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11
12 **UNITED STATES BANKRUPTCY COURT**
CENTRAL DISTRICT OF CALIFORNIA
13 **LOS ANGELES DIVISION**

14 In re

15 SCI REAL ESTATE INVESTMENTS, LLC,
a Virginia limited liability company,

16 SECURED CALIFORNIA INVESTMENTS,
17 INC., a California corporation,

18 Debtors and Debtors-in-Possession.

Case No.: 2:11-bk-15975-PC
[Jointly Administered with Case No.
2:11-bk-15987-PC]

Chapter 11

**SECOND AMENDED DISCLOSURE
STATEMENT DESCRIBING FIRST
AMENDED JOINT CHAPTER 11 PLAN OF
LIQUIDATION FOR SCI REAL ESTATE
INVESTMENTS, LLC AND SECURED
CALIFORNIA INVESTMENTS, INC. DATED
APRIL 19, 2012**

Disclosure Statement Approval Hearing

Date: April 25, 2012
Time: 9:30 a.m.
Place: Courtroom 1468
255 East Temple Street
Los Angeles, CA 90012
Judge: Honorable Peter H. Carroll

Plan Confirmation Hearing

Date: June 13, 2012
Time: 9:30 a.m.
Place: Courtroom 1468
255 East Temple Street
Los Angeles, CA 90012
Judge: Honorable Peter H. Carroll

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IMPORTANT DATES

Date by which Ballots must be received: **May 30, 2012, at 5:00 p.m. Pacific Time.**
Date by which objections to Confirmation of the Plan must be filed and served: **May 30, 2012.**
Hearing on Confirmation of the Plan: **June 13, 2012, at 9:30 a.m. Pacific Time.**

11 U.S.C. § 1125(b) PROHIBITS SOLICITATION OF AN ACCEPTANCE OR REJECTION OF THE PLAN UNLESS A COPY OF THE PLAN, OR A SUMMARY THEREOF, IS ACCOMPANIED OR PRECEDED BY A COPY OF A DISCLOSURE STATEMENT APPROVED BY THE BANKRUPTCY COURT. THIS PROPOSED DISCLOSURE STATEMENT HAS NOT YET BEEN APPROVED BY THE BANKRUPTCY COURT, AND, THEREFORE, THE FILING AND DISSEMINATION OF THIS PROPOSED DISCLOSURE STATEMENT IS NOT INTENDED TO BE, NOR SHOULD IT BE CONSTRUED AS, AN AUTHORIZED SOLICITATION PURSUANT TO 11 U.S.C. § 1125 AND RULE 3017 OF THE FEDERAL RULES OF BANKRUPTCY PROCEDURE. NO SUCH SOLICITATION WILL BE MADE EXCEPT AS AUTHORIZED PURSUANT TO SUCH LAW AND RULES.

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Dated: April 25, 2012

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I.

INTRODUCTION

SCI Real Estate Investments, LLC, and Secured California Investments, Inc., as debtors and debtors in possession herein (the “Debtors”), and the Committee, as joint proponents, submit this Second Amended Disclosure Statement in connection with the solicitation of acceptances and rejections with respect to the First Amended Joint Chapter 11 Plan of Liquidation, dated April 19, 2012 (the “Plan”), a copy of which is attached hereto as **Exhibit “1”**. If you are a creditor who is entitled to vote on the Plan, you are receiving a copy of the Plan in the same envelope as this Second Amended Disclosure Statement. Capitalized terms used and not otherwise defined herein shall have the same meanings ascribed to them in the Plan.

The purpose of this Disclosure Statement is to set forth information (a) regarding the history of the Debtors, their business, and the Debtors’ chapter 11 cases, (b) concerning the Plan and alternatives to the Plan, (c) advising the Holders of Claims and Interests of their rights under the Plan, (d) assisting the Holders of Claims in voting Classes in making an informed judgment regarding whether they should vote to accept or reject the Plan, and (e) assisting the Bankruptcy Court in determining whether the Plan complies with the provisions of chapter 11 of the Bankruptcy Code, and should be confirmed.

