GOVERN IN THE EVENT OF ANY INCONSISTENCY WITH THIS
20 DISCLOSURE STATEMENT. ALL EXHIBITS TO THIS DISCLOSURE STATEMENT ARE
21 INCORPORATED INTO AND ARE A PART OF THIS DISCLOSURE STATEMENT AS IF
22 SET FORTH IN FULL HEREIN. THE STATEMENTS CONTAINED IN THIS DISCLOSURE
23 STATEMENT ARE MADE AS OF THE DATE HEREOF UNLESS OTHERWISE
24 SPECIFIED, AND THE PROPONENT ~~DISCLAIM~~DISCLAIMS ANY OBLIGATION TO
25 UPDATE ANY SUCH STATEMENTS AFTER THE HEARING ON CONFIRMATION OF
26 THE PLAN. THE PROPONENT IS UNABLE TO WARRANT OR REPRESENT THAT THE

1 INFORMATION CONTAINED HEREIN, INCLUDING THE FINANCIAL INFORMATION,
2 IS WITHOUT ANY INACCURACY OR OMISSION.

3 EXCEPT IF SPECIFICALLY NOTED, THE FINANCIAL INFORMATION CONTAINED
4 HEREIN HAS NOT BEEN AUDITED BY A CERTIFIED PUBLIC ACCOUNTANT AND
5 HAS NOT NECESSARILY BEEN PREPARED IN ACCORDANCE WITH GENERALLY
6 ACCEPTED ACCOUNTING PRINCIPLES.

7 ALL PARTIES IN INTEREST ARE ENCOURAGED TO READ THIS ENTIRE
8 DISCLOSURE STATEMENT CAREFULLY, INCLUDING THE PLAN AND OTHER
9 EXHIBITS, BEFORE DECIDING TO VOTE EITHER TO ACCEPT OR REJECT THE PLAN.
10 HOLDERS OF CLAIMS AND EQUITY INTERESTS SHOULD, HOWEVER, NOT
11 CONSTRUE THE CONTENTS OF THE DISCLOSURE STATEMENT AS PROVIDING ANY
12 LEGAL, BUSINESS, FINANCIAL OR TAX ADVICE AND SHOULD CONSULT WITH
13 THEIR OWN ADVISORS.

14 III. DESCRIPTION OF PLAN

15 A. What is the Purpose of the Plan of Reorganization?

16 As required by the Code, the Plan places Claims in various classes and describes the treatment
17 each class will receive. Claims against the Estate consist of Administrative Expense Claims,
18 Priority Tax Claims, Secured Claims, Unsecured Claims (consisting primarily of refund claims),
19 and Membership Interests. If the Plan is confirmed, your recovery will be limited to the amount
20 provided by the Plan.

21 B. Explanation of Classes of Claims.

22 1. Classes of Secured Claims.

23 Allowed Secured Claims are Claims secured by property of the Debtor's bankruptcy estate (or
24 that are subject to setoff) to the extent allowed as Secured Claims under 11 USC ("Code") § 506.
25 If the value of the collateral or setoffs securing the Creditor's Claim is less than the amount of the
26 Creditor's Allowed Claim, the deficiency will be classified as a General Unsecured Claim.

1 • Farleigh Wada Witt, attorneys for the Chapter 11 Trustee -
2 ~~\$90,000.00.~~ 125,000.00.

3 • Perkins Coie, attorneys for the Unsecured Creditors
4 Committee - ~~\$25,000.00.~~ 40,000.00.

5 • Gary Scharff, former attorney for the Debtor, shall receive
6 approximately \$24,000.00 in addition to the \$29,406.37 he was previously awarded by the Court
7 and has already been paid.

8 • Trustee - approximately ~~\$150,000.00.~~ 210,000.00.

9 These fees shall be paid within six (6) months following the Effective Date, as follows: (i)
10 Trustee, Farleigh, and Perkins shall receive the lesser of 50% of their Professional Fees on the
11 Effective Date, or such amount as can be paid such that sufficient cash exists in order to make all
12 payments due under Plan on the Effective Date plus retaining a sufficient working reserve, with
13 the remaining balance of such Professional Fees paid in six (6) monthly payments following the
14 Effective Date; and (ii) Scharff shall receive the unpaid balance of his Professional Fees in four
15 (4) equal monthly payments beginning on the third month following the Effective Date and
16 ending on the sixth month following the Effective Date. To the extent there is not sufficient Free
17 Cash Flow, Trustee and Farleigh shall defer such payments as may be necessary to maintain the
18 minimum working capital reserve projected.

19 iii. Other Administrative Expense Claims.

20 These will be paid in full on the Effective Date of the Plan, or according to
21 separate written agreement.

22 iv. Office of the U.S. Trustee Fees.

23 These fees are estimated to be \$4,875.00 and will be paid in full on the Effective Date of the Plan
24 to the extent that any pre-confirmation fees remain unpaid. Additionally, payment of such fees to
25 the U.S. Trustee continues until the case is closed.

26

1 b. Priority Tax Claims.

2 Taxing authorities IRS, ODR, and Oregon Employment Department ("OED") have filed proofs
3 of claim for taxes and penalties. Treatment of these claims under the Plan is as follows:

4 i. IRS filed a proof of claim for \$592,727.62. The penalty
5 portion of the IRS claim of approximately \$65,000 shall be treated as an Unsecured Claim and
6 subordinated. The secured portion of the claim shall be placed in Class 1 and treated as set forth
7 below and in the Plan. The remainder of the claim shall be treated as an Allowed Priority Tax
8 Claim.

