**UNITED STATES BANKRUPTCY COURT**
**EASTERN DISTRICT OF VIRGINIA**
**Richmond Division**

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| **IN RE: ROPER BROTHERS LUMBER COMPANY, INCORPORATED, ET AL.,** [1] | **Case No. 09-38215-KRH** **Chapter 11** **(Substantively Consolidated)** |
| **Debtors.** | |

# FIRST AMENDED DISCLOSURE STATEMENT

September 14, 2010

Roper Brothers Lumber Company, Incorporated ("Roper Brothers") and Taylor Brothers, Incorporated ("Taylor Brothers")(collectively "Debtors") have prepared and filed this disclosure statement ("Disclosure Statement") for the purpose of providing creditors herein with adequate information about the Debtors and their proposed plan of liquidation (the "Plan"), which has been filed with the United States Bankruptcy Court for the Eastern District of Virginia (the "Bankruptcy Court"), so that creditors may make an informed judgment with respect to the Plan and its approval. A copy of the Plan accompanies this Disclosure Statement.

As a creditor, your acceptance of the Plan is important. In order for the Plan to be accepted, of those creditors voting, creditors holding at least two-thirds in amount and more than one-half in number of the allowed claims of each class of creditors impaired under the Plan must vote to accept the Plan.

**NO REPRESENTATIONS CONCERNING THE DEBTORS, THE PLAN, OR THE VALUE OF THE DEBTORS' PROPERTY, ARE AUTHORIZED BY THE DEBTORS UNLESS SET FORTH IN THIS DISCLOSURE STATEMENT. ACCORDINGLY, NO REPRESENTATIONS OR INDUCEMENTS MADE TO SECURE YOUR ACCEPTANCE, OTHER THAN THOSE CONTAINED IN THIS DISCLOSURE STATEMENT, SHOULD BE RELIED UPON IN EXERCISING YOUR RIGHT TO ACCEPT OR REJECT THE PLAN.**

The information contained herein has not been subjected to a certified audit. The Debtors therefore are unable to warrant or represent that this information is without inaccuracy, although great effort has been made to be accurate.

Capitalized words in this Disclosure Statement are defined in Article I of the accompanying Plan, and those definitions are used in this Disclosure Statement.

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[1] The Debtors are Roper Brothers Lumber Company, Incorporated, No. 09-38215-KRH (Bankr. E.D. Va.) and Taylor Brothers, Incorporated, No. 10-30216-KRH (Bankr. E.D. Va.).

## I. INTRODUCTION

This is the disclosure statement (the "Disclosure Statement") in the substantively consolidated Chapter 11 cases of the Debtors. This Disclosure Statement contains information about the Debtors and describes the Plan of Liquidation (the "Plan") filed by the Debtors. A full copy of the Plan is attached to this Disclosure Statement as Exhibit A. ***Your rights may be affected. You should read the Plan and this Disclosure Statement carefully and discuss them with your attorney. If you do not have an attorney, you may wish to consult one.***

The proposed distributions under the Plan are discussed in Section III of this Disclosure Statement. General unsecured creditors are classified in Class 5, and are projected to receive an initial dividend of one to five and one-half percent (1% to 5.5%) on their Allowed Claim, with additional distributions based upon the realizations of the Liquidation Trust in liquidating certain trust assets, including the Lake Margaret Property, discussed in Section II(E), and Causes of Action, discussed in Section II(F).

### A. Purpose of this Document

This Disclosure Statement describes:

- The Debtors and significant events during the bankruptcy case,
- How the Plan proposes to treat claims or equity interests of the type you hold (*i.e.*, what you will receive on your claim or equity interest if the plan is confirmed),
- Who can vote on or object to the Plan,
- What factors the Bankruptcy Court will consider when deciding whether to confirm the Plan,
- Why the Debtors believe the Plan is feasible, and how the treatment of your claim or equity interest under the Plan compares to what you would receive on your claim or equity interest in liquidation, and
- The effect of confirmation of the Plan.

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

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

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

#### 1. Time and Place of the Hearing to Confirm the Plan

The hearing at which the Bankruptcy Court will determine whether to confirm the Plan will take place on _____ __, 2010, at __:00 p.m., before the Honorable Kevin R. Huennekens, United States Bankruptcy Judge, at 701 East Broad Street, Room 5000, Richmond, Virginia 23219.