By order entered on or about April 26, 2012, the Bankruptcy Court, after notice and a hearing, approved this Disclosure Statement as containing “adequate information” to permit affected Holders of Claims to make an informed judgment in exercising their right to vote to accept or reject the Plan, and authorized its use in connection with the solicitation of votes with respect to the Plan. **THE BANKRUPTCY COURT’S APPROVAL OF THIS DISCLOSURE STATEMENT DOES NOT MEAN THAT THE COURT RECOMMENDS EITHER ACCEPTANCE OR REJECTION OF THE PLAN.** No solicitation of votes may be made except pursuant to this Disclosure Statement and section 1125 of the Bankruptcy Code. In voting on the Plan, Holders of Claims should not rely on any information relating to the Debtors and their business other than that contained in this Disclosure Statement, the Plan, and all exhibits hereto and thereto.

1 The Plan that is described in this Disclosure Statement is a liquidating Plan in that all of the
2 Debtors' Assets will be transferred to the Liquidating Trust on the Effective Date. The Plan's
3 objective is for the Liquidating Trustee to liquidate the Liquidating Trust Assets and to distribute the
4 proceeds of the liquidation to the Holders of Allowed Claims as set forth in the Plan in satisfaction
5 of the Debtors' obligations. The Plan provides for the substantive consolidation of the two Debtors
6 into a single entity, divides Holders of Claims and Interests into Classes based on their legal rights
7 and interests, and provides for the treatment of each of those Classes. In general, the Plan provides
8 that the Liquidating Trust will be administered by the Liquidating Trustee under the supervision of
9 the Post-Confirmation Oversight Committee that will be comprised of the members of the
10 Committee who choose to serve. The Liquidating Trustee, the current CRO, William Hoffman with
11 Trigild, will (a) liquidate the Liquidating Trust Assets, including prosecuting Avoidance Actions, for
12 the primary benefit of Holders of Allowed Claims (i.e., Allowed Administrative Claims, Allowed
13 Secured Claims, Allowed Priority Tax Claims, Allowed Priority Unsecured Claims and Allowed
14 General Unsecured Claims) (b) distribute the proceeds of the liquidated Liquidating Trust Assets to
15 the Holders of such Allowed Claims as provided in the Plan; and (c) wind down the affairs of the
16 Estates and of the Liquidating Trust. The Holders of Interests will not receive or retain anything on
17 account of their Interests.

18 As stated above, the Plan provides for the substantive consolidation of the Debtors and their
19 Estates. Substantive consolidation is the pooling of assets and liabilities of the entities sought to be
20 consolidated. Upon such consolidation, the intercompany claims among the entities are eliminated,
21 and all of the assets of, and all of the claims against, each of the debtor entities are treated as assets
22 of, or claims against, the consolidated entity. Under the Plan, the Debtors and their Estates will be
23 substantively consolidated. The Debtors' assets and claims will be pooled, the Debtors' liabilities
24 satisfied from a common fund, and intercompany Claims between the Debtors eliminated.
25 Distributions to Holders of Allowed General Unsecured Claims against both Debtors will be pro rata
26 from the liquidation proceeds of the consolidated pool of assets.

1 Only Holders of Allowed Claims under section 502 of the Bankruptcy Code, or temporarily
2 allowed for voting purposes under Bankruptcy Rule 3018, whose Claims are in those Classes of
3 Claims that are “Impaired” under the Plan are entitled to vote to accept or reject the Plan. A Class is
4 Impaired if the legal, equitable, or contractual rights of the Claims or Interests in the Class are
5 altered. Classes of Impaired Claims or Interests that are not entitled to receive or retain any property
6 under the Plan, however, are deemed to have rejected the Plan pursuant to section 1126(g) of the
7 Bankruptcy Code and, therefore, are not entitled to vote on the Plan. Classes of Claims that are
8 Unimpaired are conclusively presumed to have voted to accept the Plan pursuant to section 1126(f)
9 of the Bankruptcy Code and, therefore, are not entitled to vote on the Plan. The following chart
10 summarizes which Classes of Claims and Interests are Impaired, which Classes of Claims are
11 Unimpaired under the Plan and which Classes are entitled to vote.