9 ii. ODR filed a proof of claim in the amount of \$54,567.71.
10 Trustee ~~objects~~objected to the ODR claim and ~~asserts~~ it has been ~~paid in full~~disallowed.

11 iii. OED has filed a proof of claim in the amount of
12 \$27,112.36, which amount shall be treated as an Allowed Priority Tax Claim.

13 Once the Allowed Administrative Expense Claims are paid in full, the Priority Tax Claim
14 amounts due shall be amortized over the period beginning with the commencement date of
15 payments as set forth below and ending September 8, 2013. The payment of such Priority Tax
16 Claims, including simple interest at the applicable statutory rate, shall be made in equal monthly
17 payments (i) beginning in the first full month following the payment in full of all Allowed
18 Administrative Expense Claims as set forth in Section 2.1.2; and (ii) ending no later than
19 September 8, 2013.

20 2. **Classified Claims.**

21 a. Class 1 – Allowed Secured Claim of IRS.

22 The IRS has an Allowed Secured Claim arising from offset rights on the Medicare Receivables
23 from the Clinics. The Trustee estimates the amount of the IRS' Allowed Secured Claim will be
24 approximately \$32,000.00 on the Effective Date. IRS will receive \$10,000.00 within 10 days of
25 the Effective Date, and the balance shall be paid in six equal monthly installments with interest
26 at the statutory rate of interest commencing on the 60th day after the Effective Date.

b. Class 2 – Allowed Secured Claim of Keeton-King.

Keeton King holds a secured claim against the McMinnville Property arising out of a series of secured notes in addition to the judgment entered in its favor in the arbitration proceeding. Trustee anticipates that a motion to sell the McMinnville Property free and clear of liens under Code ~~Section~~ § 363(f) will be filed prior to the Confirmation Hearing. If the sale is approved and the transaction is consummated, then Keeton-King will have no further Allowed Secured Claim. If the sale has not been approved, the confirmation of the Plan shall constitute approval of the sale of the McMinnville Property to Keeton-King free and clear of all monetary liens and encumbrances other than real estate taxes and any other lien of superior priority to Keeton-King's lien on the McMinnville Property. After transfer of the McMinnville Property to Keeton-King, the Debtor or the Reorganized Debtor will enter into a lease of the McMinnville Property on terms mutually acceptable to Keeton-King and the Trustee, subject to Court approval.

c. Class 3 – Allowed Secured Claim of Summit Leasing.

~~Summit Leasing has an Allowed Secured Claim in the amount of \$37,000.00 arising from expired leases with Debtor regarding medical equipment. Trustee has been paying Summit Leasing monthly payments of \$1,000.00 since July 2009; therefore, it is estimated the unpaid amount of the Allowed Secured Claim will be \$30,000.00 on the Effective Date. Trustee shall execute a promissory note and security agreement on behalf of the Reorganized Debtor in favor of Summit Leasing in the amount of \$30,000, and Summit Leasing shall execute a bill of sale to the Reorganized Debtor for the leased equipment. Summit will receive payment on its Allowed Secured Claim as follows: (i) payment of \$1,000.00 per month until the Effective Date; and (ii) monthly payments of \$1,500.00 following the Effective Date. Such payments will be in full satisfaction of any administrative claim, but Summit shall have the right to file an amended claim seeking payment of its remaining balance as a Class 4 creditor~~

Class 3 consists of the Allowed Secured Claim of Summit Leasing arising from expired leases for the Leased Equipment. Debtor has returned certain Leased Equipment to

1 Summit Leasing. Trustee proposes either of the following three alternatives with respect to the
2 Leased Equipment that remains in Debtor's possession:

3 (A) Summit Leasing shall receive \$24,500 on the Effective Date;

4 (B) Summit Leasing shall receive 20 monthly payments of \$1,500
5 commencing on the Effective Date; or

6 (C) Summit Leasing shall be entitled to recover the Leased Equipment in Debtor's
7 possession.

8 d. Class 4 – General Unsecured Claims.

9 Debtor's Amended Schedules list Unsecured Nonpriority Claims totaling
10 approximately \$5 million. It is difficult to determine the actual amount of Allowed Unsecured
11 Claims for two primary reasons. ~~First, there are significant claims being asserted by Keeton-~~
12 ~~King, Charles Winter, David Mazzocco, and Colin Gregory, which Trustee either disputes or~~
13 ~~will resolve through Plan treatment.~~ If the motion to sell the McMinnville Property to Keeton-
14 King for \$4.5 million is approved, Trustee estimates Keeton-King's asserted unsecured claim
15 will be between \$5.5 and \$6.5 million. Trustee has agreed to allow an unsecured claim to David
16 Mazzocco in the amount of \$459,528.00, subject to Court approval. Trustee has agreed to allow
17 an unsecured claim to Charles Winters in the amount of \$300,000 and an unsecured claim to
18 Colin Gregory in the amount of \$50,000, subject to Court approval.

19 Second, Debtor's Schedule F contains over 170 pages of creditors who may be
20 entitled to refunds from the Clinics, many of which Trustee anticipates will participate in Class 5
21 for Allowed Convenience Claims.

