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6  
7 **UNITED STATES BANKRUPTCY COURT**  
8 **FOR THE DISTRICT OF NEVADA**

9 In re: PALISADES 6300 WEST LAKE ) CASE NO. BK-S-11-26180 LBR  
MEAD, LLC, ) CHAPTER 11  
10 Debtor. ) Hearing Date: March 21, 2012  
Hearing Time: 9:00 a.m.  
11

12 **DEBTOR'S SECOND AMENDED DISCLOSURE STATEMENT TO ACCOMPANY**  
**SECOND PLAN OF REORGANIZATION PROPOSED BY DEBTOR**

13  
14 **ARTICLE I**

15 **INTRODUCTION**

16 Debtor, PALISADES 6300 WEST LAKE MEAD, LLC ("Debtor"), provides this Second  
17 Amended Disclosure Statement pursuant to § 1125 of Chapter 11 of the United States Bankruptcy Code  
18 (the "Bankruptcy Code"), 11 U.S.C. §§ 101, *et. seq.*, to all known creditors, equity holders, and parties  
19 in interest. The purpose of this Second Amended Disclosure Statement is to disclose information that  
20 may be deemed material, important and necessary to these parties to make a reasonably informed  
21 decision in exercising their rights to vote to accept or reject the Debtor's proposed Second Plan of  
22 Reorganization (the "Plan") filed concurrently with this Second Amended Disclosure Statement in the  
23 United States Bankruptcy Court for the District of Nevada (the "Bankruptcy Court"). The Debtor is the  
24 proponent of said Plan. There are no competing Plans presently before the Court.

25 **THE DOCUMENT YOU ARE READING IS THE SECOND AMENDED DISCLOSURE**  
**STATEMENT FOR THE ENCLOSED SECOND PLAN.**  
26

27 The information contained in this Second Amended Disclosure Statement is subject to approval  
28 by the Bankruptcy Court. The information and analysis set forth herein is current as of the date of the

1 Second Amended Disclosure Statement, unless otherwise specified. A hearing to determine whether or  
2 not this Second Amended Disclosure Statement will be approved by the Bankruptcy Court is set for the  
3 date and time noted in the caption.

4 The Debtor proposes the Plan in order to maximize payment to Creditors. The Plan is a plan of  
5 reorganization wherein there will be one Reorganized Debtor following confirmation and  
6 implementation of the Plan. Through reorganization, the Debtor will cure default of the payment of pre-  
7 petition obligations, continue operations, and generate income which will be used to satisfy all  
8 Administrative and Priority Claims, and to pay 100% of General Unsecured Creditors within one year  
9 of the Plan's Effective Date. Debtor proposes a restructuring of its secured debt over ten years.

10 Before making a decision to accept or reject the Plan, you should read the contents of this Second  
11 Amended Disclosure Statement and the Plan with care.

12 You should not rely upon any representations or other inducements made to secure your  
13 acceptance or rejection of the Plan, other than as contained in this Second Amended Disclosure  
14 Statement or in a subsequent Disclosure statement approved by the Court. You should report any such  
15 additional representations or inducements to the Court or to counsel for the Debtor, who will deliver  
16 such information to the Court.

17 The Plan may have tax consequences to the Debtor and Creditors. For this reason, parties in  
18 interest may wish to consult with their tax advisors regarding the provisions of the Plan and the  
19 particular tax consequences of the Plan.

20 The Debtor filed a voluntary Chapter 11 petition (the "Petition") on October 13, 2011 ("Petition  
21 Date") and has served as Debtor-in-Possession pursuant to 11 U.S.C. § 1107 since that date. The  
22 definitions contained in Article II of the Plan are used throughout this document, are capitalized herein,  
23 and are incorporated herein by reference. In addition, unless otherwise defined herein or in the Plan,  
24 terms shall have the same meaning as in the Bankruptcy Code or the Bankruptcy Rules.

25 **ARTICLE II**

26 **GENERAL INFORMATION ON CHAPTER 11 REORGANIZATION PROCEEDINGS**

27 **A. PURPOSE OF CHAPTER 11**

1 Chapter 11 of the Bankruptcy Code is a remedial statute designed to affect the rehabilitation and  
2 reorganization of financially distressed individuals and entities. The statutory aims of reorganization  
3 proceedings include the following:

- 4 (a) preservation of the Debtor's property as a going concern and  
5 preservation of any going concern value of the Debtor's business  
6 and operations;
- 7 (b) avoidance of a forced and destructive liquidation of the Debtor's  
8 assets;
- 9 (c) the protection of the interests of creditors, both secured and  
10 unsecured;
- 11 (d) the restructuring of the debts and finances of the Debtor such as  
12 would enable it to retain those assets necessary to rehabilitate its  
13 finances and (at the same time) produce the greatest recovery for  
14 its creditors.

15 The formulation and confirmation of a Chapter 11 Plan is the principal function of a Chapter 11  
16 case. Such a Plan normally includes provisions for: (a) altering and modifying rights of creditors; (b)  
17 dealing with the property of the Debtor; (c) paying costs and expenses of administering the Chapter 11  
18 case; and (d) execution of the Plan. The Plan may affect the interests of all parties and creditors, reject  
19 executory contracts, and provide for prosecution or settlement of Claims belonging to the Debtor.

20 **B. SECOND AMENDED DISCLOSURE STATEMENT**

21 Section 1125 of the Bankruptcy Code requires that a disclosure statement must be approved by  
22 the Bankruptcy Court and circulated with the Plan before the Plan proponent may solicit acceptances of  
23 the Plan. The disclosure statement must provide "adequate information" to creditors so that they can  
24 make an informed decision whether to vote to accept or reject the Plan.

25 **READ THIS SECOND AMENDED DISCLOSURE STATEMENT CAREFULLY IF YOU  
26 WANT TO KNOW ABOUT:**

- 27 (1) **WHO CAN VOTE OR OBJECT;**
- 28 (2) **WHAT THE TREATMENT OF YOUR CLAIM IS, (i.e., what your claim will  
receive if the Plan is confirmed) AND HOW THIS TREATMENT COMPARES TO  
WHAT YOUR CLAIM WOULD RECEIVE IN LIQUIDATION;**
- (3) **THE HISTORY OF THE DEBTOR AND SIGNIFICANT EVENTS DURING  
THE BANKRUPTCY;**

- 1 (4) WHAT THINGS THE COURT WILL LOOK AT TO DECIDE WHETHER OR
- 2 NOT TO CONFIRM THE PLAN;
- 3 (5) WHAT IS THE EFFECT OF CONFIRMATION; AND
- 4 (6) WHETHER THIS PLAN IS FEASIBLE.