CLASS	DESCRIPTION	IMPAIRED/ UNIMPAIRED	VOTING STATUS
Class 1	Allowed Secured Claims of Collateralized Parties Pursuant to 2009 Pledge and Security Agreements Re Loan and Placement Agreements entered into from 2003 – 2008	Impaired	Voting
Class 2	Allowed Secured Claims of Collateralized Parties re SCICG Mezzanine Fund I, LLC	Impaired	Voting
Class 3	Allowed Priority Claims for wages under section 507(a)(4) of the Bankruptcy Code of Marc Paul and Robert Robotti	Unimpaired	Deemed to Accept
Class 4	Allowed General Unsecured Claims	Impaired	Voting
Class 5	Membership Interests	Impaired	Deemed to Reject

23 If you are a Holder of a Claim in a Class that is entitled to vote to accept or reject the Plan,
24 accompanying this Disclosure Statement is a Ballot for casting your vote(s) on the Plan and a pre-
25 addressed envelope for the return of the Ballot. **BALLOTS FOR ACCEPTANCE OR REJECTION**
26 **OF THE PLAN ARE BEING PROVIDED ONLY TO HOLDERS OF CLAIMS IN CLASSES**
27 **LISTED IN THE ABOVE CHART THAT ARE ENTITLED TO VOTE TO ACCEPT OR REJECT**
28 **THE PLAN.** If you are the Holder of a Claim in a Class that is shown above as a voting Class and

1 (a) did not receive a Ballot, (b) received a damaged or illegible Ballot, (c) lost your Ballot, or if you
2 are a party in interest and have any questions concerning the Disclosure Statement, any of the
3 Exhibits hereto, the Plan, or the voting procedures in respect thereof, please contact the Debtors'
4 counsel: Jeffrey W. Dulberg, Esq., Pachulski Stang Ziehl & Jones LLP, 10100 Santa Monica
5 Boulevard, Suite 1300, Los Angeles, California 90067; Telephone: (310) 277-6910; e-mail:
6 jdulberg@pszjlaw.com or counsel to the Committee: David L. Neale, Esq. or Daniel H. Reiss, Esq.,
7 Levene, Neale, Bender, Yoo & Brill, L.L.P., 10250 Constellation Boulevard, Suite 1700, Los
8 Angeles, California 90067; Telephone: (310) 229-1234; e-mail: dln@nbyb.com or dhr@lnbyb.com,
9 respectively.

10 The Proponents believe that Confirmation of the Plan is in the best interests of Debtors'
11 creditors and the Debtors. Given that there are insufficient resources for the Debtors' to restructure
12 and continue their business, the Proponents believe that no feasible alternatives to the Plan exist.
13 Compared to other alternatives, the Proponents believe that the recoveries under the Plan for Holders
14 of Allowed Claims will be maximized under the circumstances and the administrative cost and delay
15 will be far less than any other alternative. THE DEBTORS AND THE COMMITTEE
16 RECOMMEND THAT THE HOLDERS OF CLAIMS IN ALL CLASSES ENTITLED TO VOTE
17 SUBMIT A VOTE TO ACCEPT THE PLAN.

18 VOTING ON THE PLAN, BY EACH HOLDER OF A CLAIM ENTITLED TO VOTE, IS
19 IMPORTANT. EACH SUCH CLAIM HOLDER SHOULD READ THIS DISCLOSURE
20 STATEMENT WITH ITS EXHIBITS, INCLUDING THE PLAN, IN ITS ENTIRETY. AFTER
21 CAREFULLY REVIEWING THESE DOCUMENTS, PLEASE FOLLOW THE DIRECTIONS
22 FOR VOTING CONTAINED ON THE BALLOT, AND RETURN THE BALLOT IN THE
23 ENVELOPE PROVIDED. TO BE COUNTED, YOUR BALLOT MUST BE RECEIVED BY
24 MAY 30, 2012, AT 5:00 P.M. PACIFIC TIME (THE "VOTING DEADLINE") AT THE
25 ADDRESS SET FORTH ON YOUR BALLOT AND ON THE ENCLOSED PRE-ADDRESSED
26 ENVELOPE.