2. Deadline for Voting to Accept or Reject the Plan

If you are entitled to vote to accept or reject the Plan, vote on the enclosed ballot and return the ballot in the enclosed envelope to DurretteBradshaw PLC, Attn: John Smith, 1111 East Main Street, 16th Floor, Richmond, Virginia 23219.

**Your ballot must be actually received by _____ __, 2010, at 5:00 p.m. Eastern Daylight Time or it may not be counted.**

3. Deadline for Objecting to the Confirmation of the Plan

Pursuant to Local Bankruptcy Rule 3016-1(E), objections to confirmation of the Plan must be filed with the Bankruptcy Court and served on the United States Trustee, Debtor, Official Committee of Unsecured Creditors (the "Creditors' Committee"), and any other party designated by the Bankruptcy Courts, not later than seven (7) days prior to the date set for the initial hearing on confirmation.

4. Identity of Person to Contact for More Information

If you want more information about the Plan, you should contact DurretteBradshaw PLC, Attn: John Smith, 1111 East Main Street, 16th Floor, Richmond, Virginia 23219.

C. **Disclaimer**

***The Court has approved this Disclosure Statement as containing adequate information to enable parties affected by the Plan to make an informed judgment about its terms. The Court has not yet determined whether the Plan meets the legal requirements for confirmation, and the fact that the Court has approved this Disclosure Statement does not constitute an endorsement of the Plan by the Court, or a recommendation that it be accepted.***

## II. BACKGROUND

A. Description and History of the Debtors' Businesses

Founded in 1909, Roper Brothers was primarily engaged in the business of selling lumber and related building materials to home builders and commercial contractors located throughout Virginia and North Carolina. In 2006, Roper Brothers purchased Taylor Brothers in Lynchburg, Virginia. At the time of the bankruptcy filings, the Debtors were headquartered in Petersburg, Virginia, and had inventory stored at five locations: Fredericksburg, Lynchburg, Petersburg, Williamsburg (Toano), and Winchester, Virginia.

B. Insiders of the Debtors and Management

Philip R. Roper, III is the Chairman of the Board of Directors and sole shareholder of Roper Brothers, which in turn is the sole shareholder of Taylor Brothers. John Kauzlarich was the former Chief Financial Officer and Executive Vice-President of the Debtors, is the current bankruptcy designee of the Debtors, and may be the future Liquidation Trustee of the proposed Liquidation Trust. After the effective date of the Plan, the Liquidation Trustee will be responsible for winding-up the affairs of the Debtors.

C. Events Leading to Chapter 11 Filing

During the early part of the last decade, Roper Brothers grew rapidly and took on substantial debt. Unfortunately, a downturn in the real estate market caused significant declines in revenue. Faced with mounting losses, the Debtors made the difficult decision to close their doors and liquidate. The Debtors terminated all operations shortly before filing bankruptcy.

D. Significant Events during the Bankruptcy Case

Immediately after the bankruptcy cases were filed, the United States Trustee appointed the Creditors' Committee to represent the interests of all unsecured creditors in the Roper Brothers and Taylor Brothers bankruptcy cases. The Bankruptcy Court then entered an order that substantively consolidated the Roper Brothers and Taylor Brothers bankruptcy cases for essentially all purposes. Under Court supervision, the Debtors have liquidated substantially all their operating assets and rejected leases for real and personal property not required for their liquidation. Wells Fargo Bank, which had a lien on substantially all of the Debtors' assets, was paid in full from the court authorized sales. As of the date of this Disclosure Statement, the Debtors' assets consist of: cash (representing the net proceeds from court authorized sales); the Lake Margaret Property (discussed in Section III(E)); and certain Causes of Action (discussed in Section III(F)). Under the proposed Plan, the Debtors will transfer all assets to the Liquidation Trust, which will complete the liquidation process, wind-up the affairs of the Debtors, pursue claims as appropriate, and make distributions to the creditors.

