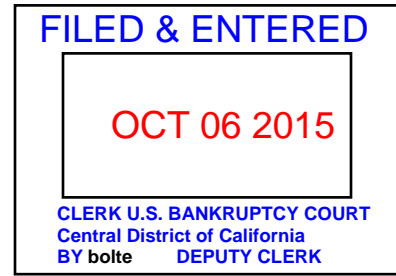


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15
16 UNITED STATES BANKRUPTCY COURT
17 CENTRAL DISTRICT OF CALIFORNIA
18 SANTA ANA DIVISION

GREENBERG GLUSKER FIELDS CLAMAN
& MACHTINGER LLP
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19 In re:
20 MEGA RV CORP., a California corporation;
21 d/b/a McMahon's RV; d/b/a McMahon's RV
Irvine; d/b/a McMahon's RV Colton; d/b/a
22 McMahon's RV Palm Desert,
23 Debtor and Debtor in Possession.

Case No. 8:14-bk-13770-MW
Chapter 11

**FINDINGS OF FACT AND
CONCLUSIONS OF LAW IN SUPPORT
OF ORDER CONFIRMING SECOND
AMENDED JOINT CHAPTER 11 PLAN OF
LIQUIDATION FILED BY OFFICIAL
COMMITTEE OF UNSECURED
CREDITORS AND DEBTOR DATED
AUGUST 4, 2015**

Confirmation Hearing:
Date: September 16, 2015
Time: 2:00 p.m.
Place: Courtroom 6C
411 West 4th Street
Santa Ana, CA 92701

1 On September 16, 2015, the Court held a hearing (the “Confirmation Hearing”) regarding
2 the *Second Amended Joint Chapter 11 Plan of Liquidation filed by Debtor and Official*
3 *Committee of Unsecured Creditors Dated August 4, 2015* [Docket No. 691] (the “Plan”)¹ which
4 was proposed by the Official Committee of Unsecured Creditors (the “Committee”) appointed in
5 the chapter 11 case of Mega RV Corp., a California corporation (the “Debtor”, and together with
6 the Committee, the “Plan Proponents”) and the Debtor. At the Confirmation Hearing, Brian L.
7 Davidoff of Greenberg Glusker Fields Claman & Machtinger LLP appeared on behalf of the
8 Committee, and Robert P. Goe of Goe & Forsythe LLP appeared on behalf of the Debtor.

9 The Court has reviewed and considered:

- 10 • The Plan;
- 11 • The *Second Amended Disclosure Statement Describing Second Amended Joint*
12 *Chapter 11 Plan of Liquidation Filed by Official Committee of unsecured*
13 *Creditors and Debtor Dated August 4, 2015* [Docket No. 690] (the “Disclosure
14 Statement”)
- 15 • The *Affidavit of Donlin, Recano and Company, Inc. Regarding Service of*
16 *Solicitation Packages with Respect to the Second Amended Disclosure Statement*
17 *Describing Second Amended Joint Chapter 11 Plan of Liquidation Filed by*
18 *Official Committee of unsecured Creditors and Debtor Dated August 4, 2015*
19 [Docket No. 705] (the “Donlin Recano Declaration”);
- 20 • The *Memorandum in Support of Confirmation of the “Second Amended Joint*
21 *Chapter 11 Plan of Liquidation Filed by Debtor and Official Committee of*
22 *Unsecured Creditors Dated August 4, 2015”* [Docket No. 707] (the “Confirmation
23 Brief”) and the declarations of J. Michael Issa and John A. Belcher filed in support
24 thereof;

25
26
27
28 ¹ Capitalized terms not otherwise defined herein have, as applicable, the meanings ascribed to them in the Plan and the Disclosure Statement.