22 Trustee estimates that Class 4 claims will range from a low amount of \$3.4
23 million up to a high amount of \$10 million. Trustee further estimates there will be a distribution
24 of between 10%-20% (without a discount for the time value of money) to each unsecured
25 creditor. Unsecured creditors will be paid from two sources:

1 i. ~~(1)~~ Payments From Free Cash Flow: To the extent the
2 Clinics generate Free Cash Flow during the Operating Period, the Reorganized Debtor shall
3 make disbursements to the Class 4 creditors on a periodic basis, but not more often than every 3
4 months. No such payments shall be made until all Administrative Claims are paid in full and
5 Priority Tax Claimants have received at least three (3) monthly payments on account of their
6 Allowed Priority Tax Claims as set forth in Section 2.2; and

7 ii. ~~(2)~~ Net Proceeds from Sale of Business: After the
8 Allowed IRS Secured Claim, Allowed Administrative Expense Claims, Allowed Priority Tax
9 Claims, Allowed Summit Leasing Secured Claim and Costs of Sale have been paid in full, the
10 remaining Net Proceeds from the Sale of Business shall be paid to holders of Allowed Unsecured
11 Claims on a Pro Rata basis.

12 e. Class 5 – Allowed Convenience Claims.

13 Debtor's Schedule F contains over 170 pages of creditors with Unsecured
14 Nonpriority Claims who may entitled to refunds from the Clinics, many of which Trustee
15 anticipates will elect to participate in Class 5 for Allowed Convenience Claims. Most of these
16 refund claims are less than \$100.00. A reserve fund in the amount of \$~~14,000.00~~8,000.00 shall
17 be set aside for payment of Allowed Convenience Claims. Each Person holding an Allowed
18 Unsecured Claim in an amount equal to or less than \$100.00, or holding an Allowed Unsecured
19 Claim in excess of \$100.00 who wishes to reduce such claim to \$100.00, must elect to assert
20 such Allowed Convenience Claim on or before 90 days from the Effective Date by following the
21 process set forth below.

22 Distributions shall be made as follows: (a) each Person holding an Allowed
23 Convenience Claim may elect to receive in complete settlement, satisfaction and discharge of its
24 Claim a cash payment equal to 20% of such Allowed Convenience Claim, such payment to be
25 made within 30 days of the date the election is received by the Liquidating Trustee; or (b)
26 alternatively, each Person holding an Allowed Convenience Claim may choose to receive a

1 certificate for medical services at the Redmond Facility or McMinnville Facility equivalent to
2 the greater of 50% of their Allowed Convenience Claim or \$15.00. An election to reduce an
3 Allowed Unsecured Claim is irrevocable and the Person who made such election may not seek
4 treatment or vote as a member of Class 4. All Claimants holding Unsecured Claims that elect to
5 reduce their Class 4 Claims as described herein are members of Class 5 for voting and
6 distribution purposes. Notwithstanding anything to the contrary, no distribution shall be made on
7 any claim of less than \$5.00.

8 The Class 5 claimants must provide the Liquidating Trustee with the Convenience
9 Claim election by either (1) going to the Redmond Facility or McMinnville Facility, showing
10 identification and receiving a certificate for medical services or refund; or (2) mailing a signed
11 copy of the letter, with a signature notarized requesting a certificate for medical services or
12 refund. Any such election must be made within 90 days of the Effective Date or the claim shall
13 be deemed waived.

14 f. Class 6 – Interest Holders.

15 The Marshalls each hold a 50% membership interest in Debtor. On the Effective Date, the
16 Interests of the Marshalls shall be cancelled and re-issued to the Liquidating Trust. As of the
17 Effective Date, the sole member of Debtor shall be the Liquidating Trust. The Marshalls shall
18 receive no payment for their Interests. The membership unit shall be reissued to the Liquidating
19 Trust for the benefit of priority and unsecured claims.

20 **IV. ALLOWANCE AND DISALLOWANCE OF CLAIMS**

21 **A. Disputed Claims.**

22 A Disputed Claim is a Claim that has not been allowed or disallowed by a Final Order, and as to
23 which either: (i) a proof of claim has been filed or deemed filed, and the Debtor or another party
24 in interest has filed an objection; or (ii) no proof of claim has been filed, and the Debtor has
25 scheduled such Claim as disputed, contingent, or unliquidated.

1 No distribution will be made on account of a Disputed Claim until such claim is allowed by a
2 Final Order.

3 **B. Settlement of Disputed Claims.**

4 The Trustee will have the power and authority to settle and compromise a Disputed Claim with
5 Court approval and compliance with Rule 9019 of the Federal Rules of Bankruptcy Procedure.

6 **V. PROVISIONS FOR EXECUTORY CONTRACTS AND UNEXPIRED LEASES**

7 **A. Assumed Executory Contracts and Unexpired Leases.**

8 The Trustee shall not assume any of the Debtor's executory contracts and unexpired leases
9 (including all amendments, extensions or renewals and replacements thereof).

10 **B. All Other Executory Contracts and Unexpired Leases Rejected.**

11 Except as otherwise provided in the Plan or in the Confirmation Order, effective as of the
12 Effective Date, all other executory contracts and unexpired leases of Debtor (excluding only
13 those executory contracts and unexpired leases that are assumed pursuant to Court order entered
14 prior to the Confirmation Date and those that are the subject of separate motions to assume filed
15 by Debtor prior to the Confirmation Date [including but not limited to leases with Keeton-King
16 and Mazzocco](#)) will be deemed to be automatically rejected as of the Confirmation Date.