E. Lake Margaret Property

There is an eight hundred fifty-one acre undeveloped parcel of land in Chesterfield County, Virginia, which includes a fifty acre lake called Lake Margaret (hereinafter collectively the "Lake Margaret Property"). The Lake Margaret Property is held by Roper Brothers and Nash Road/Woodpecker Road, LLC as tenants in common, with Roper Brothers purportedly owning a 75% interest and Nash Road/Woodpecker Road, LLC purportedly owning a 25% interest. Roper Brothers' interest in the Lake Margaret Property is encumbered by a lien to secure indebtedness owed to Franklin Federal Savings and Loan Association of Richmond in the amount of $2,250,000. The total 2010 tax assessed value of the Lake Margaret Property is $6,517,500. After filing bankruptcy, the Debtors hired a real estate appraisal firm to value the Lake Margaret Property. The Debtors have received an appraisal report from the appraisers, dated June 11, 2010, which estimates the current fair market value of the Lake Margaret Property. From the inception of the appraisal process, the Creditors' Committee has taken the position that the appraisal report from the real estate appraisers must be kept confidential because the Lake Margaret Property is a material asset that will be transferred to the Liquidation Trust for the benefit of creditors and any appraisal might unduly influence offers on the Lake Margaret Property. In accordance with a confidentiality agreement drafted by the Creditors Committee, the only parties that have received or will receive the appraisal report are the Debtors' Designee, Debtors' Counsel, Debtors' Financial Advisors, Creditor Committee members, Creditors' Committee's Counsel, and the Bankruptcy Court. Furthermore, if the appraisal report is filed with the bankruptcy Court, the appraisal report will be filed with a motion requesting that it be kept under seal.

F. Projected Recovery on the Causes of Action

The Debtors have hired special counsel to assist the Debtors and Liquidation Trustee in the analysis, investigation and/or pursuit of the Causes of Action. Under the proposed Plan, the Debtor will transfer all remaining assets, including unresolved Causes of Action, to the Liquidation Trust, which will complete the liquidation process and make distributions to the creditors. The Debtors and their special

counsel have not yet completed an investigation of the Causes of Action and do not know to what extent the Liquidation Trustee will pursue such claims.

G. Claim Objections

Except to the extent that a claim is already allowed pursuant to a final non-appealable order, the Debtors and Liquidation Trustee reserve the right to object to claims. Therefore, even if your claim is allowed for voting purposes, you may not be entitled to a distribution if an objection to your claim is later upheld. The procedure for handling disputed claims is set forth in section 5.6 of the Plan.

H. Liquidation Analysis

Even if a plan is accepted by the holders of each class of claim and interests, the Bankruptcy Code requires a bankruptcy court to determine that such plan is in the best interests of all holders of claims or interests that are impaired by that plan and that have not accepted that plan. The "best interests" tests, as set forth in Bankruptcy Code § 1129(a)(7), requires that a bankruptcy court to find either that all members of an impaired class of claims or interests have accepted the plan or that the plan will provide a member who has not accepted the plan with the recovery of property of a value, as of the effective date of the plan, that is not less than the amount that such holder would recover if the Debtors were liquidated under chapter 7 of the Bankruptcy Code.

To calculate the probable distribution to holders of each impaired class of claims and interests if the Debtors were liquidated under chapter 7, a bankruptcy court must first determine the aggregate dollar amount that would be generated from the Debtors' assets if their chapter 11 cases were converted to chapter 7 cases under the Bankruptcy Code. Because the Plan is a liquidating plan, the "liquidation value" in the hypothetical chapter 7 liquidation analysis for the purposes of the "best interests" test is substantially similar to the estimates of the results of the chapter 11 liquidation contemplated by the Plan. However, the Plan proponents believe that in chapter 7 liquidations there would be additional costs and expenses that the estates would incur as a result of the ineffectiveness associated with replacing existing management and professionals in chapter 7 cases.

Cost of liquidation under chapter 7 of the Bankruptcy Code would include the compensation of a trustee, as well as compensation of counsel and other professionals retained by the trustee, asset disposition expenses, all unpaid expenses incurred by the Debtors in their chapter 11 cases that are allowed in the chapter 7 cases, litigation costs, and Claims arising from the operations of the Debtors during the pendency of their chapter 11 cases.