5 **THIS SECOND AMENDED DISCLOSURE STATEMENT IS PREPARED IN ACCORDANCE**  
6 **WITH §1125 OF THE BANKRUPTCY CODE SO AS TO PROVIDE "ADEQUATE**  
7 **INFORMATION" TO THE CREDITORS IN THIS PROCEEDING, WHICH INFORMATION**  
8 **OF A KIND, AND IN SUFFICIENT DETAIL, TO ENABLE A HYPOTHETICAL**  
9 **REASONABLE INVESTOR TYPICAL OF THE HOLDERS OF CLAIMS OR INTERESTS IN**  
10 **THIS CASE TO MAKE AN INFORMED DECISION WHETHER TO VOTE TO ACCEPT OR**  
11 **REJECT THE PLAN. CREDITORS ARE URGED TO CONSULT THEIR OWN COUNSEL**  
12 **AND TO REVIEW ALL OF THE SECOND AMENDED DISCLOSURES MADE HEREIN, ANY**  
13 **PLAN OF REORGANIZATION, AND ANY OTHER PERTINENT MATTERS IN THIS**  
14 **PROCEEDING. ANY PLAN OF REORGANIZATION WILL BE COMPLEX, ESPECIALLY**  
15 **SINCE IT REPRESENTS A PROPOSED LEGALLY BINDING AGREEMENT BY THE**  
16 **DEBTOR (OR ANY OTHER PLAN PROPONENT), AND ANY INTELLIGENT JUDGMENT**  
17 **CONCERNING ANY PROPOSED PLAN CANNOT BE MADE WITHOUT FULLY**  
18 **UNDERSTANDING THE INFORMATION CONTAINED HEREIN AND THE FULL**  
19 **COMPLEXITIES OF ANY PLAN PROPOSED HEREIN.**

20 The Debtor is suited for, and in need of, the broad protection afforded by Chapter 11. The Debtor  
21 should be able to effectuate a reconstruction of its financial condition through a plan of reorganization.  
22 The Debtor is proposing a plan of reorganization consistent with the Second Amended Disclosures  
23 herein and will move to solicit approval and acceptance of the Plan by the creditors, but only after the  
24 Bankruptcy Court has approved this Second Amended Disclosure Statement, including any amendment  
25 hereto. In determining whether the Plan satisfies the various requirements of the Bankruptcy Code, the  
26 Bankruptcy Court will receive and consider a ballot report prepared by the Debtor concerning the vote  
27 for acceptances or rejections of the Plan by parties entitled to vote.

28 **THIS SECOND AMENDED DISCLOSURE STATEMENT IS NOT THE PLAN. THIS**  
29 **STATEMENT, TOGETHER WITH THE PROPOSED PLAN, WHICH IS BEING SERVED**  
30 **CONCURRENTLY, SHOULD BE READ IN THEIR ENTIRETY. FOR THE CONVENIENCE**  
31 **OF CREDITORS, THE PLAN IS SUMMARIZED IN THIS SECOND AMENDED**  
32 **DISCLOSURE STATEMENT, BUT ALL SUMMARIES ARE QUALIFIED IN THEIR**  
33 **ENTIRETY BY THE PLAN ITSELF, WHICH IS CONTROLLING IN THE EVENT OF ANY**  
34 **INCONSISTENCY.**

35 Certain materials contained in this Second Amended Disclosure Statement are taken directly  
36 from other, readily accessible documents or are digests of other documents. While every effort has been  
37 made to retain the meaning of such documents, you are urged to thoroughly review the documents  
38 themselves. In the event there is a conflict between any of the provisions of any documents referred to

1 herein with the terms set forth in this Second Amended Disclosure Statement or the accompanying Plan,  
2 then the Second Amended Disclosure Statement or Plan control. Unless otherwise expressly stated,  
3 portions of this Second Amended Disclosure Statement describing the business of the Debtor have not  
4 been subject to an audit, but have been prepared from information provided by the Debtor and from  
5 records submitted to the Bankruptcy Court. Every effort has been made to be as accurate as possible in  
6 the preparation of this Second Amended Disclosure Statement.

7 **NO REPRESENTATIONS OR ASSURANCES CONCERNING THE DEBTOR, INCLUDING,**  
8 **WITHOUT LIMITATION, ITS FUTURE BUSINESS OPERATIONS OR THE VALUE OF THE**  
9 **PROPERTY UNDER THE PLAN, ARE AUTHORIZED BY THE DEBTOR OTHER THAN AS**  
10 **SET FORTH IN THIS SECOND AMENDED DISCLOSURE STATEMENT. ANY**  
11 **REPRESENTATIONS OR INDUCEMENTS MADE TO SECURE YOUR ACCEPTANCE**  
12 **OTHER THAN CONTAINED IN AN APPROVED SECOND AMENDED DISCLOSURE**  
13 **STATEMENT SHOULD NOT BE RELIED UPON BY YOU IN ARRIVING AT YOUR**  
14 **DECISION. ANY SUCH ADDITIONAL REPRESENTATIONS OR INDUCEMENTS SHOULD**  
15 **BE REPORTED TO COUNSEL FOR THE DEBTOR, WHO IN TURN SHALL DELIVER**  
16 **SUCH INFORMATION TO THE BANKRUPTCY COURT AS MAY BE DEEMED**  
17 **APPROPRIATE.**

18 **INFORMATION CONTAINED HEREIN HAS NOT BEEN SUBJECT TO A CERTIFIED**  
19 **AUDIT. FOR THAT REASON AS WELL AS BECAUSE OF THE DEBTOR'S IMPAIRED**  
20 **FINANCIAL CONDITION, THE DEBTOR IS UNABLE TO WARRANT OR REPRESENT**  
21 **THAT THE INFORMATION CONTAINED HEREIN IS WITHOUT ANY INACCURACY,**  
22 **ALTHOUGH, GREAT EFFORT HAS BEEN MADE TO BE ACCURATE.**

23 **C. DEADLINES FOR VOTING AND OBJECTING; DATE OF PLAN CONFIRMATION**  
24 **HEARING**

25 **1. TIME AND PLACE OF THE CONFIRMATION HEARING**

26 The Bankruptcy Court will determine whether or not to confirm the Plan at the Plan  
27 Confirmation Hearing assuming the Second Amended Disclosure Statement is approved and the Plan  
28 Confirmation Hearing will be held at the Foley Federal Building, 300 S. Las Vegas Blvd., Third Floor,  
Las Vegas, NV 89101. You will receive a second notice of hearing of the Plan Confirmation Hearing  
upon approval of this Second Amended Disclosure Statement.

**THE COURT HAS NOT YET CONFIRMED THE PLAN DESCRIBED HEREIN. IN OTHER**  
**WORDS, THE TERMS OF THE PLAN ARE NOT YET BINDING ON ANYONE. HOWEVER,**  
**IF THE COURT LATER CONFIRMS THE PLAN, THEN THE PLAN WILL BE BINDING ON**  
**ALL CREDITORS AND INTEREST HOLDERS IN THIS CASE.**

**ARTICLE III**

**BACKGROUND**

**A. PRINCIPALS/AFFILIATES OF DEBTOR'S BUSINESS**

1 Debtor is a Nevada limited liability company, organized under the laws of the State of Nevada  
2 on or about May 27, 2005. The Debtor currently has fourteen (14) members, namely: Shahram Afshani  
3 (23%); Rodney A. Johnson (30.25%); Albert and Katherine Mitchell (1%); Helene Rainbird (2%);  
4 Parviz Afshani (15%); Shahriar Afshani (15%); Deborah Afshani (1.25%); Johanna Afshani (1.25%);  
5 Benjamin Afshani (1.25%); Shahram Afshani, as Custodian for Tiffany Afshani (2%); Shahram  
6 Afshani, as Custodian for Paulina Afshani (2%); Shahram Afshani, as Custodian for Joshua Afshani  
7 (2%); Shahriar Afshani, as Custodian for Shauna Afshani (2%); and Shahriar Afshani, as Custodian for  
8 Nina Afshani (2%). Shahram Afshani has been instrumental in the management and operation of  
9 Debtor, both pre and post-petition. Debtor's principals do not take a monthly salary for their role in  
10 business operations.