17 **C. Avoidance Actions.**

18 The Trustee has not done an analysis of possible preference or fraudulent conveyance actions.
19 The Trustee has not budgeted legal or accounting fees to pursue preference claims, but has also
20 not budgeted for any recovery. If any such claims exist, the fees would be presumably be
21 covered by any recoveries. The Trustee will complete a preference analysis before the hearing
22 date on Confirmation. The Plan preserves all avoidance actions to the extent any exist.

23 **D. Claims for Rejection Damages.**

24 Claims for damages arising because of the rejection of executory contracts or unexpired leases
25 will be classified and treated as Allowed General Unsecured Claims (Class 4); provided,
26 however, that any such Claims will be deemed disallowed, barred forever and not enforceable

1 against Debtor or any property of the Estate unless a proof of claim is filed with the Court and
2 served on the Trustee and his attorneys within 30 days after the Confirmation Date (except that if
3 a different date for filing proof of any particular such Claim has been fixed by a Court order
4 entered prior to the Confirmation Date, then by the date so fixed in such Court order). Objections
5 to any such proof of claim must be filed by the Trustee not more than 60 days after such proof of
6 claim is filed and served or it will be deemed allowed as filed.

7 **VI. POST-CONFIRMATION OPERATION AND IMPLEMENTATION**
8 **OF THE PLAN**

9 **A. Post-Confirmation Operations.**

10 Reorganized Debtor shall be managed by the Manager, who will be supervised by the
11 Liquidating Trustee. An Advisory Committee consisting of the three largest unsecured creditors,
12 or their designees, who choose to serve shall have powers of oversight over the Manager and
13 Liquidating Trustee. The Reorganized Debtor will continue operations for a period of not less
14 than 12 months following the Confirmation Date. The precise duration of the Operating Period is
15 flexible, and the Management Committee and Liquidating Trustee shall exercise reasonable
16 business judgment to determine when to sell Reorganized Debtor's business to a third party.

17 **B. Liquidating Trust.**

18 On the Effective Date, the Debtor's membership units will be issued in the name of the
19 Liquidating Trust. The Liquidating Trust shall be managed by the Liquidating Trustee and
20 administered in accordance with the Liquidating Trust Agreement, to be filed with the Court
21 prior to the Confirmation Hearing.

22 **C. Management of Reorganized Debtor.**

23 1. Manager.

24 The Manager shall continue to be Performance Improvement Resources, whose management
25 services were previously approved by the Court in this Case, on the same terms as provided for
26 under its current contract ~~for 180 days after the Effective Date~~ as mutually agreed in a

1 modified contract. Thereafter, the Liquidating Trustee shall have the right to select and employ a
2 different manager and/or engage an employee of Manager or Reorganized Debtor as manager as
3 he deems appropriate.

4 2. Advisory Committee.

5 An Advisory Committee shall be appointed for Reorganized Debtor and shall consist of the three
6 (3) largest unsecured creditors, or their designee, who choose to serve. The Advisory Committee
7 shall meet quarterly with the Liquidating Trustee to review the Reorganized Debtor's operations.
8 The Advisory Committee will have authority to act as an advisory board of directors, and shall
9 have powers of oversight of the Liquidating Trustee and Manager.

10 3. Liquidating Trustee.

11 The Liquidating Trustee shall be empowered and directed to exercise such powers which the
12 Liquidating Trustee in his discretion deems reasonably necessary to effectuate this Plan and to
13 directly supervise the Manager. The Liquidating Trustee must obtain Advisory Committee
14 approval (by a majority vote of the Advisory Committee) for the following:

- 15 a. The sale of the Business to a third party;
16 b. Compromise of any Claims over \$20,000.00;
17 c. Compromise of any Avoidance Claims if the proposed
18 settlement in excess of \$20,000.00;
19 d. Capital expenditures over \$10,000.00; ~~and~~
20 e. Relocation of Reorganized Debtor or opening of new
21 business; and

22 f. Decision to change manager or engage an employee as
23 manager.

24 Myers shall be engaged as Liquidating Trustee of the Liquidating Trust on the Effective Date.
25 Myers shall receive compensation of \$3,000.00 per month and shall serve as Liquidating Trustee
26 until the Administrative Expense Claims are paid in full. Upon payment of the Administrative

1 Expense Claims in full, (a) the Advisory Committee may choose to elect a new Liquidating
2 Trustee; or (b) Myers may resign as Liquidating Trustee by providing ten (10) days notice to the
3 Advisory Committee.

4 **D. Leases.**

5 1. McMinnville Property.

6 Reorganized Debtor will enter into a lease with Keeton-King prior to the Confirmation Date for
7 tenancy in the McMinnville Property, which lease shall be fully assignable to Buyer upon Sale of
8 Business.

9 2. Redmond Property.

10 Reorganized Debtor will enter into a lease with David Mazzocco for tenancy in the Redmond
11 Property, which lease shall be fully assignable to Buyer upon Sale of Business.

12 **E. Sale of Business.**

13 It is anticipated that Reorganized Debtor's business shall be sold within 24 - 48 months, at the
14 discretion of the Liquidating Trustee and Advisory Committee. The Sale Proceeds received upon
15 Sale of Business shall be used to pay outstanding Claims.