In order to determine the amount of hypothetical chapter 7 liquidation value available to Creditors, the Plan proponents have prepared a liquidation analysis, a copy of which will be filed with the Bankruptcy Court and requested to be kept under seal so as not to influence the liquidation value of the Lake Margaret Property. The Debtors believe that such Liquidation Analysis will demonstrate to the Bankruptcy Court that in a chapter 7 liquidation, Holders of certain Claims against the Debtors would receive less in recovery as compared to the recovery projected under the Plan. Specifically, the Liquidation Analysis reflects that General Unsecured Creditors would receive less on account of their Claims in a liquidation under chapter 7 versus the recovery projected for those Claims under the Plan.

Notwithstanding the foregoing, the Plan proponents believe that the Liquidation Analysis with respect to the Debtors is inherently speculative. The Liquidation Analysis for the Debtors necessarily contains estimates of the net proceeds that will be available after completion of a chapter 7 wind-down. Claims estimates are based solely upon the Debtors' review of any Claims filed (a review that is ongoing) and the Debtors' books and records. No order or finding has been entered by the Bankruptcy Court

estimating or otherwise fixing the amount of Claims at the projected amounts of Allowed Claims set forth in the Liquidation Analysis.

## III. SUMMARY OF THE PLAN OF LIQUIDATION AND TREATMENT OF CLAIMS AND EQUITY INTERESTS[2]

The following summary of the Plan should not be relied on for voting purposes. You should read the Plan and discuss it with your attorney. If you do not have an attorney, you may wish to consult one. If the Plan is confirmed, it is a legally binding agreement and your recovery will be limited to the amount provided by the Plan.

### A. What is the Purpose of the Plan?

As required by the Bankruptcy Code, the Plan places claims and equity interests in various classes and describes the treatment each class will receive. The Plan also states whether each class of claims or equity interests is impaired or unimpaired.

### B. Unclassified Claims

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

#### 1. Administrative Expenses

Administrative expenses are costs or expenses of administering the Debtors' Chapter 11 cases which are allowed under Bankruptcy Code § 507(a)(2). Administrative expenses also include the value of any goods sold to the Debtors in the ordinary course of business and received within 20 days before the date of the bankruptcy petition. The Bankruptcy Code requires that all administrative expenses be paid on the effective date of the Plan, unless a particular claimant agrees to a different treatment.

The following chart lists the Debtors' estimated administrative expenses, and their proposed treatment under the Plan:

| Description | Estimated Amount Owed | Treatment |
|---|---|---|
| Costs and expenses arising during administration of the bankruptcy estates | $0 | Paid in full when due, or according to a separate agreement |
| Bankruptcy Claims under § 503(b)(9) | $265,000 to $324,000 | Paid in full (a) on the Effective Date of the Plan or as soon thereafter as is reasonably practicable, or (b) by some other, less favorable treatment by agreement |

[2] Information provided herein is based upon the Debtors' best estimates of claims (or range of claims) and funds available for distribution after resolution of all claim objections and asset liquidations. Depending on the results of claim objections and asset liquidations, the amounts stated herein could increase or decrease materially.

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| Professional Fees, as approved by the Court | $169,658 as of June 30, 2010 | Paid in full as soon as practicable after the later of the Effective Date and the date upon which any order awarding fees and expenses becomes a Final Order |
| Office of the U.S. Trustee Fees | $0 | Paid in full on the Effective Date of the Plan |
| Other Administrative Expenses | $704 | Paid in full (a) on the Effective Date of the Plan or as soon thereafter as is reasonably practicable, or (b) by some other, less favorable treatment by agreement |

2. Priority Tax Claims

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

The Debtors do not have any unsecured priority tax claims.

C. Classes of Claims and Equity Interests

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

1. Priority Non-Tax Claims

Priority Non-Tax Claims are not secured by property of the bankruptcy estate but are entitled to priority under Bankruptcy Code § 507(a).

