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The following constitutes the  
Order of the Court. Signed May 23 20 14  
*Arthur S. Weissbrodt*  
HON. ARTHUR S. WEISSBRODT  
United States Bankruptcy Judge

Attorneys for Debtor and Debtor-in-Possession  
MI PUEBLO SAN JOSE, INC.

*The Court  
has considered  
NUCP Turlock's  
objections. AW*

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

MI PUEBLO SAN JOSE, INC.,  
Debtor,

CASE NO. 13-53893-ASW  
CHAPTER NUMBER: 11

**FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER (I) APPROVING  
THE DEBTOR'S DISCLOSURE STATEMENT AND (II) CONFIRMING THE  
DEBTOR'S FIRST AMENDED PLAN OF REORGANIZATION PURSUANT TO  
CHAPTER 11 OF THE UNITED STATES BANKRUPTCY CODE**

Mi Pueblo San Jose, Inc. ("Mi Pueblo" or the "Debtor"),<sup>1</sup> having:

- a. Commenced this chapter 11 case (the "Chapter 11 Case") on July 22, 2013 (the "Commencement Date") by filing a voluntary case under chapter 11 of the Bankruptcy Code;
- b. Filed, on April 15, 2014, the *Debtor's Plan of Reorganization Pursuant to Chapter 11 of the Bankruptcy Code* [Docket No. 698] and the *Debtor's Disclosure Statement for the Debtor's Plan of Reorganization Pursuant to Chapter 11 of the Bankruptcy Code* [Docket No. 699], which plan, disclosure statement, and related documents were subsequently modified as set forth herein;

<sup>1</sup> All capitalized terms used but not defined herein shall have the meanings ascribed to them in the Plan and Disclosure Statement (each as defined herein) or, if such term is not defined therein but is defined in the Bankruptcy Code, as defined therein.

ORDER APPROVING DEBTOR'S FIRST  
AMENDED PLAN OF REORGANIZATION

- 1 c. Filed, on April, 15, 2014, the *Debtor's Motion for Entry of Order: (I) Approving*  
2 *Debtor's Disclosure Statement; (II) Establishing Voting Record Date; (III)*  
3 *Approving Solicitation Packages and Distribution Procedures; (IV) Approving*  
4 *Forms of Ballots and Establishing Procedures for Voting on Chapter 11 Plan;*  
5 *(V) Approving Forms of Notices to Non-Voting Classes Under Plan; (VI)*  
6 *Establishing Voting Deadline to Accept or Reject Plan; (VII) Approving*  
7 *Procedures for Vote Tabulations, Including Retention of Voting Agent; (VIII)*  
8 *Establishing Confirmation Hearing Date and Notice and Objection Procedures*  
9 *Thereof; and (IX) Approving Additional Notice to Holders of 503(B)(9) Claims*  
10 *[Docket No. 696] (the "Solicitation Procedures Motion")*;
- 11 d. Filed, on April 25, 2014, the *Debtor's First Amended Plan of Reorganization*  
12 *Pursuant to Chapter 11 of the Bankruptcy Code [Docket No. 739] (as altered,*  
13 *modified, or supplemented from time to time, the "Plan") and the Debtor's*  
14 *Disclosure Statement for the Debtor's First Amended Plan of Reorganization*  
15 *Pursuant to Chapter 11 of the Bankruptcy Code [Docket No. 740] (as altered,*  
16 *modified, or supplemented from time to time, the "Disclosure Statement")*;
- 17 e. Filed, on April 26, 2014, *Debtor's and Victory Park's Joint Supplemental*  
18 *Memorandum of Points and Authorities in Support of Proposed Treatment of*  
19 *503(b)(9) Claims [Docket No. 747] (the "Joint Supplemental Brief")*;
- 20 f. Distributed solicitation materials, on or before April 28, 2014, to holders of  
21 Claims entitled to vote on the Plan, holders of 503(b)(9) Claims, contract and  
22 lease counterparties, and parties in interest, consistent with the Bankruptcy Code,  
23 the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules"), the  
24 Bankruptcy Local Rules of the United States Bankruptcy Court for the Northern  
25 District of California (the "Local Rules") and the *Order: (I) Provisionally*  
26 *Approving the Debtor's Disclosure Statement; (II) Establishing Voting Record*  
27 *Date; (III) Approving Solicitation Packages and Distribution Procedures; (IV)*  
28 *Approving Forms of Ballots and Establishing Procedures For Voting on Chapter*  
*11 Plan; (V) Approving Forms of Notices to Non-Voting Classes Under Plan;*  
*(VI) Establishing Voting Deadline to Accept or Reject Plan; (VII) Approving*  
*Procedures for Vote Tabulations, Including Retention of Voting Agent; (VIII)*  
*Establishing Confirmation Hearing Date and Notice and Objection Procedures*  
*Thereof; and (IX) Approving Additional Notice to Holders of 503(b)(9) Claims,*  
*entered on April 25, 2014 [Docket No. 750] (the "Solicitation Procedures*  
*Order"), which Solicitation Procedures Order also approved, among other things,*  
*solicitation procedures and related notices (including the specific notice to*  
*holders of 503(b)(9) Claims (the "503(b)(9) Claims Notice"), forms, and ballots*  
*(collectively, the "Solicitation Packages") as evidenced by the Certificates of*  
*Service of Armando Zubiare re: Solicitation Packages [Docket Nos. 763 and 764]*  
*(collectively, the "Solicitation Affidavits")*;
- g. Published, on or before May 1, 2014, notice of the Combined Hearing  
(the "Combined Hearing Notice") in the *San Jose Mercury News* to provide  
notice to creditors who are unknown or not reasonably ascertainable by the  
Debtor and creditors whose identities are known but whose addresses are

1 unknown by the Debtor, as evidenced by the *Affidavit of Publication* from the *San*  
2 *Jose Mercury News* [Docket No. 785] (the “Publication Affidavit”);