11 U.S. Bank National, Association, as Trustee ("USB"), a secured creditor in Debtor's bankruptcy,  
12 has alleged that Shahram Afshani is not the individual actually acting as operating manager and  
13 controlling the Debtor but rather, that Debtor's former legal counsel Donald C. McDougal, Jr. is in fact  
14 acting in such a capacity. USB has brought a motion to convert, dismiss or appoint a trustee based in  
15 part upon this allegation. Debtor vehemently disputes USB's allegations and continues to maintain that  
16 Shahram Afshani is the operating manager and sole individual controlling the Debtor, and that Mr.  
17 McDougal was acting in his capacity as legal counsel to the Debtor pre petition in all occurrences, with  
18 B&R Property Management providing the day-to-day management of the company including leasing  
19 apartments, collecting rents, and paying ongoing obligations of the Debtor. Additional allegations of  
20 USB relative to Mr. McDougal are disclosed where appropriate in this Second Amended Disclosure  
21 Statement.

## 22 **B. DESCRIPTION AND HISTORY OF THE DEBTOR'S BUSINESS**

23 The Debtor owns the real property commonly known as Palisades Apartments and located at  
24 6300 West Lake Mead Boulevard, Las Vegas, Nevada, 89109 (the "Property"). The Property consists  
25 of two hundred and eighty (280) residential rental units. The Property is worth approximately Seventeen  
26 Million Two Hundred Thousand Dollars (\$17,200,000.00).

27 Debtor, through its original borrower Palisades II, LLC, executed a Promissory Note dated  
28 August 17, 2000 ("Note") in favor of Bank of America, N.A, as original lender, in the principal amount

1 of Fifteen Million Dollars \$15,000,000.00. Accompanying the Note was a Loan Agreement (“Loan  
2 Agreement”) dated August 16, 2000 in favor of Bank of America, N.A, and a Deed of Trust, Assignment  
3 of Leases and Rents, Security Agreement and Fixture Filing (“Deed of Trust”) dated August 16, 2000,  
4 encumbering the Property. A UCC Financing Statement (“Financing Statement”) dated August 17,  
5 2000, was also granted in favor of Bank of America, granting a security interest in all personal property.

6 The Note was subsequently assigned to Wells Fargo Bank Minnesota, N.A., as trustee, and  
7 thereafter through a series of internal mergers was ultimately assigned USB. The Loan Agreement, Deed  
8 of Trust and Financing Statement accompanied the Note.

9 Debtor conducted business in the ordinary course through and employed B&R Property  
10 Management (“B&R”) to manage its on-going business matters, including to collect the rents and pay  
11 the ongoing month expenses.

12 The Note matured on September 1, 2010. Debtor made numerous attempts to negotiate with  
13 USB to extend the Note or otherwise assist in the sale of either the Note or the Property. However, USB  
14 refused to negotiate with Debtor.

15 Debtor also attempted to refinance through HUD but was denied based upon HUD’s policy to  
16 deny all loan applications in Nevada starting in the fourth quarter 2010. Mr. McDougal was heavily  
17 involved in this stage of the Debtor’s operations in attempting to obtain HUD financing.

### 18 **C. EVENTS LEADING TO THE CHAPTER 11 FILING**

19 The events leading to this Chapter 11 case are the downturn in the economy generally and the  
20 Las Vegas real estate market specifically. The Debtor’s financial condition in 2010 and 2011 was  
21 dismal. It did not have the funds available to pay USB and pay its ongoing vendors, and it fell behind  
22 on many of its vendors. Upon USB’s refusal to negotiate with the Debtor, and once Debtor quit paying  
23 USB, Debtor had the funds to cure vendor arrears, many of which it did. In 2011, Debtor experienced  
24 losses due to vacancies, rent concessions, and delinquencies. The rate of turnover has been  
25 approximately 82.6% in 2011. This is due in large part to Debtor’s competition offering first month’s  
26 free rent. Debtor offered the same first month’s free rent in order to compete with the other apartment  
27 complexes. However, this resulted in a higher turnover because many of those tenants signing a lease  
28 providing the first month’s free rent broke the lease after the month of free rent. This turnover

1 percentage is also due to the economic climate in Las Vegas and appears to be county wide as to Class  
2 B apartments.

3 The Debtor's economic affairs have deteriorated, and in order to once again be a viable business,  
4 the Company must reorganize its mortgage loan. Until filing, Debtor remained current with the majority  
5 of its vendors, except those listed on the Petition on Schedule F.

6 USB initiated the filing of a Notice of Default and Acceleration and Demand for Payment  
7 ("Notice of Default") dated April 29, 2011 and also recorded a Notice of Breach and Election to Sell  
8 under Deed of Trust ("Recorded Notice of Default") on July 25, 2011. In September 2011, USB also  
9 filed a Complaint in District Court, Clark County, Nevada, Case No. A-11-649090-C, seeking the  
10 appointment of a receiver. As a result of these action, Debtor filed its Chapter 11 petition. It is in the  
11 best interest of the estate to continue to maintain the Property, collect rents, and seek new tenants.

#### 12 **D. SIGNIFICANT EVENTS IN THE CHAPTER 11 PROCEEDINGS**

13 In order to protect the value of its business operations and to facilitate implementing various  
14 strategies to maximize its estate's value, the Debtor filed its voluntary petition under Chapter 11 of the  
15 United States Code on October 13, 2011. Shortly thereafter, the Debtor began the preparation of the  
16 Plan. The following is a list of significant events that have occurred in this case:

##### 17 **1. Employment of Professionals**

18 To date, Debtor has petitioned the Court to retain four (4) professionals in this case, namely,  
19 Goldsmith & Guymon, P.C., as Debtor's counsel; B&R Property Management as property manager and  
20 leasing agent; Kenneth Funsten, FamCo Advisory Services, as Debtor's interest rate expert nunc pro  
21 tunc; and Valuation Consultants as Debtor's real estate appraiser.

22 Goldsmith & Guymon, P.C., has served as Debtor's counsel from the onset of the filing of this  
23 case. On October 14, 2011, Goldsmith & Guymon filed an Application to Employ, a hearing on which  
24 was held on November 16, 2011. On December 5, 2011, the Bankruptcy Court entered an Order  
25 Granting Application to Employ Attorney Under General Retainer based upon hourly rates plus costs  
26 incurred as disclosed in the application and order. USB has alleged that Mr. McDougal is also rendering  
27 legal services to the Debtor post petition without disclosure or retention by the Bankruptcy Court.  
28 Debtor has disclosed that Mr. McDougal holds valuable information as to the history and relationship



1 between Debtor and USB such that his services were believed to be beneficial to the Debtor. As such,  
2 Mr. McDougal and Goldsmith & Guymon entered into an of counsel relationship. While Mr. McDougal  
3 has been helpful in providing information and legal assistance to the Debtor post petition, he has not  
4 received any compensation for such services, and based upon USB's continued allegations of  
5 impropriety Goldsmith & Guymon has terminated the of counsel relationship.

6 Debtor filed an Application to Employ B& R Property Management (B&R) as Property Manager  
7 and Leasing Agent on November 4, 2011, on shortened time. The Bankruptcy Court held a hearing on  
8 the same on November 15, 2011, and entered an Order Granting Motion for Authorization to Employ,  
9 Nunc Pro Tunc, B&R Property Management as Property Manager and Leasing Agent for Real Property  
10 Belonging to the Estate on November 29, 2011. B&R will continue to manage the Reorganized Debtor's  
11 Property and will supervise the leasing and maintenance of the Property at its existing contractual rate  
12 of three percent (3%) of the total monthly gross receipts from the Property, pursuant to the Management  
13 and Leasing Agreement Contract approved by this Court in the Order Granting Motion for Authorization  
14 to Employ. B&R has worked with the Debtor for the last two years and manage 7,000 apartment units  
15 in the Greater Las Vegas Area. It is one of the most experienced management company in Las Vegas  
16 and has been providing these services for over 30 years.