The following chart lists class 1 claims, containing priority non-tax claims against the Debtors, and their proposed treatment under the Plan:

| **Class #** | **Description** | **Insider? (Yes or No)** | **Impairment** | **Treatment** |
|---|---|---|---|---|
| Class 1 – Priority Non-Tax Claims: | | | | |
| 1 | Wage and payroll related expenditures (Bankruptcy Code § 507(a)(4)) | N/A | Unimpaired | Paid pursuant to Court order |
| 1 | Miscellaneous priority claims Estimated Range of Claims = $145,000 to $209,000 | No | Unimpaired | Paid (a) in full on the latter of (1) the Effective Date, or as soon thereafter as is reasonably practicable, and (2) the date when such Allowed Claim becomes due and payable according to its terms and conditions; or (b) pursuant to such other, less favorable treatment by agreement |

2. Secured Claims

Allowed Secured Claims are claims secured by property of the Debtors' bankruptcy estate (or that are subject to setoff) to the extent allowed as secured claims under Bankruptcy Code § 506. If the value of the collateral or setoffs securing the creditor's claim is less than the amount of the creditor's allowed claim, the deficiency will be classified as a general unsecured claim.

The following chart lists all classes containing secured prepetition claims against the Debtors and their proposed treatment under the Plan:

| **Class #** | **Description** | **Insider? (Yes or No)** | **Impairment** | **Treatment** |
|---|---|---|---|---|
| 2 | Wells Fargo's Secured Claim | No | Unimpaired | Paid in full from the proceeds from the sale of property owned by the Debtors on which Wells Fargo had a valid, enforceable Lien. |
| 3 | Franklin Federal's Secured Claim<br>Principal amount outstanding of $2,250,000, monthly interest at LIBOR plus 1.35%, due in full May 2012 | No | Unimpaired | At the sole option of the Liquidation Trustee, (a) the legal equitable and contractual rights of the Holder of Allowed Class 3 Claims shall be reinstated in full; (b) shall receive in full satisfaction, settlement, and release of, and in exchange for, the Holder's Allowed Secured Claim, (1) Cash in the amount of the Allowed Secured Claim on the later of the Effective Date and the date such Claim becomes an Allowed Claim, or as soon thereafter as practicable, (2) the property of the Estate which constitutes collateral for such Allowed Secured Claim on the later of the Effective Date and the date such Claim becomes an Allowed Claim, or as soon thereafter as practicable; or (c) such other, less favorable treatment as is agreed upon by the Debtors or the Liquidation Trustee, as applicable, and the Holder of such Claim |

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| 4 | Other Secured Claims<br><br>Comprised of:<br><br>Guardian Fiberglass Service Corp.<br><br>Steven E. Cluss, Director<br><br>Other | <br><br><br>No<br><br>Yes<br><br>No | <br><br><br>Unimpaired<br><br>Unimpaired<br><br>Unimpaired | At the sole option of the Liquidation Trustee, shall receive (a) Cash in the amount of the Allowed Secured Claim on the later of the Effective Date and the date such Claim becomes an Allowed Claim, or as soon thereafter as practicable, (b) the property of the Estate which constitutes collateral for such Allowed Secured Claim on the later of the Effective Date and the date such Claim becomes an Allowed Claim, or as soon thereafter as practicable, or (c) such other, less favorable treatment as is agreed upon by the Debtors or the Liquidation Trustee, as applicable, and the Holder of such Claim |

3. General Unsecured Claims

General unsecured claims are not secured by property of the bankruptcy estate and are not entitled to priority under Bankruptcy Code § 507(a).

The following chart lists class 5 and class 6 claims, containing general unsecured claims against the Debtors, and their proposed treatment under the Plan:

| **Class #** | **Description** | **Insider? (Yes or No)** | **Impairment** | **Treatment** |
|---|---|---|---|---|
| 5 | General Unsecured Claims [3]<br>Estimated Range of Claims = $10,307,000 to $12,679,000 | No | Impaired | Estimated initial distribution of $130,000 to $582,000 resulting in an estimated dividend of 1% to 5.5%.[4]<br>Additional distributions to be made pursuant to the Liquidation Trust Agreement after liquidation of trust assets (including the Lake Margaret Property and Causes of Action).<br>Holders of Class 5 Claims that do not elect into Class 6 will receive a federal K-1 tax form from the Liquidation Trust and must report the Holder's share of income, gain, loss, deductions and credits on their federal tax returns. |

[3] Holders of one or more Class 5 Unsecured Claims with an aggregate face amount in excess of $5,000 may elect to opt into Class 6 and have such Claim(s) treated as a single Convenience Claim; provided,

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| 6 | Convenience Class Claims<br>Estimated Claims = $366,800 | No | Impaired | Paid twenty percent (20%) of the Allowed Claim on the later of the Effective Date and the date the Claim becomes an Allowed Claim |

4. Equity Interest Holders

Equity interest holders are parties who hold an ownership interest (*i.e.*, equity interest) in the Debtors. In a corporation, entities holding preferred or common stock are equity interest holders.