- 3 h. Filed the following exhibits to supplement the Plan on May 1, 2014: Exhibit A  
4 (Exit Facility), Exhibit B (Cha Cha Exit Facility), Exhibit C (Chavez Exit Note),  
5 Exhibit D (Form of A Note and B Note), Exhibit E (Form of Cha Cha Check  
6 Cashing Note), Exhibit F (Form of Cha Cha Exit Note), Exhibit G (Forms of  
7 Subordination Agreements), Exhibit H (Description of Restructuring  
8 Transactions), Exhibit I (Reorganized Mi Pueblo Organizational Documents),  
9 Exhibit J (Section 1129(a)(5) Disclosure), Exhibit K (Executory Contracts and  
10 Unexpired Leases to Be Assumed), Exhibit L (Executory Contracts and  
11 Unexpired Leases to Be Rejected), Exhibit M (Retained Causes of Action),  
12 Exhibit N (Cha Cha Transfer Agreement), and Exhibit O (Form of Trade Credit  
13 Program Agreement) [Docket No. 772] and on May 16, 2014: amended Exhibit  
14 K (Executory Contracts and Unexpired Leases to Be Assumed), amended Exhibit  
15 L (Executory Contracts and Unexpired Leases to Be Rejected), and amended  
16 Exhibit M (Retained Causes of Action) [Docket No. 894] (together with all other  
17 agreements, documents, instruments at any time executed and/or delivered in  
18 connection with or related thereto, ancillary or otherwise, and all exhibits,  
19 attachments, and schedules referred to therein, all of which are incorporated by  
20 reference into, and are an integral part of, the Plan, as all of the same may be  
21 altered, modified, or supplemented from time to time in accordance with the Plan,  
22 collectively, the “Plan Supplement” and, the definition of Plan Supplement for  
23 purposes of the Plan and this Confirmation Order shall be as defined herein);<sup>2</sup>
- 24 i. Filed, on May 9, 2014, the *Declaration of Catherine Nownes-Whitaker Regarding*  
25 *Tabulation of Ballots in Support of Confirmation of the Debtor’s First Amended*  
26 *Plan of Reorganization* [Docket No. 843] and filed, on May 13, 2014, the  
27 *Amended Declaration of Catherine Nownes-Whitaker Regarding Tabulation of*  
28 *Ballots in Support of Confirmation of the Debtor’s First Amended Plan of*  
*Reorganization* [Docket No. 874] (together, the “Voting Certification”);
- 29 j. Filed, (i) on May 9, 2014, *Memorandum of Law in Support of Approval of the*  
30 *Disclosure Statement and Confirmation of Debtor’s First Amended Plan of*  
31 *Reorganization Pursuant to Chapter 11 of the United States Bankruptcy Code*  
32 [Docket No. 844] (the “Confirmation Brief”), (ii) *Declaration of Charles Asfour*  
33 *in Support of Confirmation Brief by Mi Pueblo San Jose, Inc.* [Docket No. 845],  
34 (iii) *Declaration of Teri Stratton in Support of Confirmation of Debtor’s First*  
35 *Amended Plan of Reorganization Pursuant to Chapter 11 of the Bankruptcy Code*  
36 [Docket No. 846], and (iv) *Declaration of Wendy W. Smith in Support of*  
37 *Confirmation of Debtor’s First Amended Plan of Reorganization Pursuant to*  
38 *Chapter 11 of the Bankruptcy Code* [Docket No. 847] (collectively, the  
39 “Declarations in Support of Confirmation”).

<sup>2</sup> To the extent that forms of documents have been filed in connection with the Plan, the documents actually executed and delivered will be substantially in the form of such filed document.

1 Certain objections to Confirmation and 503(b)(9) Notices “Opting Out” of the Third  
2 Party Release having been timely filed by creditors and interested parties, including,  
3 without limitation, by Bottomley Distributing Company, Tony’s Fine Foods, B&H  
4 Bakery Distribution Corporation, Inc., Gruma Corporation d/b/a Mission Foods, and  
5 Azteca Milling, L.P.

6 The Bankruptcy Court having:

- 7 a. Entered the *Solicitation Procedures Order* on April 25, 2014 [Docket No. 750];  
8 b. Set May 14, 2014 at 2:30 p.m. prevailing Pacific Time as the date and time for the  
9 hearing on final approval of the Disclosure Statement and the Confirmation  
10 Hearing pursuant to Bankruptcy Rules 3017 and 3018 and sections 1125, 1126,  
11 1128, and 1129 of the Bankruptcy Code (the “Combined Hearing”);  
12 c. Reviewed the Plan, the Disclosure Statement, the Plan Supplement, the Joint  
13 Supplemental Brief, the Confirmation Brief, the Declarations in Support of  
14 Confirmation, the Voting Certification, and all other filed pleadings, exhibits,  
15 statements, affidavits, declarations, and comments regarding Confirmation of the  
16 Plan, including all objections, statements, and reservations of rights made with  
17 respect thereto;  
18 d. Held the Combined Hearing and heard the statements, arguments, and objections  
19 made by counsel concerning Confirmation of the Plan;  
20 e. Considered all oral representations, testimony, documents, filings, and other  
21 evidence regarding Confirmation of the Plan;  
22 f. Overruled, for the reasons stated in the Bankruptcy Court’s bench rulings on the  
23 record of the Combined Hearing on May 14, 2014 (which, with the findings of  
24 fact and conclusions of law stated herein, constitute the Bankruptcy Court’s  
25 findings of fact and conclusions of law), any and all objections to the Plan and  
26 Confirmation thereof and all statements and reservations of rights not  
27 consensually resolved or withdrawn unless otherwise indicated in this  
28 Confirmation Order; and  
g. Taken judicial notice of the papers and pleadings filed in this Chapter 11 Case.

24 NOW, THEREFOR, it is hereby determined, found, adjudged, decreed, and ordered that it  
25 appearing to the Bankruptcy Court that notice of the Combined Hearing and the opportunity for  
26 any party in interest to object to the Disclosure Statement or Confirmation have been adequate  
27 and appropriate as to all Entities affected or to be affected by the Plan and the transactions  
28 contemplated thereby, and the legal and factual bases set forth in the documents filed in support

1 of the Disclosure Statement or Confirmation and presented at the Combined Hearing establish  
2 just cause for the relief granted herein; and after due deliberation thereon and good cause  
3 appearing therefor, the Bankruptcy Court hereby makes and issues the following findings of fact,  
4 conclusions of law, and orders:

5 IT IS HEREBY DETERMINED, FOUND, ADJUDGED, DECREED, AND ORDERED THAT:

6 **FINDINGS OF FACT AND CONCLUSIONS OF LAW**

7 A. Exclusive Jurisdiction; Venue; Core Proceeding. Venue in this district was proper  
8 as of the Commencement Date pursuant to 28 U.S.C. §§ 1408 and 1409 and continues to be  
9 proper during the Chapter 11 Case. The Bankruptcy Court has jurisdiction over the Chapter 11  
10 Case in accordance with 28 U.S.C. §§ 157 and 1334. Final approval of the Disclosure Statement  
11 and confirmation of the Plan are core proceedings within the meaning of 28 U.S.C. § 157(b)(2),  
12 and the Bankruptcy Court has jurisdiction to enter a final order with respect thereto.