- 1 • The *Affidavit of Publication of Confirmation Hearing Notice* [Docket No. 717]
2 (the “Publication Affidavit”);
3 • The *Reply of Plan Proponents in Further Support of “Second Amended Joint*
4 *Chapter 11 Plan of Liquidation Filed by Official Committee of Unsecured*
5 *Creditors and Debtor Dated August 4, 2015”* [Docket No. 718] (the “Reply”);
6 • The *Plan Ballot Summary and Declaration of James C. Behrens Regarding*
7 *Tabulation and Certification of Ballots Voting to Accept or Reject Second*
8 *Amended Joint Chapter 11 Plan of Liquidation Filed by Official Committee of*
9 *Unsecured Creditors and Debtor Dated August 4, 2015* [Docket No. 691] [Docket
10 No. 719] (the “Plan Ballot Tabulation”);
11 • The *Supplemental Affidavit of Donlin, Recano and Company, Inc. Regarding*
12 *Service of Solicitation Packages with Respect to the Second Amended Disclosure*
13 *Statement Describing Second Amended Joint Chapter 11 Plan of Liquidation Filed*
14 *by Official Committee of Unsecured Creditors and Debtor Dated August 4, 2015*
15 [Docket No. 721] (the “Supplemental Donlin Recano Declaration”);
16 • The *Supplement Brief Regarding Tax Claim Reduction and In Further Support of*
17 *“Second Amended Joint Chapter 11 Plan of Liquidation Filed by Official*
18 *Committee of Unsecured Creditors and Debtor Dated August 4, 2015”* [Docket
19 No. 726] (the “Supplement Brief”); and
20 • The *Certificate of Publication re Banner Ad* (the “Supplemental Publication
21 Affidavit”) [Docket No. 724].

22 **FINDINGS OF FACT AND CONCLUSIONS OF LAW**

23 Based upon its review and consideration of the foregoing materials, the Court makes the
24 following findings of fact and conclusions of law. Any finding of fact constitutes a finding of
25 fact even if it is stated as a conclusion of law, and any conclusion of law constitutes a conclusion
26 of law even if it is stated as a finding of fact.

27 A. Venue and Jurisdiction. This matter is a core proceeding over which the Court has
28 jurisdiction under 28 U.S.C. §§ 157(b) and 1334(a). Venue for this proceeding is proper under 28

1 U.S.C. §§ 1408 and 1409. This is a core matter pursuant to 28 U.S.C. § 157(b)(2)(L).

2 B. Burden of Proof. The Committee and the Debtor, as the Plan Proponents, have the
3 burden of proving that the requirements for confirmation set forth in Bankruptcy Code section
4 1129 have been satisfied by a preponderance of the evidence. The Plan Proponents have met that
5 burden.

6 C. Notice and Due Process. As set forth in the Donlin Recano Declaration, the
7 Supplemental Donlin Recano Declaration, and the Plan Ballot Tabulation, the Plan Proponents
8 provided notice of the Confirmation Hearing, and of the time fixed for filing objections to Plan
9 confirmation by serving a solicitation package (the “Solicitation Package”) consisting of: (1) the
10 Plan, (2) the Disclosure Statement, (3) the Confirmation Hearing Notice; and (4) the form of
11 Ballot (if the intended recipient was entitled to vote on the Plan) on the following persons and
12 entities specified in the Solicitation Order. The Solicitation Package was served by way of a USB
13 Drive, containing electronic copies of the Solicitation Package, together with hard copies of the
14 Ballot (where applicable) and the Confirmation Hearing Notice (which contained an index of the
15 documents on the USB Drive). Parties that did not qualify to receive a Solicitation Package under
16 the Solicitation Order, including, without limitation, parties listed on the list of creditors filed by
17 the Debtor in accordance with Bankruptcy Rule 1007(a)(1) but who do not hold scheduled or
18 filed claims of any kind, were served with only a hard copy of the Confirmation Hearing Notice.
19 As set forth in the Publication Affidavit and the Supplemental Publication Affidavit, notice of the
20 Confirmation Hearing was published in the Orange County Register as required by the
21 Solicitation Order (the “Publication Notice”), and a banner ad regarding the Confirmation
22 Hearing was published on motorhome.com. Service of the Solicitation Packages and
23 Confirmation Hearing Notice, and publication of the Publication Notice and the banner ad,
24 provided reasonable and adequate notice of these matters and complied in all regards with due
25 process. Service of the Solicitation Packages and publication of the Publication Notice and
26 banner ad also complied with the applicable provisions of (i) the Bankruptcy Code; (ii) the
27 Bankruptcy Rules, including Bankruptcy Rules 2002, 3017, and 3018; (iii) the Local Bankruptcy
28 Rules; and (iv) the Orders of this Court, including the Solicitation Order.

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1 D. At the Confirmation Hearing, the Court also heard the statement from counsel for
2 the Committee that such counsel had the prior day communicated with Joel Stone of the Orange
3 County District Attorney's Office about the filing of a criminal complaint against the Debtor and
4 its principal, Brent McCMahon, and counsel's notification to Mr. Stone of the Confirmation
5 Hearing.