Mr. Roper is the Holder of one hundred percent (100%) of the Equity Interests of Roper Brothers, and Roper Brothers is the Holder of one hundred percent (100%) of the Equity Interests of Taylor Brothers, which has been substantively consolidated with Roper Brothers. On the Effective Date, the Equity Interests of Roper Brothers will be cancelled and the Holders of Equity Interests will not receive or retain any property on account of such Equity Interests. The equity interest holders are impaired.

The following chart lists class 7, containing equity interest holders in the Debtor, and the proposed treatment under the Plan:

| **Class #** | **Description** | **Insider? (Yes or No)** | **Impairment** | **Treatment** |
|---|---|---|---|---|
| 7 | Equity Interest Holder Claims | Yes | Impaired | Equity Interests cancelled |

D. Means of Implementing the Plan.

The Debtors have liquidated substantially all of their assets except for the Lake Margaret Property and certain Causes of Action. On the Effective Date, (1) each of the Debtors shall be deemed dissolved, (2) the members of the board of directors of each of the Debtors shall be deemed to have resigned, (3) the Debtor will fund an account to pay the Convenience Class Claims, and (4) all remaining assets of the Debtors will be transferred to a Liquidation Trust for the benefit of the Debtors' creditors.

E. Executory Contracts and Unexpired Leases

The Plan, in Exhibit 6.1, lists all executory contracts and unexpired leases that the Debtors will assume and assign to the Liquidation Trust under the Plan. Assumption means that the Debtors have elected to continue to perform the obligations under such contracts and unexpired leases, and to cure defaults of the type that must be cured under the Bankruptcy Code, if any. Exhibit 6.1 also lists how the Debtors will cure and compensate the other party to such contract or lease for any such defaults.

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however, that in making such election, the Holder of such Unsecured Claim(s) (1) has agreed to reduce the face amount of such Claim(s) for purposes of voting and distributions under this Plan to a single Claim against Roper Brothers in an amount equal to $5,000, and (2) will vote all Claims held by such Holder in favor of this Plan. The Debtors do not know the number Holders that will make this election, and have not adjusted the estimated amounts for this election.

[4] Total dividend percentage depends upon the final amount of administrative, secured and priority claims; realizations on liquidation of the Lake Margaret Property and Causes of Action; the amount of unsecured claims and the amount of claims which elect Class 6 treatment.

If you object to the assumption of your executory contract or unexpired lease, the proposed cure of defaults, or the adequacy of assurance of performance, you must file and serve your objection to the Plan within the deadline for objecting to the confirmation of the Plan, unless the Court has set an earlier time.

All executory contracts and unexpired leases that are not listed in Exhibit 6.1 will be rejected under the Plan. Consult your adviser or attorney for more specific information about particular contracts or leases.

If you object to the rejection of your contract or lease, you must file and serve your objection to the Plan within the deadline for objecting to confirmation of the Plan.

Any claim based on the rejection of a contract or lease will be barred if the proof of claim is not timely filed, unless the Court orders otherwise.

F. Tax Consequences of Plan

For federal income tax purposes, it is intended that the Liquidation Trust be treated as a liquidating trust under Treasury Regulation § 301.7701-4 and that such trust be owned by its beneficiaries. For federal income tax purposes, the transfer of assets to the Liquidation Trust is treated as if the beneficiaries had received a distribution from the Debtors' Estates of an undivided interest in each asset in satisfaction of their Claims, then contributed such interests to the Liquidation Trust in exchange for beneficial interests in the Liquidation Trust. Accordingly, the Holders of such Claims shall be treated for federal income tax purposes as the grantors and owners of their respective share of the assets of the Liquidation Trust. For federal income tax purposes, the Liquidation Trust will be taxed as a grantor trust under Internal Revenue Code §§ 671-677 (a non-taxable pass-through tax entity) owned by the beneficiaries. The Liquidation Trustee shall file returns for the Liquidation Trust as a grantor trust pursuant to Treasury Regulation § 1.671-4(a) and report, but not pay tax on, the Liquidation Trust's income, gain, loss, deductions and credits. The beneficiaries of the Liquidation Trust will report such items on their federal income tax returns and pay any resulting federal income tax liability. The Liquidation Trustee shall annually send to each holder of a beneficial interest a separate statement setting forth the holder's share of items of income, gain, loss, deductions and credits, and will instruct all such holders to report such items on their federal income tax returns.