17 Debtor filed applications to employ Kenneth Funsten, Famco Advisory Services ("FAMCO"),  
18 as Debtor's interest rate expert, and to employ Valuation Consultants as Debtor's real estate appraiser,  
19 on November 22, 2011, on shortened time. The Bankruptcy Court held hearings on the same on  
20 December 14, 2011, and entered orders granting said Applications on December 21, 2011. Pursuant to  
21 said Orders, the Debtor was authorized to employ Valuation Consultants as Debtor's Real Estate  
22 Appraiser for a flat fee of Four Thousand Dollars (\$4,000.00), and subject to the additional payment  
23 terms therein. The payment of Four Thousand Dollars (\$4,000.00) by Debtor's members Shahram  
24 Afshani (23%), Rodney Johnson (30.25%), Parviz Afshani (15%), and Shahriar Afshani (15%) will not  
25 be paid from USB's cash collateral, unless so approved by USB or the Court. Additionally, the Debtor  
26 was authorized to employ FAMCO, as Interest Rate Expert for Fifteen Thousand Dollars (\$15,000.00)  
27 for the interest rate report. Further, FAMCO shall be entitled to an additional retainer in the sum of Five  
28 Thousand Five Hundred Dollars (\$5,500.00) upon the delivery of FAMCO's Report on Appropriate

1 Rate(s) of Interest for Debtor's Plan, subject to fee application and approval by the Bankruptcy Court,  
2 and FAMCO shall be entitled to such additional amounts as stated in the terms and conditions of the  
3 Letter of Agreement. Furthermore, the Debtor's loan of Fifteen Thousand Dollars (\$15,000.00) in  
4 payment of FAMCO's retainer, and any additional amounts paid by Debtor's stockholders to FAMCO  
5 as required, shall not be paid from USB's cash collateral funds, unless so approved by USB or the Court.

6 **2. 341 Meeting of Creditors and Utilities Motions**

7 On November 17, 2011, the Trustee conducted the Debtor's 341 Meeting of Creditors. On  
8 November 23, 2011, the Trustee concluded the Debtor's 341 Meeting of Creditors.

9 **3. Utilities Motions**

10 On November 4, 2011, the Debtor filed an Application for Order Determining Adequate  
11 Assurance for Utilities and the Payment of Critical Vendors. The Bankruptcy Court held a hearing on  
12 the same on November 15, 2011, and entered an orders granting said Application on December 21, 2011.  
13 Pursuant to said Order, the Debtor's Application was granted, and Debtor was ordered, within the  
14 confines of the Petition amounts on file, to cure any arrears owing to said critical vendors and utilities.  
15 Said cure acts as additional adequate assurance of payment to utilities.

16 **4. Cash Collateral**

17 On November 4, 2011, Debtor filed a Motion to Use Cash Collateral ("Cash Collateral Motion"),  
18 and the Bankruptcy Court held a hearing on the same on November 15, 2011. On December 7, 2011,  
19 the Bankruptcy Court entered an Interim Order Re: Motion for Use of Cash Collateral and for Approval  
20 of Proposed Budget ("Interim Order"). Pursuant to the terms of said Order:

- 21 a. Debtor shall tender to USB the monthly sum of \$50,000.00 (the "Payment"), on or before  
22 the first date of each month, with the first payment due on or before December 1, 2011,  
23 and without prejudice to either party as to how the Payment should be applied;
- 24 b. The Court approved the Debtor's proposed budget attached to the Cash Collateral Motion  
25 on an interim basis through the December 14, 2011, final hearing thereon, except that  
26 Debtor may not pay any "Capital Expenses," as titled on page 4 of the Budget, or any  
27 capital improvement expenses over the amount of \$5,000.00 without first obtaining the  
28 written consent of USB. For any capital expenses over the amount of \$5,000.00, Debtor

1 must seek USB's approval in writing. USB will then have 24 hours - excluding  
2 weekends - to respond. If USB fails to respond within 24 hours - excluding weekends -  
3 then Debtor may fund the subject capital expense;

4 c. All net rents remaining after subtracting the Payment and the approved Budget expenses  
5 (the "Net Rents") shall be maintained in a segregated debtor in possession account and  
6 tracked as a separate line item for accounting purposes. Debtor shall not use the Net  
7 Rents absent further order of the Court;

8 d. All items budgeted for professional fees, excluding attorneys' fees and costs for evictions  
9 (the "Debtor's Legal Costs"), shall be maintained in a segregated debtor in possession  
10 account and tracked as a separate line item for accounting purposes until such time as  
11 payment is sought. However, the Court did not rule on whether payment of Debtor's  
12 Legal Costs from USB's cash collateral is appropriate, and absent further Order of the  
13 Court, Debtor is not authorized to pay Debtor's Legal Costs with USB's cash collateral.

14 On December 12, 2011, legal counsel for the Debtor and USB entered into a Stipulation for Final  
15 Order Re: Motion for Use of Cash Collateral and for Approval of Proposed Budget ("Stipulation") as  
16 follows:

17 a. USB consented to and the Court approved the Budget attached as Exhibit 1 to the Cash  
18 Collateral Motion, for a period of 120 days from the entry of the Court's Order approving  
19 the Stipulation (the "Time Period"), subject to the following conditions:

20 a) no expenses in the Budget category of "Capital Expenses" were approved at  
21 that time or payable absent either 1) further Order of the Court or 2) written  
22 consent by USB, but Debtor may segregate the amounts for the proposed Capital  
23 Expenses and account for those expenses separately within its DIP account;

24 b) no professionals fees ("Professional Fees") contemplated by the Budget –  
25 including but not limited to the expense titled "Legal - \$5,000," the expense titled  
26 "Professional Fees - \$3,200," and the expense titled "Accounting – Bankruptcy -  
27 \$500" – were approved or payable absent further Order of the Court;

1 c) the Stipulation and Order is effective for the Time Period only, and shall expire  
2 by its own terms upon the expiration of the Time Period;

3 d) Debtor may vary up to 2% from the Budget for each individual approved line  
4 item expense, but if the variance is above 2%, then Debtor must obtain USB's  
5 written consent or a Court Order in advance in order to make the expenditure;

6 e) Debtor shall make a payment of \$50,000 to USB on or before the 15th day of  
7 each month during the Time Period;

8 f) the Budget was Second Amended to provide that Debtor may pay B&R  
9 Property Management its monthly property management fee of 3% from the  
10 rents, and Debtor may pay B&R Property Management its 3% fee for work  
11 performed from the inception of the Chapter 11 case through December 12, 2011,  
12 and during the Time Period as appropriate under the subject property  
13 management agreement;

14 g) Debtor may not pay its professionals' fees or reimburse Debtor's principals for  
15 their payment of professionals' fees from USB's cash collateral absent further  
16 Order of the Court;

17 h) all rents generated by the subject property and not allocated either to approved  
18 Budget expenses or to the monthly \$50,000 payment to USB shall be held in the  
19 Debtor's DIP account, and not spent absent further Court Order or written  
20 consent by USB; and

21 b. All other terms contained in the Interim Order shall remain in full force and effect.