6 E. No Objections. No objections to confirmation of the Plan were filed, timely or
7 otherwise, and the Court did not receive any request by the Orange County District Attorney's
8 office to be heard at the Confirmation Hearing.

9 F. Good Faith Solicitation. Based upon the record in the Case: (i) the solicitation of
10 acceptances or rejections of the Plan was made in good faith and in compliance with the
11 Solicitation Order, all applicable provisions of the Bankruptcy Rules (including Bankruptcy Rules
12 3017 and 3018), all applicable provisions of the Bankruptcy Code (including section 1125 and
13 1126), and all other applicable laws, rules and regulations, and (ii) the Debtor, the Estate, the
14 Committee, and the foregoing parties' respective members, officers, directors, employees,
15 affiliates, advisors, professionals and agents have acted in "good faith" within the meaning of
16 Bankruptcy Code section 1125(e) and the Bankruptcy Rules in connection with their respective
17 activities relating to the solicitation of acceptances to the Plan and their participation in the
18 activities described in Bankruptcy Code section 1125 and, accordingly, such parties are entitled to
19 the protections afforded by the Bankruptcy Code section 1125(e) and the exculpation provisions
20 set forth in Section 7.2 of the Plan.

21 G. Acceptances and Rejections of the Plan. As evidenced by the Plan Ballot
22 Tabulation, three Impaired Classes, consisting of Classes 1(a), 1(i) and 3 voted to accept the Plan.
23 Four classes, consisting of Classes 1(d), 1(e), 1(f) (the "Rejecting Secured Classes") and 4
24 (together with the Rejecting Secured Classes, the "Rejecting Classes") voted to reject the Plan.
25 Classes 2(a) and 2(b) are not impaired under the Plan and are conclusively deemed to accept the
26 Plan pursuant to Bankruptcy Code section 1126(f). Class 5 and Class 6 are impaired under the
27 Plan and are conclusively deemed to reject the Plan pursuant to Bankruptcy Code section
28 1126(g). Classes 1(b), 1(c), 1(g), 1(h) and 1(j) did not vote on the Plan.

1 H. Exculpation and Release of Debtor, Committee and Professionals. Based upon the
2 facts and circumstances presented, the exculpation and release provisions in Section 7.2 of the
3 Plan are fair, equitable, reasonable and integral elements of the Plan and the resolution of the
4 Case, are in the best interests of the Debtor and the Estate, and are supported by good and
5 valuable consideration, the adequacy of which is hereby confirmed. These provisions are hereby
6 approved to the maximum extent permitted by law and shall be effective and binding upon all
7 persons and entities as provided in the Plan.

8 I. Liquidation Trust. The Liquidation Trust is an essential element of the Plan and
9 entry into the Liquidation Trust Agreement is in the best interests of the Debtor, the Estate and
10 creditors. Upon execution, the Liquidation Trust Agreement shall be valid, binding and
11 enforceable in accordance with its terms, to the maximum extent permitted by law.

12 J. Compliance with the Requirements of Section 1129. The Plan complies with all
13 applicable requirements of Bankruptcy Code section 1129(a).

14 1. Bankruptcy Code section 1129(a)(1). The Plan complies with all
15 applicable sections of the Bankruptcy Code, including sections 1122 and 1123.

16 a. Bankruptcy Code section 1122. Each Claim placed in a particular
17 class under the Plan is substantially similar to the other Claims in that class.

18 b. Bankruptcy Code section 1123(a). The Plan satisfies the mandatory
19 requirements of section 1123(a).

20 i. Bankruptcy Code Section 1123(a)(1). Section 3.2 of the
21 Plan classifies all Claims, other than Administrative Claims and Priority
22 Tax Claims.

23 ii. Bankruptcy Code Section 1123(a)(2). Sections 3.2 and 3.11
24 of the Plan specify that Classes 2(a) and 2(b) are unimpaired.

25 iii. Bankruptcy Code Section 1123(a)(3). Sections 3.2 specifies
26 that Classes 1, 3, 4, 5 and 6 are impaired, and sections 3.10 and 3.12 – 3.15
27 of the Plan specify the treatment of the Claims in each of those Classes.