16 **VII. VOTING REQUIREMENTS**

17 The Bankruptcy Court may confirm the Plan only if it determines the Plan meets the technical
18 requirements of Chapter 11 of the Code. In order to confirm the Plan, the Code requires the
19 Court to find, among other things, that the Plan has been accepted by the requisite votes of all
20 Classes of Impaired Claims unless approval will be sought under ~~section~~[Section](#) 1129(b) of the
21 Code in respect of one or more dissenting Classes, which may be the case under the Plan.

22 **A. Voting Deadline.**

23 This Disclosure Statement and the appropriate Ballot are being distributed to all holders of
24 Claims who are entitled to vote on the Plan.

25 **In accordance with the Disclosure Statement Approval Order, in order to be considered for**
26 **purposes of accepting or rejecting the Plan, all Ballots must be actually received by**

1 **Farleigh Wada Witt; Attn: Diane Fallon (the "Voting Agent") no later than 4:30 p.m.**
2 **(Pacific Daylight Time) on _____ (the "Voting Deadline"). Only those Ballots**
3 **actually received by the Voting Deadline will be counted as either accepting or rejecting the**
4 **Plan.**

5 **B. Holders of Claims Entitled to Vote.**

6 Under ~~section~~[Section](#) 1124 of the Code, a class of claims or interests is deemed to be "impaired"
7 under a plan unless (1) the plan leaves unaltered the legal, equitable and contractual rights to
8 which such claim or interest entitled the holder thereof, or (2) notwithstanding any legal right to
9 an accelerated payment of such claim or interest, the plan (a) cures all existing defaults (other
10 than defaults resulting from the occurrence of events of bankruptcy), (b) reinstates the maturity
11 of such claim or interest as it existed before the default, (c) compensates the holder of such claim
12 or interest for any damages resulting from such holder's reasonable reliance on such legal right to
13 an accelerated payment, and (d) does not otherwise alter the legal, equitable, or contractual rights
14 to which such claim or interest entitles the holder of such claim or interest.

15 In general, a holder of a claim or interest may vote to accept or reject a plan if (1) the claim or
16 interest is "allowed," which means that it is not disputed, contingent, or unliquidated and (2) the
17 claim or interest is impaired by a plan. If the holder of an impaired claim or interest will not
18 receive any distribution under the Plan, the Code deems such holder to have rejected the Plan
19 and provides the holder of such claim or interest is not entitled to vote. If the claim or interest is
20 not impaired, the Code conclusively presumes that the holder of such claim or interest has
21 accepted the Plan and provides that the holder is not entitled to vote.

22 The holder of a Claim against the Debtor that is "impaired" under the Plan is entitled to vote to
23 accept or reject the Plan if (1) the Plan provides a distribution in respect of such Claim and (2)(a)
24 the Claim has been scheduled by Debtor in his bankruptcy schedules filed with the Court and
25 such Claim is not scheduled as disputed, contingent or unliquidated, or (b) the holder has timely
26 filed a Proof of Claim pursuant to ~~sections~~[Sections](#) 502(a) and 1126(a) of the Code and Rules

1 3003 and 3018 and that Claim is not the subject of an objection, unless temporarily allowed by
2 the Court.

3 A vote may be disregarded if the Court determines, pursuant to ~~section~~[Section](#) 1126(e) of the
4 Code that it was not solicited or procured in good faith or in accordance with the provisions of
5 the Code.

6 Holders of Claims in Classes 1 through 6 are impaired by the Plan and are entitled to vote on the
7 Plan.

8 **C. Vote Required for Acceptance by a Class.**

9 As a condition to confirmation, the Code requires that each Class of impaired Claims vote to
10 accept the Plan, except under certain circumstances.

11 Section 1126(c) of the Code defines acceptance of a plan by a class of impaired claims as
12 acceptance by holders of at least two-thirds in dollar amount and more than one-half in number
13 of claims in that class, but for that purpose, counts only those who actually vote to accept or
14 reject the Plan. Thus, a class of claims will have voted to accept their Plan only if two-thirds in
15 dollar amount and a majority in number actually voting cast their ballots in favor of acceptance.
16 Holders of claims who fail to vote are not counted as either accepting or rejecting a plan.

17 **D. Voting Procedures.**

18 1. Ballots.

19 All votes to accept or reject the Plan with respect to any Class of Claims must be cast by
20 properly submitting the duly completed and executed form of Ballot. Holders of impaired Claims
21 voting on the Plan should complete and sign the Ballot in accordance with the instructions
22 thereon, being sure to check the appropriate box entitled "ACCEPT the Plan" or "REJECT the
23 Plan."

24 Any Ballot received which does not indicate either an acceptance or rejection of the Plan or
25 which indicates both acceptance and rejection of the Plan shall not be counted.
26

1 Any Ballot received which is not signed or which contains insufficient information to permit the
2 identification of the claimant shall be an invalid Ballot and shall not be counted for purposes of
3 determining acceptance or rejection of the Plan.

4 Ballots must be delivered to the Voting Agent, at the address set forth on the Ballot form, and
5 received by the Voting Deadline. Faxed Ballots will only be counted if the faxed Ballot is
6 received before the Voting Deadline and the original Ballot is postmarked by the Voting
7 Deadline and received within three (3) business days. The method of such delivery is at the
8 election and risk of the holder. If such delivery is by mail, it is recommended that holders use an
9 air courier with a guaranteed next day delivery or registered mail, properly insured, with return
10 receipt requested. In all cases, sufficient time should be allowed to assure timely delivery.