13 B. Eligibility For Relief. Mi Pueblo was and is eligible for relief under section 109 of  
14 the Bankruptcy Code.

15 C. Commencement And Administration Of The Chapter 11 Case. Beginning on the  
16 Commencement Date, the Debtor commenced a case under chapter 11 of the Bankruptcy Code.  
17 The Debtor has operated its business and managed its properties as a debtor in possession  
18 pursuant to sections 1107 and 1108 of the Bankruptcy Code. No trustee or examiner has been  
19 appointed in the Chapter 11 Case. On August 14, 2013, an Official Committee of Unsecured  
20 Creditors was appointed [Docket No. 134] (the "Creditors' Committee").

21 D. Judicial Notice. The Bankruptcy Court takes judicial notice of the main case  
22 docket of the Chapter 11 Case and all related adversary proceedings and appeals maintained by  
23 the Clerk of the Bankruptcy Court, Case No. 13-53893-ASW, including all pleadings and other  
24 documents on file, all orders entered, all hearing transcripts, and all evidence made, proffered, or  
25 adduced at hearings held before the Bankruptcy Court. Any resolutions of objections to the  
26 Disclosure Statement or Confirmation explained on the record at the Combined Hearing are  
27 hereby incorporated by reference. All unresolved objections, statements, and reservations of  
28 rights are overruled on their merits.

1 E. Expedited Proceeding Necessary and Appropriate. The pace of the Confirmation  
2 procedures is necessitated by several factors. First, Mi Pueblo must post by June 1, 2014, the first  
3 \$3.5 million of a \$7.5 million letter of credit required by its insurer to maintain worker's  
4 compensation insurance coverage. Mi Pueblo's worker's compensation coverage has a  
5 significant deductible meaning it is mostly self-insured with catastrophic coverage. Mi Pueblo  
6 will not have sufficient cash to post the bond without exit financing. Mi Pueblo has not found an  
7 alternative, as full insurance with a minimal or no deductible is prohibitively expensive. Second,  
8 Mi Pueblo continues to operate without the trade terms that it would want or expect for a business  
9 that was operating in the ordinary course. Mi Pueblo is unable to implement some key initiatives  
10 because doing so requires the capital infusion that it will receive as part of the exit facility and the  
11 commitments and concessions from third parties that are expected after the Effective Date. Third,  
12 the bankruptcy process is expensive in terms of actual costs and the time and energy company  
13 personnel are required to spend. Thus, Cha Cha, Mi Pueblo, and the DIP Facility Administrative  
14 Agent have been focused on Cha Cha and Mi Pueblo exiting bankruptcy as quickly as possible to  
15 effectuate the initiatives, minimize costs imposed by the bankruptcy process, and address the  
16 worker's compensation letter of credit requirement.

17 F. Burden Of Proof. Mi Pueblo, as proponent of the Plan in accordance with  
18 section 1121(a) of the Bankruptcy Code, has met its burden of proving the elements of  
19 sections 1129(a) and 1129(b) of the Bankruptcy Code by a preponderance of the evidence, which  
20 is the applicable evidentiary standard for confirmation of the Plan. ~~Further, Mi Pueblo has proven~~  
21 ~~the elements of sections 1129(a) and 1129(b) of the Bankruptcy Code by clear and convincing~~  
22 ~~evidence.~~ *asw*

23 G. Disclosure Statement. The Disclosure Statement contains adequate information  
24 within the meaning of, and for all purposes under, sections 1125 and 1126(b) of the Bankruptcy  
25 Code, and is hereby approved in all respects. The Disclosure Statement (including all applicable  
26 exhibits thereto) provides holders of Claims, holders of Interests, and other Entities with  
27 sufficient notice of the injunction, exculpation, and release provisions contained in Article VIII of  
28 the Plan, in satisfaction of the requirements of Bankruptcy Rule 3016(c). All unresolved

1 objections, statements, or reservations of rights related to the Disclosure Statement are overruled  
2 on the merits.

3 H. Transmittal And Mailing Of Materials; Notice. As evidenced by the *Solicitation*  
4 *Affidavit*, due, adequate, and sufficient notice under the circumstances of the Disclosure  
5 Statement, the Plan, and the Combined Hearing, together with all deadlines for objecting to and  
6 voting to accept or reject the Plan, have been provided as required by the *Solicitation Procedures*  
7 *Order* [Docket No. 750]. Mi Pueblo also published the Publication Notice in the *San Jose*  
8 *Mercury News* in compliance with the *Solicitation Procedures Order* and Bankruptcy  
9 Rule 2002(1), as evidenced by the *Affidavit of Publication* [Docket No. 785]. No other or further  
10 notice is necessary or shall be required.

11 I. Service Of The Plan Supplement. As evidenced by the *Certificates of Service*,  
12 dated May 13, 204 [Docket Nos. 855 and 856], due, adequate, and sufficient notice of the Plan  
13 Supplement has been provided to all holders of Claims in the Voting Classes, all counterparties to  
14 the Debtor's Executory Contracts and Unexpired Leases, all holders of 503(b)(9) Claims, and  
15 other Entities entitled to notice.

16 J. Solicitation. Votes for acceptance and rejection of the Plan were solicited in good  
17 faith and in compliance with sections 1125 and 1126 of the Bankruptcy Code, Bankruptcy  
18 Rules 3017 and 3018, the *Solicitation Procedures Order*, all applicable provisions of the  
19 Bankruptcy Code, and all other applicable rules, laws, and regulations.

20 K. Voting Certification. All procedures used to tabulate the Ballots were fair and  
21 conducted in accordance with the *Solicitation Procedures Order*, the Bankruptcy Code, the  
22 Bankruptcy Rules, the Local Rules, and all other applicable rules, laws, and regulations. As  
23 evidenced by the Voting Certification, Class 1, Class 2, and Class 3C voted to accept the Plan.  
24 Class 3, Class 3A, and Class 3B are Unimpaired and conclusively presumed to accept the Plan.  
25 Notwithstanding the Voting Certification and as stated on the record at the Combined Hearing,  
26 Class 4 voted to reject the Plan. Class 5 and Class 6 are Impaired and are deemed to reject the  
27 Plan.