28 iv. Bankruptcy Code Section 1123(a)(4). Sections 3.10 – 3.15

1 of the Plan satisfy section 1123(a)(4) by providing the same treatment to
2 each Claim that is classified in each particular class under the Plan, unless
3 the holder of a Claim has agreed to less favorable treatment.

4 v. Bankruptcy Code Section 1123(a)(5). The Plan provides
5 adequate and appropriate means for its implementation, including without
6 limitation, (a) for the Debtor to establish the Administrative Claims
7 Reserve, (b) for the establishment of the Liquidating Trust, (c) the vesting
8 of all property of the estate other than the Administrative Claims Reserve,
9 including Claims, causes of action and all other cash, in the Liquidating
10 Trust; and (d) for the Liquidating Trust to liquidate the balance of the
11 inventory and institute avoidance and other necessary actions.

12 vi. Bankruptcy Code Section 1123(a)(6). Bankruptcy Code
13 section 1123(a)(6) is not applicable to the Plan because the Plan is a
14 liquidating plan, and all assets of the Debtor other than the Administrative
15 Claims Reserve will be vested in the Liquidating Trust upon the Effective
16 Date.

17 vii. Bankruptcy Code Section 1123(a)(7). The Plan satisfies
18 Bankruptcy Code section 1123(a)(7) because Exhibit 2 to the Disclosure
19 Statement discloses the initial Liquidation Trustee of the Liquidation Trust.

20 c. The Plan contains permissive provisions that the Court finds are
21 appropriate pursuant to Bankruptcy Code section 1123(b), including the following:

22 i. Treatment of Executory Contracts and Unexpired Leases.
23 As permitted by Bankruptcy Code section 1123(b)(2), Section IV of the
24 Plan provides for the rejection of the Debtor's remaining executory
25 contracts and unexpired leases other than executory contracts giving rise to
26 Class 3 Claims. To the extent that any Holder of a Class 3 Claim is party
27 to an executory contract which gives rise to the Class 3 Claim, then
28 notwithstanding anything else in the Plan to the contrary, such executory

1 contract shall “ride through” the confirmation of the Plan and such
2 executory contract shall be treated as set forth in Class 3. The ride-through
3 of executory contracts is appropriate under Bankruptcy Code section
4 365(a).

5 ii. Preservation of Causes of Action. Sections 5.4 and 6.1 of
6 the Plan provide that all Assets of the Debtor and the Estate, other than the
7 Administrative Claims Reserve, will be transferred to and vest in the
8 Liquidating Trust, and that the Liquidating Trustee shall hold and retain all
9 rights and privileges on behalf of the Liquidating Trust, the Debtor, and the
10 Estate to commence, pursue, and settle, as appropriate, any and all Causes
11 of Action and Defenses (including, without limitation, Avoidance Actions),
12 whether arising before or after the Petition Date, in any court or other
13 tribunal, including, without limitation, adversary proceeding(s) filed in the
14 Case, including, without limitation, the Roadtrek litigation discussed in
15 section VI.M.1. of the Disclosure Statement and the Causes of Action
16 listed in Exhibit 7 to the Disclosure Statement. The preservation and
17 vesting of such Claims, rights and causes of action pursuant to the Plan is
18 expressly authorized by Bankruptcy Code section 1123(b)(3)(B), is
19 reasonable, appropriate, in the best interests of the Debtor and the Estate,
20 and not inconsistent with the Bankruptcy Code.

21 iii. Retention of Jurisdiction. Section 7.17 of the Plan provides
22 that the Court shall retain jurisdiction after the Effective Date to the fullest
23 extent provided by law. This provision is reasonable, appropriate, in the
24 best interests of the Debtor and the Estate, and not inconsistent with the
25 Bankruptcy Code.

26 2. Bankruptcy Code Section 1129(a)(2). The Plan Proponents have complied
27 with all of the Bankruptcy Code’s applicable provisions. The Plan therefore satisfies
28 Bankruptcy Code section 1129(a)(2).

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1 3. Bankruptcy Code Section 1129(a)(3). The Plan Proponents have proposed
2 the Plan in good faith and not by any means forbidden by law. The Plan therefore
3 satisfies Bankruptcy Code section 1129(a)(3).

4 4. Bankruptcy Code Section 1129(a)(4). The Plan satisfies Bankruptcy Code
5 section 1129(a)(4). Section 3.8 of the Plan provides that Professional Fee Claims will be
6 paid under the Plan after approval of the final fee applications of the professionals
7 asserting those Professional Fee Claims. Section 3.4 of the Plan further provides that
8 other Administrative Claims will be paid only if they constitute Allowed Administrative
9 Claims in accordance with the Plan.