11 In accordance with Rule 3018(c) of the Bankruptcy Rules, the Ballots are based on Official Form
12 No. 14, but have been modified to meet the particular needs of this case. Please carefully follow
13 the directions contained on the enclosed Ballot.

14 2. Withdrawal or Change of Votes on the Plan.

15 A Ballot may be withdrawn by delivering a written notice to the Voting Agent, so that the Voting
16 Agent receives such notice prior to the Voting Deadline. Thereafter, withdrawal may be effected
17 only with the approval of the Bankruptcy Court. In order to be valid, a notice of withdrawal must
18 (i) specify the name of the holder who submitted the votes on the Plan to be withdrawn, (ii)
19 contain the description of the Claims to which it relates, and (iii) be signed by the holder in the
20 same manner as on the Ballot. The Proponent expressly reserves the absolute right to contest the
21 validity of any such withdrawals of votes on the Plan.

22 Any holder who has submitted to the Voting Agent prior to the Voting Deadline a properly
23 completed Ballot may change such vote by submitting to the Voting Agent prior to the Voting
24 Deadline a subsequent properly completed Ballot for acceptance or rejection of the Plan. In the
25 case where more than one timely, properly completed Ballot is received with respect to the same
26

1 Claim, the Ballot that bears the latest date will be counted for purposes of determining whether
2 sufficient acceptances required to confirm the Plan have been received.

3 3. Voting Multiple Claims.

4 Only one form of Ballot is provided for voting the various Classes of Claims. Any person who
5 holds Claims in more than one Class or multiple Claims within a Class is required to vote
6 separately with respect to each Claim. Please sign and return, in accordance with the instructions
7 on the Ballot form, a separate Ballot with respect to each such Claim. Only Ballots with original
8 signatures will be accepted. Ballots with copied signatures will not be accepted.

9 **VIII. CONFIRMATION OF THE PLAN**

10 **A. Confirmation Hearing.**

11 The Bankruptcy Code requires the Bankruptcy Court, after notice, to hold a confirmation hearing
12 with respect to the Plan. At the confirmation hearing with respect to the Plan, the Bankruptcy
13 Court will confirm the Plan only if all of the requirements of Section 1129 of the Bankruptcy
14 Code described below are met.

15 The confirmation hearing has been scheduled to begin on _____, 2010 at __ a.m./p.m.
16 (prevailing Pacific Time) before the Honorable Randall L. Dunn, United States Bankruptcy
17 Court, District of Oregon, 1001 SW Fifth Avenue, Suite 700, Portland, Oregon 97204. The
18 confirmation hearing may be adjourned from time to time by the Bankruptcy Court without
19 further notice, except for an announcement of the adjourned date made at the confirmation
20 hearing.

21 **B. Deadline for Objecting to Confirmation.**

22 Any objection to the confirmation of the Plan must be made in writing, specify in detail (i) the
23 name and address of the objector, (ii) all grounds for the objection, and (iii) the amount of the
24 Claim held by the objector. Any such objection must be filed with the Bankruptcy Court, with a
25 copy to Judge Dunn's chambers, and served so that it is actually received by the Bankruptcy
26 Court, chambers, and the following parties on or before _____: (i) counsel for Trustee,

1 Farleigh Wada Witt, 121 SW Morrison Street, Suite 600, Portland, Oregon 97204, Attn: Tara J.
2 Schleicher, Esq.; and (ii) Office of the United States Trustee, 620 SW Main Street, Room 213,
3 Portland, Oregon, 97205.

4 **C. Requirements for Confirmation of the Plan.**

5 Among the requirements for confirmation of the Plan are that the Plan (i) is accepted by all
6 impaired Classes of Claims or, if rejected by an impaired Class, that the Plan "does not
7 discriminate unfairly" and is "fair and equitable" as to such Class, (ii) is feasible, and (iii) is in
8 the "best interests" of creditors and interest holders that are impaired under the Plan.

9 1. Requirements of Section 1129(a) of the Bankruptcy Code.

10 Confirmation of a Chapter 11 Plan centers around Section 1129 of the Bankruptcy Code. Please
11 refer to 11 USC § 1129(a) for the requirements. Because the statutory provisions are extensive
12 and complicated, you are encouraged to consult with your legal advisor concerning the
13 applicable law.

14 The Proponent believes that the Plan meets all the applicable requirements of [§Section](#) 1129(a)
15 of the Bankruptcy Code other than those pertaining to voting which has not yet taken place.

16 2. Acceptance by Impaired Classes.

17 Classes 1 through 6 are impaired under the Plan and entitled to vote or accept or reject the Plan.
18 The Proponent reserves the right to seek nonconsensual confirmation of the Plan with respect to
19 any Class of Claims that is entitled to vote to accept or reject the Plan if such Class rejects the
20 Plan under [§Section](#) 1129(b) of the Bankruptcy Code.

21 3. Best Interests of Creditors and Liquidation Analysis.