28

1 L. Plan Supplement. On May 1, 2014, Mi Pueblo filed the Plan Supplement [Docket  
2 No. 772], which included the Exit Facility as Exhibit A, the Cha Cha Exit Facility as Exhibit B,  
3 the Chavez Exit Note as Exhibit C, the Form of A Note and B Note as Exhibit D, the Form of Cha  
4 Cha Check Cashing Note as Exhibit E, the Form of Cha Cha Exit Note as Exhibit F, the Forms of  
5 Subordination Agreements as Exhibit G, the Description of Restructuring Transactions as Exhibit  
6 H, the Reorganized Mi Pueblo Organizational Documents as Exhibit I, the Section 1129(a)(5)  
7 Disclosure as Exhibit J, the Executory Contracts and Unexpired Leases to Be Assumed as Exhibit  
8 K, the Executory Contracts and Unexpired Leases to Be Rejected as Exhibit L, the Retained  
9 Causes of Action as Exhibit M, the Cha Cha Transfer Agreement as Exhibit N, and the Form of  
10 Trade Credit Program Agreement as Exhibit O. On May 16, 2014, Mi Pueblo filed the amended  
11 Executory Contracts and Unexpired Leases to Be Assumed as Exhibit K, the amended Executory  
12 Contracts and Unexpired Leases to Be Rejected as Exhibit L, and the amended Retained Causes  
13 of Action as Exhibit M [Docket No. 894]. All information and documents included in the Plan  
14 Supplement and the amendments thereto are integral to, part of, and incorporated by reference  
15 into the Plan. The Plan Supplement complies with the terms of the Plan, and the filing and notice  
16 of such documents provided due, adequate, and sufficient notice under the circumstances in  
17 accordance with the Bankruptcy Code, the Bankruptcy Rules, and the Local Rules, and no other  
18 or further notice is necessary or shall be required. Consistent with the terms of the Plan and  
19 applicable law, Mi Pueblo, with the consent of Victory Park, reserves its right to alter, amend,  
20 update, or modify the Plan Supplement before the Effective Date; provided, however, that, as to  
21 matters thereon affecting or relating to Wells Fargo Bank or Wells Fargo Leasing, those  
22 amendments may not be made without the prior written consent of Wells Fargo Bank and Wells  
23 Fargo Leasing, respectively; provided, further, however, that, in the case of any agreement  
24 entered into under the Trade Credit Program, no modifications may be made thereto without the  
25 prior written consent of the applicable participating vendor.

26 M. Modifications To The Plan. Subsequent to April 28, 2014, the deadline to  
27 distribute Solicitation Packages in compliance with the *Solicitation Procedures Order*, Mi Pueblo  
28 made certain modifications to the Plan. All modifications to the Plan since the entry of the



1 *Solicitation Procedures Order* are consistent with the provisions of the Bankruptcy Code,  
2 including sections 1122, 1123, 1125, and 1127 of the Bankruptcy Code, including any  
3 modifications disclosed on the record at the Combined Hearing. Except as provided for by law,  
4 contract, or previous order of the Bankruptcy Court, none of the modifications to the Plan made  
5 since the commencement of solicitation materially and adversely affects the treatment of any  
6 holder of a Claim or Interest under the Plan, except to the extent such holder of a Claim or  
7 Interest has agreed to such different treatment. Accordingly, pursuant to section 1127(a) of the  
8 Bankruptcy Code, none of the modifications require additional disclosure under section 1125 of  
9 the Bankruptcy Code or resolicitation of votes under section 1126 of the Bankruptcy Code. The  
10 filing of the Plan as modified and the disclosure of the Plan modifications on the record at or  
11 before the Combined Hearing constitute due, adequate, and sufficient notice under the  
12 circumstances of any and all of such modifications. In accordance with section 1127 of the  
13 Bankruptcy Code and Bankruptcy Rule 3019, all holders of Claims who voted to accept the Plan  
14 or who are conclusively presumed to have accepted the Plan are deemed to have accepted the  
15 Plan as modified. No holder of a Claim shall be permitted to change its vote as a consequence of  
16 the Plan modifications, unless otherwise agreed to by the holder of the Claim and Mi Pueblo. All  
17 modifications to the Plan made after the solicitation of the Plan are hereby approved, in  
18 accordance with section 1127 of the Bankruptcy Code and Bankruptcy Rule 3019. The Plan as  
19 modified shall constitute the Plan submitted for confirmation.

20 N. Bankruptcy Rule 3016. The Plan is dated and identifies the Entity submitting it,  
21 thereby satisfying Bankruptcy Rule 3016(a). The filing of the Disclosure Statement on the docket  
22 of the Chapter 11 Case satisfied Bankruptcy Rule 3016(b).

23 O. The Plan Complies With Section 1129(a) Of The Bankruptcy Code. The Plan  
24 satisfies the requirements of section 1129(a)(1) of the Bankruptcy Code, as the Plan complies  
25 with the applicable provisions of the Bankruptcy Code. Specifically, the Plan (a) satisfies the  
26 classification requirements of section 1122 of the Bankruptcy Code, (b) satisfies sections  
27 1123(a)(1), 1123(a)(2), 1123(a)(3), 1123(a)(4), 1123(a)(5), 1123(a)(6), and 1123(a)(7) of the  
28 Bankruptcy Code, and (c) contains provisions that are appropriate under section 1123(b) of the

1 Bankruptcy Code, including sections 1123(b)(1), 1123(b)(2), 1123(b)(3), and 1123(b)(6) of the  
2 Bankruptcy Code.

3 (i) The Debtor Release described in Article VIII.D of the Plan is a  
4 valid exercise of the Debtor's business judgment.