22 **5. Proofs of Claim**

23 The Court set a bar date for proofs of claim in the case of February 15, 2012. The Bar Date is  
24 the date after which creditors cannot file a proof of claim in this case. Importantly, if your claim is listed  
25 in the Debtor's Schedules of Liabilities, and you agree with the claim amount listed there, you do not  
26 need to file a proof of claim in the case. If the Debtor amends its Schedules of Liabilities and your claim  
27 is affected, you will have an opportunity to file an objection to any such change.

28 To date, four Proofs of Claim have been filed. Except to the extent that a claim is already

1 allowed pursuant to a final non-appealable order, the Debtor reserves the right to object to creditors'  
2 claims. At the present time Debtor anticipates objecting to the Proof of Claim filed by USB. Therefore,  
3 even if your claim is allowed for voting purposes, you may not be entitled to a distribution if an  
4 objection to your claim is later upheld. The procedures for resolving disputed claims are set forth in  
5 Article V of the Plan.

6 **6. Recovery of Preferential, Avoidable, or Fraudulent Transfers**

7 At this time, the Debtor does not intend to pursue preference, fraudulent conveyance, or other  
8 avoidance actions. The Debtor does not believe any significant transfers occurred, other than to its  
9 secured creditors, during the 2 year period leading up to the filing of this case. Importantly, the majority  
10 of the Debtor's significant transfers were the payment of its Note or operating expenses.

11 The Debtor does reserve its right, however, to perform and complete an investigation with regard  
12 to pre-petition transactions. Although it does not believe significant transfers occurred, creditors should  
13 be aware that if you received a payment or other transfer within ninety (90) days of the bankruptcy, or  
14 other transfer avoidable under the Bankruptcy Code, the Debtor may seek to avoid such transfer.

15 Donald C. McDougal, Jr., an attorney licensed to practice law in the state of California, has  
16 provided legal services to the Debtor since its formation in 2005. At the time of the Debtor's formation,  
17 Mr. McDougal purchased a 2% membership interest in the Debtor. Mr. McDougal sold that 2% interest  
18 post petition to Helene Rainbird on December 23, 2011 for \$60,000.00. As such, Mr. McDougal is no  
19 longer a member of the Debtor. Debtor has no knowledge of the details of the membership interest sale  
20 other than that it gave Mr. McDougal permission to sell his interest to Ms. Rainbird.

21 Mr. McDougal acted as the initial organizer of the Debtor upon formation through the Nevada  
22 Secretary of State. Immediately following its formation, the Debtor held its first meeting of its members  
23 at which time Shahram Afshani was elected sole operating manager and treasurer and Mr. McDougal  
24 was elected secretary. Mr. McDougal continued to provide legal services to the Debtor under the  
25 direction of its operating manager, Mr. Afshani. To that end, Debtor made several transfers of funds  
26 spanning the time period of April 29 through September 14, 2011 totaling \$629,081.62 to Mr.  
27 McDougal's client trust account. Thereafter, on or about June 22, 2011 Mr. McDougal cut a trust check  
28 under the direction of Mr. Afshani to Bank of America as collecting agent for creditor USB Bank in the

1 amount of \$429,033.62. In addition, the sum of \$199,960.00 was wired back to the Debtor on December  
2 8, 2011. As such, of the \$629,081.62 transferred by Debtor to Mr. McDougal's client trust account, a  
3 total of \$628,993.62 was then either disbursed to Bank of America or returned to the Debtor. The  
4 difference consists of wire transfer fees of \$60.00 and a \$28.00 payment to Federal Express for the  
5 delivery of the Bank of America check. The \$199,960.00 is accurately reflected on Debtor's Schedule  
6 B of its bankruptcy petition and is still presently held in the debtor in possession account. Due to the  
7 cash collateral order in effect with USB, Debtor does not anticipate surrendering these funds to USB  
8 despite its security interest therein but instead intends to utilize the funds in its ongoing operations to  
9 be applied toward the principal balance of the USB loan upon confirmation of the Plan.

10 In August 2011, Mr. McDougal received two checks from the Debtor totaling \$25,000.00. These  
11 payments were for legal fees spanning from the Debtor's formation in 2005 to July 2011. At the time  
12 of the preparation of the bankruptcy petition, Debtor inadvertently failed to disclose this preferential  
13 payment. As these payments were made within 90 days of the Debtor's bankruptcy filing, Debtor has  
14 amended its statement of financial affairs to disclose the payment. Debtor does not anticipate seeking  
15 return of those funds but reserves the right to do so to the extent necessary to fund the Plan. It is  
16 important to note that Debtor did not hide this transaction. On December 7, 2011, Debtor allowed  
17 USB's financial expert to visit the premises and review financial records on site. USB's financial expert  
18 was given financial records which included the payment by Debtor to Mr. McDougal at that time.  
19 Exhibit E to USB's Response to Debtor's First Disclosure Statement, Docket No. 115-5 contains this  
20 information.

#### 21 **7. Unexpired Leases and Executory Contracts.**

22 No leases or contracts have been specifically assumed or rejected. Debtor believes there are no  
23 executory contracts or unexpired leases as contemplated by Bankruptcy Code § 365. To the extent the  
24 various leases Debtor has with its tenants at the Property can be deemed to fall under Bankruptcy Code  
25 § 365, Debtor will neither formally reject nor assume the leases with its tenants.

#### 26 **8. USB Motion to Convert, Dismiss or Appoint and Chapter 11 Trustee.**

27 USB filed a motion to convert, dismiss or appoint and chapter 11 trustee based upon its  
28 allegations that 1) Debtor has failed to deal transparently with the Court and the Creditors by failing to

1 disclose the \$25,000.00 payment to Mr. McDougal, failing to disclose those equity interest holders with  
2 less than 5% interest in the Debtor, of which Mr. McDougal was one, and failing to subsequently  
3 disclose the sale of Mr. McDougal's interest to a third party; and 2) that Debtor simply cannot confirm  
4 a feasible plan.

5 Debtor believes it has proven the feasibility of its Plan through its Second Amended Disclosure  
6 Statement and the accompanying exhibits. Debtor anticipates its experts testifying at confirmation in  
7 support of feasibility.

8 Debtor believes it has adequately addressed USB's concerns regarding transparency, both in this  
9 Second Amended Disclosure Statement, in the subsequent amendments made to the Debtor's bankruptcy  
10 petition and accompanying schedules and statements, and in numerous declarations and pleadings filed  
11 with the Court. However, the Court set an evidentiary hearing on the issue.

#### 12 ARTICLE IV

#### 13 SUMMARY OF ASSETS AND LIABILITIES

#### 14 A. ASSETS

15 Debtor owns those assets specifically set forth in the schedules filed in the Debtor's bankruptcy  
16 petition, which are available to the public and on file with the Bankruptcy Court. These schedules  
17 contain an accurate itemization of the Debtor's assets prior to filing, subject to any amendments on file  
18 and any clarifications made herein. These assets consist primarily of the Property, funds on hand,  
19 accounts receivable, office equipment, and rent rolls. The Debtor believes that the valuation of the  
20 Debtor's assets, as set forth in the schedules, is a fair estimate of the value thereof. For ease of reference  
21 the Debtor has attached Schedules A and B as Exhibit 2 to the Second Amended Disclosure Statement.  
22 Additionally, a list of the identity and fair market value of the Debtor's assets are listed in the attached  
23 Exhibit 3, which provides an estimate of the current value of all Debtor's assets. The basis of such  
24 estimated values is the real property appraisal performed by Valuation Consultants and the Debtor's  
25 bank statements. Any deviation from the scheduled values of such assets is due to the Debtor's court-  
26 approved expenditures as discussed herein.