22 Section 1129(a)(7) of the Bankruptcy Code requires that any holder of an impaired claim or
23 interest voting against a proposed Plan must be provided in the Plan with a value, as of the
24 effective date of the Plan, at least equal to the value that the holder would receive if the Debtor's
25 assets were liquidated under Chapter 7 of the Bankruptcy Code. To determine what the holders
26 of Claims in each impaired Class would receive if Debtor's assets were liquidated, the

1 Bankruptcy Court must determine the dollar amount that would be generated from a liquidation
2 of his assets in the context of a hypothetical liquidation. Such determination must take into
3 account the fact that secured Claims, and any costs and expenses resulting from the original
4 Chapter 11 case and from the Chapter 7 case would have to be paid in full from the liquidation
5 proceeds before the balance of those proceeds were made available to pay the unsecured Claims.
6 In addition, in a Chapter 7, certain "priority" unsecured claims must be paid in full (without post-
7 petition interest or penalties) before other unsecured claims.

8 To determine if a Plan is in the best interests of each impaired Class, the present value of the
9 distributions from the proceeds of the hypothetical liquidation of the assets (after subtracting the
10 amount attributable to secured claims, administrative costs of the Bankruptcy Case and
11 unclassified priority unsecured claims) must be compared with the present value of the
12 consideration offered to such classes under the Plan.

13 After consideration of the effect that a Chapter 7 liquidation would have on the ultimate proceeds
14 available to Debtor's creditors (including (i) increased cost and expenses of liquidation under
15 Chapter 7 arising from fees payable to the Chapter 7 trustee and the attorneys and other
16 professional advisors to such trustee, including those fees necessitated by the Chapter 7 trustee's
17 professionals having to educate themselves regarding the basic facts and circumstances to the
18 Chapter 11 case; (ii) the fees and expenses associated with motions and other pleadings
19 regarding sales of the property that would require approval by the bankruptcy court; (iii) the
20 relatively lower prices at which a Chapter 7 trustee would be pressured to take for the assets
21 without the ability to generate cash flow pending ultimate sale; and (iv) the inflexibility of a
22 ~~chapter~~Chapter 7 trustee to entertain sales involving land sale contracts or other financing
23 arrangements), the Proponent has determined that confirmation of the Plan will provide each
24 holder of a Claim in an impaired Class entitled to vote on the Plan with a greater recovery than
25 such holder would receive under a Chapter 7 liquidation of the Debtor's assets.

1 The Proponent estimates that in liquidation under Chapter 7 holders of non-priority unsecured
2 Claims (Classes 4 and 5) would receive nothing (0%) on account of their Claims. In fact, the
3 Trustee estimates that only Chapter 7 administrative claims would be paid in full, and Chapter 11
4 administrative claims will receive only a pro rata recovery. Priority tax claims would also receive
5 nothing in a Chapter 7 case. In contrast, under the Plan, Priority tax claims are projected to be
6 paid in full, and holders of Claims in Class Four and Five may receive 10% to 20% of their
7 allowed claims over a period of 2-5 years. Attached hereto as Exhibit 2 is a liquidation analysis
8 demonstrating that general unsecured creditors would receive 0% in a hypothetical Chapter 7
9 liquidation case.

10 4. Feasibility of the Plan.

11 The Proponent believes that the Plan meets the Bankruptcy Code's feasibility requirement. The
12 projections attached as Exhibit 2 demonstrate that the payments provided for under this Plan are
13 achievable. Further, the Plan Confirmation is not likely to be followed by a liquidation or the
14 need for further financial reorganization of the Debtor. The Plan contemplates orderly liquidation
15 through the stabilization of operations and the ultimate sale of the Clinics. Therefore the
16 Proponent has met this requirement.

17 5. Requirements of Section 1129(b) of the Bankruptcy Code.

18 The Bankruptcy Code permits confirmation of a plan even if it is not accepted by all impaired
19 classes, so long as (a) the plan otherwise satisfies the requirements for confirmation, (b) at least
20 one impaired class of claims has accepted it without taking into consideration the votes of any
21 insiders in such class, and (c) the plan is "fair and equitable" and does not "discriminate unfairly"
22 as to any impaired class that has not accepted the plan. These are the so called "cramdown"
23 provisions and are set forth in § 1129(b) of the Bankruptcy Code.

1 6. Fair and Equitable.

2 The Bankruptcy Code establishes different "cramdown" tests for determining whether a plan is
3 "fair and equitable" to dissenting impaired classes of secured creditors, unsecured creditors, and
4 equity interest holders.

5 The Proponent believes that the Plan and the treatment of all Classes of Claims under the Plan
6 satisfy the requirements of [§Section](#) 1129(b) of the Bankruptcy Code for nonconsensual
7 confirmation of the Plan.

8 7. Unfair Discrimination.

9 A plan of reorganization does not "discriminate unfairly" if a dissenting class is treated
10 substantially equally with respect to other classes similarly situated and no class receives more
11 than it is legally entitled to receive for its claims or interests. The Proponent believes that the
12 Plan does not discriminate unfairly against any impaired Class of Claims.

13 **D. Effect of Confirmation.**

14 Under § 1141 of the Bankruptcy Code, the Debtor is not entitled to and will not receive a
15 discharge of certain debts. Generally, all debts and associated Claims will be discharged. Holders
16 of Claims which are discharged will be barred from seeking payment from Debtor or property of
17 the Estate. Confirmation of the Plan shall act as a permanent injunction applicable to all entities
18 against any actions to collect Claims. Creditors should review section 6 of the Plan regarding the
19 effect of entry of the Confirmation Order.