5 (ii) The Third Party Release described in Article VIII.E of the Plan is  
6 provided by: (a) the Debtor and the Reorganized Debtor (and all  
7 Entities claiming directly, indirectly, derivatively, or otherwise  
8 through the Debtor); (b) the Creditors' Committee and the members  
9 thereof; (c) each holder of a Claim against the Debtor entitled to  
10 vote on the Plan voting to accept the Plan; (d) each holder of a  
11 Claim against the Debtor entitled to vote on the Plan abstaining  
12 from voting on the Plan and not opting out of being a Releasing  
13 Party in accordance with the instructions set forth in the Solicitation  
14 Packages; and (e) each holder of an Allowed 503(b)(9) Claim who  
15 does not opt out of being a Releasing Party in accordance with the  
16 instructions set forth in the Solicitation Package, and, therefore, the  
17 Third Party Release is consensual. The Ballot explicitly set this  
18 forth and directed parties to the Plan for further information about  
19 the Third Party Release. Thus, holders of Claims voting to accept  
20 the Plan, holders of Claims abstaining from voting and not opting  
21 out of the Third Party Release, and holders of Allowed 503(b)(9)  
22 Claims who did not opt out of being a Releasing Party in  
23 accordance with the instructions set forth in the Solicitation  
24 Package were given due, sufficient, and adequate notice under the  
25 circumstances that they would be granting the Third Party Release  
26 by acting in such a manner.

27 (iii) The exculpation provision set forth in Article VIII.G of the Plan is  
28 appropriately tailored to protect the Exculpated Parties from

1 inappropriate litigation and does not relieve any party of liability  
2 for gross negligence or willful misconduct.

3 (iv) The injunction provision set forth in Article VIII.H of the Plan is  
4 necessary to preserve and enforce the provisions in the Plan and is  
5 properly tailored to achieve that purpose.

6 P. Releases, Exculpation, And Injunctions. The releases, exculpations, and  
7 injunctions in Article VIII of the Plan: (a) are within the jurisdiction of the Bankruptcy Court  
8 under 28 U.S.C. §§ 1334(a), 1334(b), and 1334(d); (b) are necessary to implement the Plan;  
9 (c) are an integral element of the transactions incorporated into the Plan; (d) confer material  
10 benefits on, and are in the best interests of, Mi Pueblo, its Estate, and parties in interest; (e) are  
11 important to the overall objectives of the Plan to finally resolve all Claims among or against the  
12 parties in interest in the Chapter 11 Case with respect to Mi Pueblo; and (f) are consistent with  
13 applicable law, including sections 105, 1123, 1129, and other applicable provisions of the  
14 Bankruptcy Code. The failure to implement the releases, exculpations, and injunctions in the  
15 Plan would seriously impair Mi Pueblo's ability to confirm the Plan. Accordingly, the releases,  
16 exculpation, and injunction provisions in Article VIII.D, VIII.E, VIII.G, and VIII.H of the Plan  
17 are specifically approved. The Bar Dates and the notice procedures set forth in Articles I, II and  
18 XI of the Plan are also specifically approved.

19 Q. Preservation Of Claims And Causes Of Action. Article IV.O of the Plan and  
20 Exhibit M of the Plan Supplement (as amended as described herein) appropriately provide for the  
21 preservation by the Debtor of the Causes of Action in accordance with section 1123(b)(3)(B) of  
22 the Bankruptcy Code. The provisions regarding Causes of Action in the Plan are appropriate and  
23 are in the best interest of the Debtor, its Estate, and holders of Claims and Interests.

24 R. The Plan satisfies the requirements of section 1129(a)(2) of the Bankruptcy Code,  
25 as the plan proponent, Mi Pueblo, has complied with the applicable provisions of the Bankruptcy  
26 Code, including sections 1122, 1123, 1124, 1125, 1126, and 1128 of the Bankruptcy Code and  
27 Bankruptcy Rules 3017, 3018, and 3019.

28

1           S.       The Plan satisfies the requirements of section 1129(a)(3) of the Bankruptcy Code,  
2 as the Plan has been proposed in good faith and not by any means forbidden by law.

3           T.       The Plan satisfies the requirements of section 1129(a)(4) of the Bankruptcy Code,  
4 as the Plan requires that all Entities seeking an award of compensation or reimbursement under  
5 sections 328, 330, 331, or 503(b) of the Bankruptcy Code for services rendered or reimbursement  
6 of expense incurred through and including the Effective Date, must file their final application for  
7 allowance of such compensation or reimbursement no later than ninety days after the Effective  
8 Date of the Plan. *See* Plan Article II.B.

9           U.       The Plan satisfies the requirements of section 1129(a)(5) of the Bankruptcy Code,  
10 as the Plan discloses all necessary and known information regarding directors, officers, and  
11 insiders. *See* Plan Supplement Exhibit L.

12           V.       Section 1129(a)(6) of the Bankruptcy Code is not applicable to the Plan, as the  
13 Plan does not contain any changes to the rates of Mi Pueblo established or approved by, or  
14 otherwise subject to, any governmental regulatory commission.

15           W.       The Plan satisfies the requirements of section 1129(a)(7) of the Bankruptcy Code,  
16 as, with respect to each impaired Class of Claims and Interests, each holder of an Allowed Claim  
17 or Allowed Interest in such Class has voted to accept the Plan or will receive under the Plan on  
18 account of such Claim or Interest property of a value, as of the Effective Date, that is not less than  
19 the amount such holder would receive if Mi Pueblo was liquidated on the Effective Date under  
20 chapter 7 of the Bankruptcy Code.

21           X.       The requirements of section 1129(a)(8) of the Bankruptcy Code have not been  
22 fully satisfied. While Class 1, Class 2, and Class 3C have voted to accept the Plan, Class 4 voted  
23 to reject the Plan and Class 5 and Class 6 are deemed to have rejected the Plan. Nonetheless, the  
24 Plan will be confirmed pursuant to section 1129(b) of the Bankruptcy Code, as provided herein.

25           Y.       The Plan satisfies the requirements of section 1129(a)(9) of the Bankruptcy Code.  
26 The Plan provides for the payment in full of Allowed Administrative Expense Claims, Allowed  
27 Priority Tax Claims, and Allowed Other Priority Claims, except to the extent that the holder of  
28 any such Claim has agreed to a different treatment of such Claim. *See* Plan Article II.A and

1 Article II.C. Consistent with section 1129(a)(9) of the Bankruptcy Code, the Debtor shall pay in  
2 full in cash on or before the Effective Date of the Plan the Claims identified in paragraph MM.40,  
3 each of whom has an Allowed 503(b)(9) Claim.