1 Votes cannot be transmitted orally or by e-mail. Accordingly, you are urged to return your
2 signed and completed Ballot promptly. Ballots not received by the Voting Deadline and Ballots that
3 are unsigned will not be counted. Any executed Ballots that are timely received, but that do not
4 indicate either an acceptance or rejection of the Plan, will be deemed to constitute an acceptance of
5 the Plan.

6 The Bankruptcy Court has scheduled the hearing on Confirmation of the Plan for June 13,
7 2012, at 9:30 a.m. Pacific Time at the United States Bankruptcy Court for the Central District of
8 California, Los Angeles Division, Courtroom 1468, 255 East Temple Street, Los Angeles,
9 California. Any objections to Confirmation of the Plan must be in writing and Filed with the
10 Bankruptcy Court, and served so as to be received by 5:00 p.m. Pacific Time on May 30, 2012, upon
11 counsel to the Debtors, Pachulski Stang Ziehl & Jones LLP, 10100 Santa Monica Boulevard, 13th
12 Floor, Los Angeles, California 90067, Attn: Jeffrey W. Dulberg, and counsel for the Committee,
13 Levene, Neale, Bender, Yoo & Brill, L.L.P., 10250 Constellation Boulevard, Suite 1700, Los
14 Angeles, California 90067, Attn.: David L. Neale and Daniel H. Reiss.

15 **II.**

16 **DISCLAIMER**

17 THIS DISCLOSURE STATEMENT CONTAINS INFORMATION THAT MAY BEAR
18 UPON YOUR DECISION TO ACCEPT OR REJECT THE PLAN. PLEASE READ THIS
19 DOCUMENT WITH CARE. THE PURPOSE OF THE DISCLOSURE STATEMENT IS TO
20 PROVIDE "ADEQUATE INFORMATION" OF A KIND, AND IN SUFFICIENT DETAIL, AS
21 FAR AS IS REASONABLY PRACTICABLE IN LIGHT OF THE NATURE AND HISTORY OF
22 THE DEBTORS AND THE CONDITION OF THE DEBTORS' BOOKS AND RECORDS, THAT
23 WOULD ENABLE A HYPOTHETICAL REASONABLE INVESTOR, TYPICAL OF HOLDERS
24 OF CLAIMS OR INTERESTS OF THE RELEVANT CLASS, TO MAKE AN INFORMED
25 JUDGMENT CONCERNING THE PLAN. SEE 11 U.S.C. § 1125(a). UNLESS OTHERWISE
26 INDICATED, THE DATE OF ALL OF THE FINANCIAL INFORMATION PROVIDED IN THIS
27 DISCLOSURE STATEMENT IS AS OF APRIL 19, 2012.
28

1 FOR THE CONVENIENCE OF CREDITORS, THIS DISCLOSURE STATEMENT
2 SUMMARIZES THE TERMS OF THE PLAN, BUT THE PLAN ITSELF QUALIFIES ANY
3 SUMMARY. IF ANY INCONSISTENCY EXISTS BETWEEN THE PLAN AND THE
4 DISCLOSURE STATEMENT, THE TERMS OF THE PLAN ARE CONTROLLING.

5 NO REPRESENTATIONS CONCERNING THE DEBTORS, THEIR FINANCIAL
6 CONDITION, OR ANY ASPECT OF THE PLAN ARE AUTHORIZED BY THE DEBTORS,
7 OTHER THAN AS SET FORTH IN THIS DISCLOSURE STATEMENT. ANY
8 REPRESENTATIONS OR INDUCEMENTS MADE TO SECURE YOUR ACCEPTANCE OR
9 REJECTION OF THE PLAN, WHICH ARE OTHER THAN AS CONTAINED IN, OR
10 INCLUDED WITH, THIS DISCLOSURE STATEMENT, SHOULD NOT BE RELIED UPON BY
11 YOU IN ARRIVING AT YOUR DECISION.