**Creditors and Equity Interest Holders concerned with how the Plan may affect their tax liability should consult with their own accountants, attorneys and/or advisors.**

## IV. CONFIRMATION REQUIREMENTS AND PROCEDURES

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

A. Who may Vote or Object

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

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

In this case, the Debtors believe that classes 5 and 6 are impaired and have or will receive or retain property under the Plan; therefore, the holders of claims in each of these classes are entitled to vote to accept or reject the Plan. The Debtors believe that classes 1, 2, 3 and 4 are unimpaired and deemed to have accepted the Plan; therefore the holders of claims in each of these classes do not have the right to vote to accept or reject the Plan. The Debtors believe that class 7 is impaired but is an insider, thus the holder of interests in this class is not entitled to vote to accept or reject the Plan.

1. What is an Allowed Claim or an Allowed Equity Interest?

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

**The deadline for filing a proof of claim in the Roper Brothers' case was April 26, 2010 (or June 14, 2010 for governmental entities), and in the Taylor Brothers' case was May 19, 2010 (or July 12, 2010 for governmental entities).**

2. What is an Impaired Claim or Impaired Equity Interest?

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

3. Who is **Not** entitled to Vote

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

- Holders of claims and equity interests that have been disallowed by an order of the Court;
- Holders of other claims or equity interests that are not "allowed claims" or "allowed equity interests" (as discussed above), unless they have been "allowed" for voting purposes;
- Holders of claims or equity interests in unimpaired classes;
- Holders of claims entitled to priority pursuant to Bankruptcy Code §§ 507(a)(2), (a)(3), or (a)(8);

- Holders of claims or equity interests in classes that do not receive or retain any value under the Plan; and

- Administrative expenses.

**Even if you are not entitled to vote on the Plan, you have a right to object to the confirmation of the Plan and to the adequacy of the disclosure statement.**

4. Who can Vote in more than one Class

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

B. Votes Necessary to Confirm the Plan

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

1. Votes Necessary for a Class to Accept the Plan

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

A class of equity interests accepts the Plan if the holders of at least two-thirds (2/3) in amount of the allowed equity interests in the class, who vote, cast their votes to accept the Plan.

2. Treatment of Nonaccepting Classes

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

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

C. Liquidation Analysis

To confirm the Plan, the Court must find that all creditors and equity interest holders who do not accept the Plan will receive at least as much under the Plan as such claim and equity interest holders would receive in a Chapter 7 liquidation. The Liquidation Analysis is discussed in Section II(H).

D. Feasibility

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

## V. EFFECT OF CONFIRMATION OF PLAN

A. No Discharge of Debtors

In accordance with Bankruptcy Code § 1141(d)(3), the Debtors will not receive any discharge of debt in this bankruptcy case.

B. Modification of Plan

The Debtors may modify the Plan at any time before confirmation of the Plan. However, the Court may require a new disclosure statement and/or re-voting on the Plan. The Debtors may also seek to modify the Plan at any time after confirmation only if (1) the Plan has not been substantially consummated *and* (2) the Court authorizes the proposed modifications after notice and a hearing.

C. Final Decree

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

## VI. CONCLUSION

The Debtors believe that their liquidation, as set forth in the Plan of Liquidation and summarized in this Disclosure Statement, is in the best interests of the creditors of the bankruptcy estates and other interested parties and urges all concerned to vote to approve the Plan of Liquidation.

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**EXHIBIT A - PLAN OF LIQUIDATION**

**EXHIBIT B – LIQUIDATION ANALYSIS**

**(To be filed under Seal)**