4 Z. The 503(b)(9) Notice included in the Solicitation Packages explicitly set forth that  
5 if holders of 503(b)(9) Claims did not object, they would be deemed to agree or consent to their  
6 treatment under the Plan. Mi Pueblo and Victory Park submitted the Joint Supplemental Brief  
7 further describing that holders of 503(b)(9) Claims would be deemed to agree or consent if they  
8 did not object to their treatment under the Plan. Both the Plan and Disclosure Statement contain  
9 similar statements. Thus, holders of 503(b)(9) Claims were given due, sufficient, and adequate  
10 notice that absent objection, they would be deemed to agree or consent to their treatment under  
11 the Plan. Accordingly, holders of 503(b)(9) Claims that did not file a timely objection to the Plan  
12 are deemed to agree or consent to their treatment thereunder and section 1129(a)(9) of the  
13 Bankruptcy Code is satisfied with respect to 503(b)(9) Claims. Each holder of a 503(b)(9) Claim  
14 that timely filed an objection to the Plan and that has not withdrawn, waived, or settled such  
15 objection will be paid the amount of its Allowed 503(b)(9) Claims in full in cash on the Effective  
16 Date unless the holder has agreed otherwise.

17 AA. The Plan satisfies the requirements of section 1129(a)(10) of the Bankruptcy Code,  
18 as at least one class of impaired Claims has accepted the Plan determined without including any  
19 acceptance of the Plan by any insiders. Class 1, Class 2, and Class 3C, which Classes are  
20 Impaired under the Plan, have voted to accept the Plan.

21 BB. The Plan satisfies the requirements of section 1129(a)(11) of the Bankruptcy Code,  
22 as confirmation of the Plan is not likely to be followed by the liquidation, or the need for further  
23 financial reorganization, of Mi Pueblo or any successor to Mi Pueblo under the Plan, except such  
24 liquidation or reorganization proposed in the Plan.

25 CC. The Plan satisfies the requirements of section 1129(a)(12) of the Bankruptcy Code,  
26 as all Statutory Fees have been or will be paid. *See* Plan Article XI.F.

27 DD. Sections 1129(a)(13), 1129(a)(14), 1129(a)(15), and 1129(a)(16) of the  
28 Bankruptcy Code are not applicable to the Plan.

1           EE.    The Plan Complies With Section 1129(b) Of The Bankruptcy Code. The Plan  
2 satisfies the requirements of section 1129(b) of the Bankruptcy Code, as the Plan (a) does not  
3 discriminate unfairly with respect to holders of Claims and Interests in Class 4, Class 5, and Class  
4 6 and (b) is fair and equitable with respect to holders of Claims and Interests in Class 4, Class 5,  
5 and Class 6, respectively. Thus, the Plan may be confirmed notwithstanding the vote to reject the  
6 Plan by Class 4 and the deemed rejection of the Plan by Class 5 and Class 6.

7           FF.    The Plan Complies With Section 1129(c) Of The Bankruptcy Code. Other than  
8 the Plan, no other plan has been filed in the Chapter 11 Case. As a result, the requirements of  
9 section 1129(c) of the Bankruptcy Code have been satisfied.

10          GG.    The Plan Complies With Section 1129(d) Of The Bankruptcy Code. The Plan  
11 satisfies the requirements of section 1129(d) of the Bankruptcy Code, as the purpose of the Plan is  
12 not to avoid taxes or the application of section 5 of the Securities Act of 1933. Moreover, no  
13 governmental unit has requested that the Bankruptcy Court decline to confirm the Plan on such  
14 grounds.

15          HH.    Satisfaction Of Confirmation Requirements. Based upon the foregoing, all other  
16 filed pleadings, documents, exhibits, statements, declarations, and affidavits filed in connection  
17 with Confirmation and all evidence and arguments made, proffered, or adduced at the Combined  
18 Hearing, the Plan satisfies the requirements of confirmation set forth in section 1129 of the  
19 Bankruptcy Code or otherwise.

20          II.     Good Faith. Based on the record before the Bankruptcy Court in the Chapter 11  
21 Case: (a) Mi Pueblo and Reorganized Mi Pueblo; (b) the Existing Shareholders; (c) the DIP  
22 Facility Lenders and the DIP Facility Administrative Agent; (d) the Exit Facility Lenders and the  
23 Exit Facility Administrative Agent; (e) Cha Cha; and (f) with respect to each of the foregoing  
24 Entities in clauses (a) through (e), their respective current and former parents, Affiliates,  
25 subsidiaries, officers, directors, principals, employees, members, managers, agents, partners,  
26 professionals, financial and other advisors, attorneys, accountants, investment bankers,  
27 consultants, representatives, and other professionals have acted in good faith within the meaning  
28 of the Bankruptcy Code, the Bankruptcy Rules, the Local Rules, and any applicable non-

1 bankruptcy law, rule, or regulation, and will continue to act in good faith if they proceed to:  
2 (a) consummate the Plan and the agreements, settlements, transactions, and transfers  
3 contemplated thereby; and (b) take the actions authorized and directed by this Confirmation  
4 Order, and are entitled to the protections afforded by section 1125(e) of the Bankruptcy Code and,  
5 to the extent such Entities are listed therein, the exculpation provisions set forth in Article VIII.G  
6 of the Plan.

7 JJ. Implementation Of Necessary Documents And Agreements. All documents and  
8 agreements necessary to implement the Plan, including, without limitation, those contained in the  
9 Plan Supplement, any agreements with creditors holding Section 503(b)(9) Claims, and all other  
10 relevant and necessary documents, are in the best interests of the Debtor and the Reorganized  
11 Debtor and holders of Claims and Interests, have been negotiated in good faith and at arm's  
12 length and shall, upon completion of documentation and execution, be valid, binding, and  
13 enforceable documents and agreements. Mi Pueblo has exercised reasonable business judgment  
14 in determining to enter into all such documents and agreements and has provided due, adequate,  
15 and sufficient notice under the circumstances of such documents and agreements. The terms and  
16 conditions of such documents and agreements are fair and reasonable and are approved. Mi  
17 Pueblo is authorized, without further notice to or action, order, or approval of the Bankruptcy  
18 Court, without the need for any further state, federal, provincial, or local regulatory approvals,  
19 and without any requirement of further action by the creditors, members, shareholders, directors,  
20 officers, managers, or partners of the Debtor, to finalize, execute, and deliver all agreements,  
21 documents, instruments, and certificates relating thereto and perform its obligations thereunder in  
22 accordance with the Plan.

23 KK. Necessity Of Immediate Relief And Expedited Consummation. The Debtor has  
24 made a persuasive and sufficient showing of the cost, harm, risk, and prejudice to its Estate and  
25 its creditors that would result if the Plan is not consummated on or before Wednesday, May 30,  
26 2014.