12 THE FINANCIAL INFORMATION CONTAINED HEREIN, UNLESS OTHERWISE
13 INDICATED, IS UNAUDITED. THE DEBTORS ARE UNABLE TO WARRANT OR
14 REPRESENT THAT THE INFORMATION CONTAINED HEREIN IS WITHOUT ANY
15 INACCURACIES. GREAT EFFORT, HOWEVER, HAS BEEN MADE TO ENSURE THAT ALL
16 SUCH INFORMATION IS PRESENTED FAIRLY.

17 PACHULSKI STANG ZIEHL & JONES LLP ("PSZ&J") COMMENCED
18 REPRESENTING THE DEBTORS AND DEBTORS IN POSSESSION IN OR ABOUT
19 NOVEMBER 2008, AS INSOLVENCY COUNSEL. PSZ&J HAS NOT AT ANY TIME IN THE
20 PAST, NOR DOES IT PRESENTLY, REPRESENT THE DEBTORS IN A GENERAL WAY, OR
21 IN ANY OTHER WAY, OTHER THAN AS SET FORTH ABOVE. LEVENE, NEALE, BENDER,
22 YOO & BRILL, L.L.P. ("LNBY&B") IS COUNSEL FOR THE COMMITTEE. LNBY&B HAS
23 NOT AT ANY TIME IN THE PAST REPRESENTED THE DEBTORS.

24 ON OCTOBER 27, 2011, THE BANKRUPTCY COURT ENTERED AN ORDER
25 APPROVING THE ENGAGEMENT BY THE DEBTORS OF BILL HOFFMAN OF TRIGILD,
26 INCORPORATED AS CHIEF RESTRUCTURING OFFICER ("CRO"). PSZ&J, LNBY&B AND
27 MR. HOFFMAN HAVE RELIED UPON INFORMATION PROVIDED BY THE DEBTORS'
28

1 EMPLOYEES IN CONNECTION WITH PREPARATION OF THIS DISCLOSURE
2 STATEMENT. ALTHOUGH PSZ&J, LNBY&B AND MR. HOFFMAN HAVE PERFORMED
3 CERTAIN LIMITED DUE DILIGENCE IN CONNECTION WITH THE PREPARATION OF
4 THIS DISCLOSURE STATEMENT, THEY HAVE NOT INDEPENDENTLY VERIFIED ALL OF
5 THE INFORMATION CONTAINED HEREIN.

6 ALTHOUGH A COPY OF THE DISCLOSURE STATEMENT HAS BEEN SERVED ON
7 THE SECURITIES AND EXCHANGE COMMISSION (“SEC”) AND THE SEC HAS BEEN
8 GIVEN AN OPPORTUNITY TO OBJECT TO THE ADEQUACY OF THE DISCLOSURE
9 STATEMENT, THIS DISCLOSURE STATEMENT HAS NOT BEEN REGISTERED UNDER
10 THE SECURITIES ACT OF 1933, AS AMENDED, OR APPLICABLE STATE SECURITIES
11 LAWS. NEITHER THE SEC NOR ANY STATE REGULATORY AUTHORITY HAS PASSED
12 UPON THE ACCURACY OR ADEQUACY OF THIS DISCLOSURE STATEMENT, THE
13 EXHIBITS HERETO, OR THE STATEMENTS CONTAINED HEREIN.