10 5. Bankruptcy Code Section 1129(a)(5). Exhibit 2 to the Disclosure
11 Statement discloses the initial Liquidation Trustee of the Liquidation Trust and the nature
12 of its compensation. This appointment is consistent with the interests of creditors and
13 public policy.

14 6. Bankruptcy Code Section 1129(a)(6). The requirements of section
15 1129(a)(6) are not applicable to the Plan.

16 7. Bankruptcy Code Section 1129(a)(7). The Plan satisfies the best interests
17 test as to all impaired creditors, whether or not those holders voted to accept the Plan. The
18 Debtor's liquidation analysis credibly demonstrates that all impaired creditors likely
19 would receive less in a chapter 7 case than they will recover pursuant to the Plan.

20 8. Bankruptcy Code Section 1129(a)(8). Classes 2(a) and 2(b) are unimpaired
21 under the Plan. All other Classes are impaired under the Plan. The Deemed Rejecting
22 Classes, consisting of Classes 5 and 6 are deemed to reject the Plan. Classes 1(a), 1(i)
23 and 3 voted to accept the Plan. The Rejecting Classes, consisting of Classes 1(d), 1(e),
24 1(f) and 4 voted to reject the Plan. Classes 1(b), 1(c), 1(g), 1(h) and 1(j) did not vote.
25 Because of the rejection of the Plan by Rejecting Classes, and by the Deemed Rejecting
26 Classes, the requirements of Bankruptcy Code 1129(a)(8) are not satisfied. However, as
27 set forth in paragraph K below, the Plan may be confirmed under Bankruptcy Code
28 section 1129(b)(2)(A), (B) and (C) with respect to the non-accepting Classes.

1 9. Bankruptcy Code Section 1129(a)(9). The Plan satisfies the requirements
2 of Bankruptcy Code section 1129(a)(9).

3 a. Sections 3.4 and 3.8 of the Plan provide for the payment in full of
4 Allowed Administrative Claims, Allowed Ordinary Course Administrative Claims
5 and Professional Fee Claims in accordance with Bankruptcy Code section
6 1129(a)(9)(A).

7 b. Section 3.11 of the Plan provides for the payment in full of
8 Allowed Priority Non-Tax Claims against the Debtor, in accordance with
9 Bankruptcy Code section 1129(a)(9)(B).

10 c. In accordance with Bankruptcy Code sections 1129(a)(9)(C)(i) and
11 (ii), Section 3.9 of the Plan provides that, unless agreed otherwise, each Holder of
12 an Allowed Priority Tax Claim shall receive in full satisfaction, discharge,
13 exchange, and release thereof, as follows:

14 i. For all Allowed Priority Tax Claims in an amount less than
15 \$5,000, cash from the Liquidating Trust in an aggregate
16 amount equal to such Allowed Priority Tax Claim on the
17 later of the Effective Date, or the fifteenth (15th) Business
18 Day after such Priority Tax Claim becomes an Allowed
19 Priority Tax Claim, or, in either case, as soon thereafter as is
20 practicable.

21 ii. For all other Allowed Priority Tax Claims, equal quarterly
22 payments over three years with the first payment due on the
23 later of the Effective Date, or the fifteenth (15th) Business
24 Day after such Priority Tax Claim becomes an Allowed
25 Priority Tax Claim, or, in either case, as soon thereafter as is
26 practicable (the “First Payment Date”). Subsequent
27 quarterly payments following the First Payment Date, shall
28 commence on the first business day of the third calendar

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1 month after the First Payment Date and shall continue
2 quarterly thereafter, and the duration of payment shall not
3 exceed five years from the Petition Date. Interest shall
4 accrue on Allowed Priority Tax Claims to the Internal
5 Revenue Service on the amount outstanding from time to
6 time at the rate at 3.43% per annum from the Effective Date.
7 Interest shall accrue on all other Allowed Priority Tax
8 Claims on the amount outstanding from time to time at the
9 rate at 6% per annum from the Effective Date, provided that
10 for Claims owing to the California State Board of
11 Equalization if the Plan is confirmed after December 31,
12 2015, then interest shall accrue on Claims owing to the
13 California State Board of Equalization on the amount
14 outstanding from time to time at the interest rate for unpaid
15 tax liabilities published by the California State Board of
16 Equalization at <http://www.boe.ca.gov/sutax/interates.htm>.