27 LL. [Reserved.]  
28

1 MM. Approval Of Exit Facility, Guarantee Under Cha Cha Exit Facility, Cha Cha  
2 Check Cashing Note, A Note, B Note, And Chavez Exit Notes. The Exit Facility, guarantee  
3 under Cha Cha Exit Facility, Cha Cha Check Cashing Note, A Note, B Note, and Chavez Exit  
4 Notes are essential elements of the Plan, and entry into the Exit Facility, guarantee under Cha Cha  
5 Exit Facility, Cha Cha Check Cashing Note, A Note, B Note, and Chavez Exit Notes is in the best  
6 interests of the Debtor, its Estate, and its creditors. The Debtor is authorized, without further  
7 notice to or action, order, or approval of the Bankruptcy Court or any other party, to execute and  
8 deliver all agreements, documents, instruments, and certificates relating thereto and perform its  
9 obligations thereunder.

10 NOW, THEREFOR, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED  
11 THAT:

12 **ORDER APPROVING THE DEBTOR'S DISCLOSURE STATEMENT FOR THE**  
13 **DEBTOR'S FIRST AMENDED PLAN OF REORGANIZATION PURSUANT TO**  
14 **CHAPTER 11 OF THE UNITED STATES BANKRUPTCY CODE**

15 1. Findings Of Fact And Conclusions Of Law. This Confirmation Order constitutes  
16 the Bankruptcy Court's findings of fact and conclusions of law under Fed. R. Civ. P. 52, as made  
17 applicable by Bankruptcy Rules 7052 and 9014. Any and all findings of fact shall constitute  
18 findings of fact even if they are stated as conclusions of law, and any and all conclusions of law  
19 shall constitute conclusions of law even if they are stated as findings of fact.

20 2. Approval Of The Disclosure Statement. The Disclosure Statement is hereby  
21 approved pursuant to section 1125 of the Bankruptcy Code, as providing holders of Claims  
22 entitled to vote on the Plan with adequate information to make an informed decision as to whether  
23 to vote to accept or reject the Plan in accordance with section 1125(a)(1) of the Bankruptcy Code.

24 3. Objections. All objections, responses, statements, comments, and all reservations  
25 of rights pertaining to the Disclosure Statement that have not been withdrawn, waived, settled, or  
26 overruled before or on the record at the Combined Hearing are hereby overruled on the merits.

27  
28



1                   **ORDER CONFIRMING THE DEBTOR'S FIRST AMENDED PLAN OF**  
2                   **REORGANIZATION PURSUANT TO CHAPTER 11 OF THE UNITED STATES**  
3                   **BANKRUPTCY CODE**

4                   4.       Confirmation Of The Plan. All requirements for Confirmation have been satisfied.  
5                   The Plan and each of the provisions thereof are confirmed in each and every respect pursuant to  
6                   section 1129 of the Bankruptcy Code, as may be modified by this Confirmation Order. The  
7                   documents contained in the Plan Supplement, and any amendments, modifications, and  
8                   supplements thereto, and all documents and agreements related thereto (including all exhibits and  
9                   attachments thereto and documents referred to in such papers), and the execution, delivery, and  
10                  performance thereof by Mi Pueblo, are authorized and approved as finalized, executed, and  
11                  delivered. Without further notice to or action, order, or approval of the Bankruptcy Court,  
12                  without the need for any further state, federal, provincial, or local regulatory approvals, and  
13                  without any requirement of further action by the creditors, members, shareholders, directors,  
14                  officers, managers, or partners of the Debtor, Mi Pueblo and its successors are authorized and  
15                  empowered to make all modifications to all documents included as part of the Plan Supplement  
16                  that are consistent with the Plan and this Confirmation Order. As set forth in the Plan, once  
17                  finalized and executed, the documents comprising the Plan Supplement and all other documents  
18                  contemplated by the Plan shall constitute legal, valid, binding, and authorized obligations of the  
19                  respective parties thereto, enforceable in accordance with their terms.

20               5.       Omission Of Reference To Particular Plan Provisions. The failure to specifically  
21               describe or include any particular provision of the Plan in this Confirmation Order shall not  
22               diminish or impair the effectiveness of such provision, it being the intent of this Bankruptcy  
23               Court that the Plan be approved and confirmed in its entirety. Each provision of the Plan shall be  
24               deemed authorized and approved by this Confirmation Order and shall have the same binding  
25               effect of every other provision of the Plan, whether or not mentioned in this Confirmation Order.  
26               The terms of the Plan, the Plan Supplement, and exhibits thereto are incorporated by reference  
27               into, and are an integral part of, this Confirmation Order.  
28

1           6.     Objections. All objections, responses, statements, comments, and all reservations  
2 of rights pertaining to the confirmation of the Plan that have not been withdrawn, waived, settled,  
3 or overruled before or on the record at the Combined Hearing are hereby overruled on the merits.

4           7.     Deemed Acceptance Of Plan As Modified. Upon entry of this Confirmation  
5 Order, all modifications or amendments to the Plan since the solicitation thereof are approved  
6 pursuant to section 1127(a) of the Bankruptcy Code and do not require additional disclosure or  
7 resolicitation under Bankruptcy Rule 3019.

8           8.     Operation As Of The Effective Date. Subject to Article IX of the Plan and  
9 notwithstanding Bankruptcy Rules 3020(e), 6004(h), or 7062 or otherwise, no later than the  
10 Effective Date, the terms of the Plan shall be immediately effective and enforceable and deemed  
11 binding upon Mi Pueblo and any and all holders of Claims and Interests (including irrespective of  
12 whether their Claims or Interests voted to accept or reject the Plan), all Entities that are parties to  
13 or are subject to the settlements, compromises, releases, discharges, and injunctions described in  
14 the Plan, each Entity acquiring property under the Plan, and any and all non-Debtor parties to  
15 Executory Contracts and Unexpired Leases with Mi Pueblo. This Confirmation Order shall not  
16 be stayed, and the terms and conditions of this Confirmation Order shall be immediately effective  
17 and enforceable upon its entry.