27 The Debtor has recently obtained an appraisal that values the Property as of December 2011, at  
28 Seventeen Million Two Hundred Dollars (\$17,200,000.00). A copy of the current appraisal has been

1 filed with the Court, Docket Number 118, and the same will be furnished to any creditor or interested  
2 party upon request to Debtor's Counsel. Furthermore, the Summary Page of the appraisal is attached  
3 hereto for reference as Exhibit 4 to the Second Amended Disclosure Statement.

4 As stated herein, the Property is subject to a Deed of Trust in favor of USB, which was believed  
5 to have ~~has~~ a principal amount due and owing in the amount of Thirteen Million Two Hundred Eighty  
6 Eight Thousand Nine Hundred Eighty Nine Dollars and Eighty Two Cents (\$13,225,989.82). This  
7 amount was verified by USB through the production of discovery requests propounded by Debtor.  
8 However, two days before the claims bar date, USB filed its proof of claim with the Court claiming an  
9 amount owing of \$14,948,702.44. Debtor will be filing an objection to the proof of claim based  
10 primarily upon USB's ability to collect default interest.

11 **B. PARTICULAR LIABILITIES**

12 The Debtor refers interested parties to the respective schedules on file with the Bankruptcy Court  
13 and available to the public for a complete listing of all liabilities at the time of the bankruptcy filings.  
14 Furthermore, for ease of reference the Debtor has attached its Schedules D, E and F as Exhibit 2 to the  
15 Second Amended Disclosure Statement.

16 There is one (1) disputed claim as reflected on the Debtor's Schedule E, of the Nevada  
17 Department of Taxation in an unknown amount.

18 **THE DEBTOR BELIEVES, TO THE BEST OF ITS KNOWLEDGE, INFORMATION AND  
19 BELIEF THAT THE LIABILITIES SET FORTH HEREIN AND ON SAID SCHEDULES  
20 CONSTITUTE A FULL AND COMPLETE ESTIMATION OF ALL LIABILITIES OF THE  
21 DEBTOR, AND AMOUNTS THEREOF (EXCLUDING INTEREST, ATTORNEY FEES AND  
22 ANY UNKNOWN OR VARIABLE FACTS BEARING ON THE AMOUNT OF THE  
LIABILITIES). CREDITORS ARE URGED TO FULLY REVIEW WITH THEIR  
ATTORNEYS THE SCHEDULES AND STATEMENTS FILED BY THE DEBTOR AT THE  
COMMENCEMENT OF THE CASE AND THE MONTHLY OPERATING REPORTS FILED  
THEREAFTER.**

23 **ARTICLE V**

24 **DEBTOR'S CURRENT FINANCIAL INFORMATION**

25 The Debtor's Monthly Operating Reports on file with the Bankruptcy Court reflect the ongoing  
26 financial condition of the bankruptcy estate. The Debtor's post-petition finances are accurately reflected  
27 in the Monthly Operating Reports. The Debtor has filed all required Monthly Operating Reports, is  
28 current with all post-petition taxes to all taxing entities, and has remained current with the U.S. Trustee's



1 Fees. These reports are filed with and available for inspection through the Bankruptcy Court. The first  
2 four (4) summary pages of each monthly operating report are attached to this Second Amended  
3 Disclosure Statement as Exhibit 5.

4 Furthermore, Debtor's management has prepared the Amended Ten Year Financial Projections  
5 attached hereto as Exhibit 6 which reflects the historical performance of the Debtor in 2011 and future  
6 projected performance over the life of the Plan.

7 A review of the Monthly Operating Reports shows that the Debtor has continued to generate rent  
8 revenue through ongoing business operations. The only form of income Debtor has is from rent paid  
9 by its tenants, and associated fees. As shown in the Debtor's Monthly Operating Reports, Debtor's net  
10 cash flow for the month ending October 31, 2011, was \$18,193.00, Debtor's net cash flow for the month  
11 ending November 30, 2011, was \$82,927.00, Debtor's net cash flow for the month ending December  
12 30, 2011 was \$103,528.00, Debtor's net cash flow for the month ending January 2012 was \$65,743.00,  
13 and Debtor's net cash flow for the month ending February 2012 was \$96,058.00. As highlighted herein,  
14 Debtor has offered various rent concessions to its tenants. As more tenants are added and rent  
15 concessions cease, cash flow will increase.

16 Additionally, management and Debtor have formulated a business plan further delineated in its  
17 Financial Interest Rate Assessment Report, prepared by the Debtor's Court approved financial expert  
18 Kenneth B. Funsten, CFA, of FAMCO Advisory Services, and on file with the Court, Docket Number  
19 125. A summary of the report is attached to this Second Amended Disclosure Statement as Exhibit 7.  
20 Therein the business plan reflects an increased focus on both promoting a pet-friendly environment and  
21 attracting a business entrepreneurial market. This will be done through capital improvements in  
22 providing a dog run, as necessary switching from carpet to flooring materials, and improving the  
23 business center. It is anticipated that this business plan will increase financial performance in attracting  
24 a higher paying, more stable rental market, thus reducing turnover and turnover costs.

25 Referring to Exhibit 6, those items showing in bold evidence the anticipated positive effects of  
26 the business plan once implemented. Said financials also evidence the Debtor's ability to fund the  
27 proposed Plan in that the Net Cash Flow for each year supports the anticipated Plan payments.

28 Therefore, the reasonable likelihood exists that cash flow will increase in subsequent months.

1 However, Debtor acknowledges some prudent likelihood that the economic climate will continue to be  
2 flat if not decrease somewhat over the next three (3) years, with rents recovery in year four (4), and that  
3 Debtor will need at least one (1) year following the increase in rents to build up cash reserves sufficient  
4 to begin principal and interest payments.

5 Based upon Debtor's Amended 10 Year Financial Forecast and its Financial Interest Rate  
6 Assessment Report, Debtor has sufficient funds to pay 4.26% annually, assuming the USB Claim is  
7 \$13,225,990.00, with a balloon payment of \$12,011,253.00 in 2022. These same financial reports  
8 evidence the ability of Debtor to pay in excess of the assumed claim amount if necessary. Ultimately,  
9 if necessary then equity holders will contribute those funds necessary by way of additional capital  
10 contributions to accommodate payment in full of USB's finally determined claim as set forth herein.

## 11 **ARTICLE VI**

### 12 **LIQUIDATION VALUE**

13 To confirm a Plan of Reorganization, the Court must find that all creditors who do not accept  
14 the Plan will receive at least as much under the Plan as such claim holders would receive in Chapter 7  
15 liquidation. This is known as the "Best Interest Test," which requires a liquidation analysis. In a  
16 Chapter 7 case, the Debtor's assets are usually sold by a Chapter 7 trustee. Secured creditors are paid  
17 first from the sales proceeds of properties on which the secured creditor has a lien. Administrative  
18 claims are paid next. Next, unsecured creditors are paid from any remaining sales proceeds, according  
19 to their rights to priority. Unsecured creditors with the same priority share in proportion to the amount  
20 of their allowed claim in relationship to the amount of total allowed unsecured claims. Finally, interest  
21 holders receive the balance that remains after all creditors are paid, if any.

22 For the Court to be able to confirm this Plan, the Court must find that all creditors and interest  
23 holders who do not accept the Plan will receive at least as much under the Plan as such holders would  
24 receive under Chapter 7 liquidation.