17 iii. The treatment of Priority Tax Claims under the Plan also
18 complies with Bankruptcy Code section 1129(a)(9)(C)(iii)
19 because general unsecured creditors will not be paid in full
20 under the plan.

21 10. Bankruptcy Code Section 1129(a)(10). As set forth in the Ballot
22 Tabulation, Class 1(a), 1(i) and 3 each accepted the Plan. No votes from insiders were
23 received in these classes. The Plan therefore satisfies Bankruptcy Code section
24 1129(a)(10).

25 11. Bankruptcy Code Section 1129(a)(11). The Plan is feasible under the
26 circumstances, and confirmation of the Plan is not likely to be followed by any liquidation
27 other than the liquidation proposed in the Plan. The Plan therefore satisfies Bankruptcy
28 Code section 1129(a)(11).

1 12. Bankruptcy Code Section 1129(a)(12). Section 3.7 of the Plan provides
2 that U.S. Trustee Fees due and owing under 28 U.S.C. § 1930 shall be paid prior to the
3 Effective Date by the Debtor, and after the Effective Date by the Liquidation Trust, in
4 each case, when due in accordance with applicable law. The Plan therefore satisfies
5 Bankruptcy Code section 1129(a)(12).

6 13. Bankruptcy Code Section 1129(a)(13). The requirements of Bankruptcy
7 Code section 1129(a)(13) are not applicable to the Debtor or the Plan. The Debtor has no
8 retiree benefits within the meaning of section 1129(a)(13).

9 14. Bankruptcy Code Section 1129(a)(14). The requirements of Bankruptcy
10 Code section 1129(a)(14) are not applicable to the Debtor or the Plan. The Debtor is not
11 required by any judicial or administrative order to pay a domestic support obligation.

12 15. Bankruptcy Code Section 1129(a)(15). The requirements of Bankruptcy
13 Code section 1129(a)(15) are not applicable to the Debtor or the Plan. The Debtor is not
14 an individual.

15 16. Bankruptcy Code Section 1129(a)(16). The requirements of Bankruptcy
16 Code section 1129(a)(16) are not applicable to the Debtor or the Plan. The Debtor is not a
17 nonprofit corporation.

18 K. Bankruptcy Code Section 1129(b).

19 1. Classes 1(d), 1(e) and 1(f): The Plan may be confirmed with respect to the
20 Rejecting Secured Classes (i.e. classes 1(d), 1(e) and 1(f)) under
21 Bankruptcy Code sections 1129(b)(2)(A)(i) and 1129(b)(2)(A)(iii), because:

22 a. under the Plan, the creditors in the Rejecting Secured Classes retain
23 their existing liens; and

24 b. the Plan provides for Holders of Allowed Class 1 Claims to receive
25 the indubitable equivalent of such Claims.

26 2. Classes 4, 5 and 6: The Plan may be confirmed with respect to Classes 4, 5
27 and 6 under Bankruptcy Code sections 1129(b)(2)(B)(ii) and
28 1129(b)(2)(C)(ii) because:

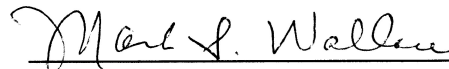
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- a. no Holder of any Claim or Interest that is junior to the Claims of the creditors classified in Class 4 will receive a distribution under the Plan because Classes 5 and 6 are not entitled to receive a distribution under the Plan, and the Plan provides that Class 6 Interest will be cancelled on the Effective Date; and
 - b. no Holder of any Claim or Interest junior to Classes 5 and 6 will receive or retain any property on account of such junior Claim or Interest.
3. The “unfair discrimination” standard of Bankruptcy Code Section 1129(b)(1) is satisfied because:
- a. The Plan provides appropriate treatment for the Rejecting Classes, and does not discriminate unfairly against the Rejecting Classes because the Claims in all of the Rejecting Classes are of the same priority and will receive the same permissible treatment; and
 - b. The Plan provides appropriate treatment for the Deemed Rejecting Classes, and does not discriminate unfairly against the Deemed Rejecting Classes because there are no similarly situated classes that will receive more favorable treatment.

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Date: October 6, 2015


Mark S. Wallace
United States Bankruptcy Judge