18           9.     Avoidance Actions. Notwithstanding anything to the contrary in the Plan or this  
19 Confirmation Order, the definition of Avoidance Actions in Article I of the Plan (and any  
20 document related to the Plan that references the definition of Avoidance Actions in the Plan) shall  
21 be: Any and all avoidance, recovery, or subordination actions or remedies that may be brought  
22 on behalf of the Debtor or its Estate under the Bankruptcy Code or applicable non-bankruptcy  
23 law, including actions or remedies under sections 544, 547, 548, 549, 550, 551, 552, or 553 of the  
24 Bankruptcy Code.

25           10.    Bar Dates. Except as otherwise provided in Article I.A.7 or Article VI.A of the  
26 Plan, all Entities holding Claims against Mi Pueblo that arose (or are deemed to have arisen)  
27 before the Commencement Date, including Claims arising from the rejection of Executory  
28 Contracts and Unexpired Leases rejected pursuant to the Plan, this Confirmation Order or

1 otherwise, must file and serve a proof of Claim **on or before the Claims Bar Date**. Except as  
2 otherwise provided in Article II.A of the Plan, any request for payment of an Administrative  
3 Expense Claim must be filed and served in accordance with the procedures set forth in Article  
4 II.A of the Plan **on or before the Administrative Claims Bar Date**. Except as otherwise  
5 provided in Article I.A.7 or Article VI.A of the Plan, any request for payment of a 503(b)(9)  
6 Claim must be filed and served **on or before the 503(b)(9) Claims Bar Date**.

7       **11. ANY ENTITY THAT IS REQUIRED TO FILE A PROOF OF CLAIM OR**  
8 **REQUEST FOR PAYMENT OF A CLAIM, ADMINISTRATIVE EXPENSE CLAIM, OR**  
9 **503(b)(9) CLAIM, BUT FAILS TO DO SO BEFORE THE APPLICABLE BAR DATE**  
10 **SHALL BE FOREVER BARRED, ESTOPPED, AND ENJOINED FROM ASSERTING**  
11 **SUCH CLAIM OR REQUEST IN ANY MANNER (OR FILING A PROOF OF CLAIM**  
12 **OR REQUEST FOR PAYMENT WITH RESPECT THERETO) AGAINST MI PUEBLO,**  
13 **REORGANIZED MI PUEBLO, OR THEIR PROPERTY OR THEIR ESTATE, OR ANY**  
14 **OTHER ENTITY TO THE EXTENT RELEASED UNDER THE PLAN OR THIS**  
15 **CONFIRMATION ORDER, AND, MOREOVER, MI PUEBLO AND REORGANIZED MI**  
16 **PUEBLO SHALL BE FOREVER DISCHARGED FROM ANY AND ALL**  
17 **INDEBTEDNESS OR LIABILITY WITH RESPECT TO OR ARISING FROM SUCH**  
18 **CLAIM OR REQUEST.**

19       **12. Professional Claims.** All final requests for payment of Professional Claims  
20 (including those of the Creditors' Committee) shall be filed with the Bankruptcy Court and served  
21 only on: (a) Mi Pueblo San Jose, Inc., 1745 Story Road, San Jose, California 95122, Attn:  
22 President; (b) counsel to Mi Pueblo, Binder & Malter LLP, 2775 Park Avenue, Santa Clara,  
23 California 95050, Attn: Robert G. Harris; (c) the Office of the United States Trustee for Region  
24 17, 280 S. 1st Street # 268, San Jose, California 95113, (re: In re Mi Pueblo San Jose, Inc.), Attn:  
25 John S. Wesolowski; (d) counsel to the Creditors' Committee, Gordon Silver Ltd., 1888 Century  
26 Park East, Suite 1500, Los Angeles, California 90067, Attn: Eric D. Goldberg; (e) counsel to Cha  
27 Cha, Felderstein Fitzgerald Willoughby & Pascuzzi LLP, 400 Capitol Mall, Suite 1750,  
28 Sacramento, California 95814, Attn: Paul Pascuzzi; and (f) counsel to the DIP Facility Lenders

1 and Exit Facility Lenders, Paul Hastings LLP, 191 North Wacker Drive, 30th Floor, Chicago,  
2 Illinois 60606, Attn: Marc J. Carmel, and Paul Hastings LLP, 1117 S. California Avenue, Palo  
3 Alto, California 94304, Attn: Todd Schwartz, **no later than 90 days after the Effective Date of**  
4 **the Plan**. After notice and a hearing in accordance with the procedures established by the  
5 Bankruptcy Code and prior Bankruptcy Court orders, the allowed amounts of such Professional  
6 Claims shall be determined by the Bankruptcy Court.

7 13. Executory Contracts And Unexpired Leases. The Executory Contract and  
8 Unexpired Lease provisions of Article V of the Plan shall be, and hereby are, approved.

9 14. Release Of Liens. Pursuant to Article VIII.K of the Plan, except as otherwise  
10 provided in the Plan or this Confirmation Order, all Liens, Claims, charges, or other  
11 encumbrances against property of the Debtor or its Estate shall and shall be deemed to be  
12 released, cancelled, terminated, and nullified on the Effective Date, without any further action of  
13 any Entity, including further orders of the Bankruptcy Court or filing updated schedules or  
14 statements typically filed pursuant to the Uniform Commercial Code.

15 15. Releases By Mi Pueblo. The releases contained in Article VIII.D of the Plan are  
16 approved and authorized in all respects.

17 16. Releases By Certain Holders Of Claims. The releases contained in Article VIII.E  
18 of the Plan are approved and authorized in all respects.

19 17. Exculpation. The exculpation provision contained in Article VIII.G of the Plan is  
20 approved and authorized in all respects.

21 18. Injunction. EXCEPT AS OTHERWISE PROVIDED IN THE PLAN OR THE  
22 CONFIRMATION ORDER, ALL ENTITIES WHO HAVE HELD, HOLD, OR MAY HOLD  
23 CLAIMS, INTERESTS, CAUSES OF ACTION, OR LIABILITIES THAT: (1) ARE SUBJECT  
24 TO COMPROMISE AND SETTLEMENT PURSUANT TO THE TERMS OF THE PLAN; (2)  
25 HAVE BEEN RELEASED PURSUANT TO ARTICLE VIII.D OF THE PLAN; (3) HAVE  
26 BEEN RELEASED PURSUANT TO ARTICLE VIII.E OF THE PLAN; (4) ARE SUBJECT TO  
27 EXCULPATION PURSUANT TO ARTICLE VIII.G OF THE PLAN, INCLUDING  
28 EXCULPATED CLAIMS (BUT ONLY TO THE EXTENT OF THE EXCULPATION