25 The Debtor suggests that its Plan of Reorganization will result in a higher payout to General  
26 Unsecured Creditors than a liquidation of all the assets. The Debtor alleges and proposes that the value  
27 received for bankruptcy estate property through a Chapter 7 liquidation would be substantially less than  
28 that received through orderly payments under a Plan of Reorganization. Specifically, Debtor believes

1 that if this case were converted to a Chapter 7, a Chapter 7 trustee would attempt to sell the Property.  
 2 While the Property has an appraised value of \$17,200,000.00, in Debtor's opinion, it is currently  
 3 impossible to obtain adequate financing to fund a purchase of the Property for an amount that would  
 4 satisfy the deed of trust of USB. Therefore, the market of potential buyers of the Property would be  
 5 limited to cash buyers, who are scarce and are usually only interested in purchasing properties at extreme  
 6 discounts. If a Chapter 7 Trustee is unable to secure such a purchaser, the automatic stay would  
 7 inevitably be lifted thereby leading to foreclosure. In such event, in the Debtor's estimation, no third-  
 8 party bids would be made at foreclosure, and the Debtor's ability to pay unsecured creditors would be  
 9 wiped out. In such a scenario, unsecured creditors would not receive anything from the sale of the  
 10 Property.

11 In addition, cash on hand is subject to USB's liens and Assignment of Rents. To the extent those  
 12 liens could be satisfied by a foreclosure, Chapter 7 administrative fees would still have priority and make  
 13 any distribution to unsecured creditors unlikely.

14 Furthermore, attached to this Second Amended Disclosure Statement as Exhibit 8 is a detailed  
 15 schedule of the Debtor's Liquidation Analysis. The Liquidation Analysis illustrates that all creditors and  
 16 interest holders will receive at least as much under the Plan as such creditors or interest holders would  
 17 receive under Chapter 7 liquidation. This information is provided by Debtor and Debtor's counsel.

18 Below is a demonstration, in tabular format, that all creditors and interest holders will receive  
 19 at least as much under the Plan as such creditor or holder would receive under a Chapter 7 liquidation.

<u>Claims &amp; Classes</u>	<u>Payout Percentage Under the</u> <u>Plan</u>	<u>Payout Percentage in Chapter 7</u> <u>Liquidation</u>
Administrative Claims	100%	100%
Priority Tax Claims	100%	100%
Class 1 - USB's secured claim	100%	100%
Class 2 - General Unsecured Creditors	100%	0%
Class 3 - Insiders	0%	0%

1 **ARTICLE VII**

2 **ADMINISTRATIVE CLAIMS AND PRIORITY DEBTS**

3 In the event the Debtor is unable to confirm a plan of reorganization and is adjudicated into a  
4 Chapter 7 liquidation, any available assets not otherwise seized by secured creditors would be sold, the  
5 court-appointed Chapter 7 trustee would be required to pay from the proceeds of the Property the  
6 following expenses and/or debts in the following order:

- 7 1. First, all Chapter 7 Administrative Claims, and thereafter all Chapter 11 Administrative  
8 Claims would have to be paid in full;
- 9 2. Thereafter, Priority Claims would have to be paid in full;
- 10 3. Thereafter, Unsecured Claims would receive any residual equity from the proceeds of the  
11 property liquidated or administered;
- 12 4. Equity holders are only entitled to payment after the above claims are paid in full.

13 In a Chapter 7 liquidation proceeding, Administrative Claims include court costs, debts incurred  
14 during the pendency of the Chapter 11 proceeding, and any professional fees which may be paid to  
15 auctioneers, attorneys, accountants, trustee (if any), and examiner (if any).

16 In a Chapter 11 proceeding, the creditors could expect that Administrative Claims will be  
17 attorney's fees, expert fees, quarterly fees owed to the office of the United States Trustee, and post  
18 petition ongoing operating expenses incurred but not paid.

19 **ADMINISTRATIVE EXPENSES AND CLAIMS CAN ONLY BE FIXED AND DETERMINED**  
20 **BY THE BANKRUPTCY JUDGE IN THIS CASE, AND THE DEBTOR RECOMMENDS THAT**  
21 **EACH CREDITOR OBTAIN THE ADVICE OF HIS OR HER OWN INDIVIDUAL**  
22 **ATTORNEY TO THE PROBABILITY AND AMOUNT OF ANY ADMINISTRATIVE CLAIMS**  
23 **WHICH MAY BE PAID IN PREFERENCE TO PRIORITY CLAIMS OR GENERAL**  
24 **UNSECURED CLAIMS AND IN MAKING AN EVALUATION AS TO WHETHER A**  
25 **CHAPTER 11 PLAN AS SET FORTH HEREIN WOULD BE PREFERABLE TO A CHAPTER**  
26 **7 LIQUIDATION OF THE ASSETS OF THE DEBTOR.**

24 **ARTICLE VIII**

25 **SUMMARY OF THE PLAN OF REORGANIZATION & MEANS FOR EXECUTION**

26 **A. WHAT CREDITORS AND INTEREST HOLDERS WILL RECEIVE UNDER THE**  
27 **PROPOSED PLAN**

28 As required by the Bankruptcy Code, the Plan places claims in separate classes and describes the

1 treatment each class will receive. The Plan also states whether each class of claims is impaired or  
2 unimpaired. If the Plan is confirmed, your recovery will be limited to the amount provided by the Plan.

3 The Debtor's Plan proposes to divide the Debtor's creditors into two main classifications:  
4 **Unclassified Claims and Classified Claims.** These are further defined as follows:

5 **1. Unclassified Claims.** These Claims consist of all Administrative and Priority Tax  
6 Claims, including any post-petition taxes owing the Internal Revenue Service (if any),  
7 United States Trustee's fees (if any), attorney fees for Goldsmith & Guymon, P.C.,  
8 unpaid post-petition fees of Professionals, and the individual members of the Debtor  
9 holding DIP loan administrative claims. Unclassified claims are not considered impaired  
10 and they do not vote on the Plan because they are automatically entitled to specific  
11 treatment under the Bankruptcy Code. These Claims are estimated to be \$135,000.00  
12 and presently consist of \$88,000.00 in attorney's fees due Goldsmith & Guymon,  
13 P.C.–Debtor's bankruptcy counsel; \$45,000.00 due FAMCO Advisory Services–Debtor's  
14 financial expert; and \$4,000.00 due Valuation Consultants–Debtor's appraiser. Of note,  
15 the experts have been paid by Debtor's members; however, it is anticipated that the Plan  
16 will treat these expenses as administrative in nature and reimburse the members for their  
17 outlay of these necessary administrative expenses on behalf of the Debtor. This  
18 otherwise does not include the Equity Holders. This may also include B&R Property  
19 Management who receives 3% of the gross rents for management services as previously  
20 disclosed herein. There are no other insiders, officers or managers receiving  
21 compensation under the Plan. These claims are unimpaired for purposes of voting and  
22 confirmation of the Plan. Payments to professionals shall be made only upon approval  
23 of the Bankruptcy Court, pursuant to the Bankruptcy Code.

24 The Plan provides for the payment of administrative and priority claims *in full* on  
25 the effective date of the Plan, or as agreed by the holder of such administrative or priority  
26 claim.

27 **2. Classified Claims.**

28 a. **Class 1: Secured Claim of US Bank.** Class 1 consists of the Allowed Secured

1 Claim held by USB in the original principal amount of Fifteen Million Dollars  
2 (\$15,000,000.00), secured by the Deed of Trust. The amount of USB's present  
3 claim is Thirteen Million Two Hundred Eighty Eight Thousand Nine Hundred  
4 Eighty Nine Dollars and Eighty Two Cents (\$13,225,989.82). USB disputes this  
5 claim amount and has filed a proof of claim in the amount of \$14,948,702.44.  
6 This proof of claim amount includes default interest and other amounts disputed  
7 by the Debtor. As such, a final claim amount remains to be determined.