20 **E. Conditions to Confirmation.**

21 The following conditions must occur and be satisfied for the Plan to become effective and the
22 Effective Date to occur unless waived by the Proponent:

23 1. The Bankruptcy Court shall have entered the Confirmation Order, in form and
24 substance reasonably satisfactory to Proponent.

25 2. No stay of the Confirmation Order shall be in effect at the time the other
26 conditions precedent are satisfied or waived.

1 ~~ALTERNATIVES TO THE PLAN~~

2 E. Alternatives to the Plan.

3 The Proponent believes the Plan gives holders of Claims the greatest possible value that could be
4 realized on their Claims. The Proponent also believes the Plan is fair to and reasonable in its
5 treatment of all concerned. Possible alternatives to the Plan which might arise if the Plan is
6 rejected or if the Court refuses to confirm the Plan include: (a) dismissal of this Chapter 11 case;
7 (b) conversion of this Chapter 11 case to a case under Chapter 7 of the Bankruptcy Code, which
8 would entail the mandatory appointment of a chapter 7 panel trustee; or (c) submission of an
9 alternative Plan.

10 **IX. RISK FACTORS**

11 **A. Scope of Discussion.**

12 The following discussion is a nonexclusive summary of certain risks involved with
13 consummation of the Plan, and are set forth for purposes of example only. Other risk factors may
14 exist. Holders of Claims are encouraged to supplement this summary with their own analyses
15 and evaluation of the Plan. Nevertheless, Debtor believes the Plan is feasible.

16 **B. Risks.**

17 The Clinics are still in the process of turnaround and stabilization. The Clinics have very little
18 working capital. General economic uncertainties, changes in regulatory controls, the inability to
19 increase the collection of accounts receivable (both pre petition and post petition) could limit the
20 cash available to pay creditors, and put the ongoing operations at risk. However, the Trustee
21 believes the Plan projections are reasonable and the Clinics can achieve the financial
22 performance projected by the Trustee. The ~~trustee~~Trustee's estimate of the sale value of the
23 Clinics has not been verified by any specific market analysis or appraisal. The Clinics may not
24 bring the prices projected and they may take longer to sell than expected.

25 **X. CERTAIN TAX CONSEQUENCES OF THE PLAN**

26 **A. Scope of Discussion.**

1 The following discussion summarizes certain federal income tax consequences of the
2 implementation of the Plan. This summary does not address the federal income tax consequences
3 of the Plan to holders of Priority or Secured Claims, nor does it address any state, local or foreign
4 tax matters or the federal income tax consequences to certain types of creditors (including
5 financial institutions, life insurance companies, tax exempt organizations and foreign taxpayers)
6 to which special rules may apply. No rulings or opinions have been or will be requested from the
7 IRS with respect to any of the tax aspects of the Plan.

8 The Proponent is not making any representations regarding the particular tax consequences of
9 the Plan's confirmation and consummation to holders of Claims, nor are they or their
10 professionals rendering any form of legal opinion or tax advice. The tax laws applicable to
11 corporations in bankruptcy are complex and are subject to significant uncertainties. Each holder
12 of a Claim should consult his, her or its own tax advisor.

13 **B. Tax Consequences to Debtor.**

14 Debtor is a limited liability Company, and is a "pass through" entity for tax purposes. Therefore,
15 the Reorganized Debtor will file returns but will not pay any income tax, other than the
16 minimum \$10.00 tax required by the State of Oregon. The Liquidating Trust may be taxed on the
17 amounts distributed to it for disbursements to creditors under the Plan. This issue is still being
18 researched and is not reflected in the budget. Other than as described above, the Proponent does
19 not anticipate any tax consequences to the Estate as a result of the confirmation of the Plan.

20 **C. Tax Consequences to Holders of General Unsecured Claims.**

21 Pursuant to the Plan, holders of Allowed Claims will receive one or more Cash distributions in
22 satisfaction of their Claims. Holders may have tax consequences and should consult their own
23 tax professional.

24 **XI. CONCLUSION AND RECOMMENDATION**

25 The Proponent believes that confirmation and implementation of the Plan is preferable to any
26 alternative because it will provide the greatest recoveries to holders of Claims. The Proponent

1 urges all holders of impaired Claims entitled to vote on the Plan to complete and return their
2 Ballots accepting the Plan before the Voting Deadline.

3 DATED: ~~December 16, 2009~~ March 23, 2010.

4 /s/ Conrad Myers
5 Conrad Myers, Chapter 11 Trustee

6 FARLEIGH WADA WITT

7
8 By: /s/ Peter C. McKittrick
9 Peter C. McKittrick, OSB #852816
10 PMcKittrick@fwwlaw.com
11 Christopher L. Parnell, OSB #054352
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14 Of Attorneys for Conrad Myers, Chapter 11 Trustee

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CERTIFICATE OF SERVICE

I hereby certify that on March 24, 2010 I served the foregoing **TRUSTEE'S FIRST AMENDED DISCLOSURE STATEMENT** on the following parties via electronic notification, e-mail, facsimile or by depositing a true copy thereof, contained in a sealed envelope, with first-class postage prepaid, addressed to said parties at the last known address shown below and in the U.S. mail at Portland, Oregon:

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14 Dated: March 24, 2010.

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