8 USB shall retain its lien securing its claim and shall be paid in full on or  
9 before ten (10) years from the Effective Date. USB's loan and note shall be  
10 extended to ten (10) years payable at 4.26% interest-only for five (5) years, then  
11 principal and interest at 4.26% for five (5) years beginning in year six (6)  
12 amortized over Thirty (30) years. Debtor shall make monthly payments as set  
13 forth in the attached Schedule A to the Plan. In year ten (10) Debtor shall pay the  
14 balloon payment of the balance due. It is anticipated that this payment will be  
15 from refinance or sale of the Property. Should the market conditions allow,  
16 Debtor anticipates paying USB in full earlier than the ten (10) year payout.

17 Until USB's claim is finally determined, the Plan shall provide as set  
18 forth above. Upon final determination of USB's claim, the Court shall determine  
19 the appropriate interest rate in keeping with *Till* guidance to use a rate between  
20 1-3% above the recent years' prime rate of 3 1/4%. Debtor anticipates that the  
21 Court could set a different interest rate or revised interest only payout at a  
22 confirmation hearing based on expert and other testimony that is presented. This  
23 information contained in the Plan is based upon necessary estimates and is  
24 subject to revision. Debtor reserves the right to amend its Proposed Plan in  
25 accordance with any findings made by the Court at a confirmation hearing.

26 This Class is impaired for purposes of voting and confirmation.

- 27 b. **Class 2: Unsecured Allowed Claims.** These Claims consist of all those  
28 Allowed Claims set forth on Schedule F of the Debtor's bankruptcy petition, not

1 otherwise successfully objected to or otherwise listed as Disputed, as set forth  
2 herein and in the Plan.

3 It is anticipated that Class 2 Allowed Unsecured Claims will receive an  
4 amount equal to one-hundred percent (100%) of the Allowed Claim, without  
5 interest, as follows:

- 6 1. 25% of its claim on the Effective Date of the Plan;
- 7 2. 25% of its claim within 90 days of the Effective Date of the Plan;
- 8 and
- 9 3. 50% of its claim within one year of the Effective Date of the Plan,

10 following the payment of priority claims, including Administrative and Priority  
11 Claims set forth above.

12 This Class is impaired for purposes of voting and confirmation.

- 13 c. **Class 3: Equity Interest Holders.** Class 3 consists of equity interest holders,  
14 who are parties who hold an ownership interest (i.e., equity interest) in the  
15 Debtor. In a limited liability company, such as the Debtor, the equity interest  
16 holders are the members. The members of the Debtor are set forth in the Plan in  
17 Article III, Section 3.3(3).

18 This class, the members of the Debtor, shall not receive any distributions  
19 during the terms of this Plan unless and until all Administrative Claims are paid  
20 in full and payments to the allowed claims in Class 2 are paid in full. Debtor will  
21 retain all net operating income generated under the plan, unless the Court  
22 authorizes distributions to equity interest holders following payment of all  
23 general unsecured claims in Class 2. It is Debtor's position that the Absolute  
24 Priority Rule is not violated in allowing distributions to equity following payment  
25 to general unsecured creditors but before payment in full to Class 1 because the  
26 Plan through cramdown provides to USB its indubitable equivalent, thus  
27 satisfying the Absolute Priority Rule. However, upon briefing should the Court  
28 determine this is in contravention of the Absolute Priority Rule then there will be

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no distribution to Class 3 until there has been payment in full to Class 1 and Class 2.

The members of the Debtor shall retain their ownership interest and shall have all the rights and obligations, including management rights, as set forth in Debtor's Operating Agreement.

This class is not impaired for purposes of voting and confirmation.

d. **Class 4: Disputed Non-Priority Tax Claim.** The claim of Nevada Department of Taxation (Schedule E, Creditor #1) is disputed. Because the creditor's claim was listed as disputed on Debtor's schedules, the disputed claim holder's claim shall be addressed in accordance with Article V of the Plan.

In the event a Disputed Claimant files a timely claim and it is timely objected to, the Disputed Claimant shall not receive any distributions until it becomes an Allowed Claim, in which case the claimant shall be entitled to receive payments in accordance with Article IV (4.3) of the Plan.

This Class is not impaired for purposes of voting and confirmation.

Additional specific information regarding claims, classes, and treatment thereof, are set forth in the Plan.

**ARTICLE IX**

**MEANS OF EFFECTUATING THE PLAN**

**A. FUNDING FOR THE PLAN**

Payments and distributions under the Plan will be funded by the Reorganized Debtor. Claims will be paid from the proceeds of the Reorganized Debtor's ongoing business operations. This will be accomplished as set forth on the attached Exhibits 6 and 7. The Reorganized Debtor will meet its ongoing business and tax obligations in due course. The Debtor's Second Amended Disclosure Statement outlines the Debtor's sources and uses of income and adequately addresses feasibility of this Plan.

**B. POST-CONFIRMATION MANAGEMENT OF PROPERTY**

The existing property management company, B&R Property Management, will continue to



1 manage the Reorganized Debtor's Property and will supervise the leasing and maintenance of the  
2 Property, the collection of rent and the payment of the Reorganized Debtor's monthly expenses,  
3 including any disbursements under this Plan upon confirmation, at its existing contractual rate of three  
4 percent (3%) of the total monthly gross receipts from the Property, pursuant to the Management and  
5 Leasing Agreement Contract approved by this Court in the Order Granting Motion for Authorization to  
6 Employ, Nunc Pro Tunc, B&R Property Management as Property Manager and Leasing Agent for the  
7 Real Property Belonging to the Estate.

8 The managing members and owners of the Debtor shall have broad authority with respect to the  
9 conduct of the business of the Reorganized Debtor, including the rights and power to enter into  
10 agreements regarding a sale of the Property and to borrow money to pay LLC obligations, including an  
11 early payoff of USB or capital calls to the extent necessary to maintain cash reserves. Shahram Afshani  
12 at all times relevant has been and intends to remain the Operating Manager of the Debtor.

13 Debtor may, at any point, pre-pay, in whole or in part, Class 1 and/or Class 2 Allowed Claims,  
14 if, in its sole discretion, it determines that any such pre-payments can be made without jeopardizing its  
15 existing cash flow and cash reserves.

16 **C. POST-CONFIRMATION MANAGEMENT OF THE DEBTOR**

17 The Reorganized Debtor will continue to exist after confirmation of the Plan as a separate limited  
18 liability company, with all the powers of a limited liability company pursuant to Nevada law and  
19 pursuant to the Debtor's formation documents in effect prior to confirmation, except to the extent that  
20 such formation documents are amended by or in connection with this Plan. Any such amendments are  
21 deemed to be authorized pursuant hereto and without the need for any other approvals, authorizations,  
22 actions or consents. Shahram Afshani at all times relevant has been and intends to remain the  
23 Operating Manager of the Debtor.

24 **D. DISBURSEMENTS TO CREDITORS**

25 The Reorganized Debtor shall be responsible for making all distributions provided for under the  
26 Plan. This shall be accomplished through B&R Property Management or such other property  
27 management company as the Reorganized Debtor may employ in the future to manage the Property.

28 **E. METHOD OF PLAN PAYMENTS**