14 THE CONTENTS OF THIS DISCLOSURE STATEMENT SHOULD NOT BE
15 CONSTRUED AS LEGAL, BUSINESS, OR TAX ADVICE. ANY TAX ADVICE HEREIN WAS
16 NOT INTENDED TO BE USED, AND IT CANNOT BE USED, FOR THE PURPOSE OF
17 AVOIDING ANY TAX PENALTIES THAT MAY BE IMPOSED ON ANY PERSON. THERE IS
18 NO LIMITATION IMPOSED ON ANYONE READING THIS DISCLOSURE STATEMENT ON
19 DISCLOSURE OF THE TAX TREATMENT OR TAX STRUCTURE OF ANY TRANSACTION.
20 NOTHING IN THIS DISCLOSURE STATEMENT MAY BE USED OR REFERRED TO IN
21 PROMOTING, MARKETING OR RECOMMENDING A PARTNERSHIP OR OTHER ENTITY,
22 INVESTMENT PLAN, OR ARRANGEMENT TO ANY PERSON. ALL CREDITORS AND/OR
23 INTEREST HOLDERS SHOULD CONSULT THEIR OWN LEGAL COUNSEL AND/OR
24 ACCOUNTANT(S) AS TO LEGAL, TAX, AND OTHER MATTERS CONCERNING THEIR
25 CLAIMS OR INTERESTS.

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III.

SUBSTANTIVE CONSOLIDATION

The Plan and this Disclosure Statement together serve as a motion by the Proponents seeking entry, pursuant to section 105 of the Bankruptcy Code, of an order authorizing, on the Effective Date, the substantive consolidation of the Estates and all of the debts of the Debtors for purposes of classifying and treating all Claims under the Plan, including for voting, confirmation, and distribution purposes. Substantive consolidation will not (i) alter the state of incorporation of the Debtors for purposes of determining applicable law of any of the Causes of Action, (ii) alter or impair the legal and equitable rights of the Liquidating Trustee to enforce any of the Causes of Action, or (iii) otherwise impair, release, discharge, extinguish or affect any of the Causes of Action or issues raised as a part thereof.

The Proponents believe that a plan of liquidation that effects substantive consolidation of the Debtors' Estates is appropriate under applicable law and in the best interests of all Holders of Allowed Claims. The Proponents and their advisors have considered the facts in light of the applicable legal standards and concluded that substantive consolidation is justified insofar as, among other things, creditors likely were not reliant on the separateness of the legal entities and the Debtors were, as far as the world was concerned, one and the same entity. The Proponents respectfully request that the Court approve substantive consolidation to the extent requested under the Plan and this Disclosure Statement effective as of the Effective Date pursuant to section 105 of the Bankruptcy Code.

If substantive consolidation is ordered as provided in the Plan, then on and after the Effective Date, all Assets and liabilities of the Debtors shall be treated under the Liquidating Trust as though they were merged into the Estate of SCI Real Estate Investments LLC for purposes of treatment of and distributions on Claims. All duplicative Claims (identical in both amount and subject matter) Filed against both Debtors shall automatically be expunged so that only one Claim survives against the consolidated Debtors. All guarantees by one Debtor of the obligations of the other Debtor shall be consolidated so that any Claim against one Debtor and any guarantee thereof by the other Debtor,

1 as well as any joint and/or several liability of either Debtor with respect to the other Debtor, shall be
2 treated as one collective obligation of the Debtors. Any alleged defaults under any applicable
3 agreement with the Debtors arising from substantive consolidation under the Plan shall be deemed
4 cured as of the Effective Date.

5 **IV.**

6 **OVERVIEW OF THE PLAN**

7 The following is a brief overview of the material provisions of the Plan and is qualified in its
8 entirety by reference to the full text of the Plan. For a more detailed description of the terms and
9 provisions of the Plan, see Article VIII below, entitled The Plan of Liquidation.

10 The Plan designates four Classes of Claims and one Class of Interests, which include all
11 classified Claims against, and Interests in, the Debtors. These Classes take into account the differing
12 nature and priority under the Bankruptcy Code of the various Claims and Interests. The Plan
13 includes releases of various parties.

14 The Plan also provides for a Liquidating Trust that will acquire, and then liquidate, the assets
15 of the Debtors. On the Effective Date of the Plan, the Liquidating Trust will obtain Exit Financing
16 to pay its obligations under the Plan. The Exit Financing will be secured by first priority security
17 interests and liens covering all assets in the Liquidating Trust. For a more detailed description of the
18 terms and provisions of the Exit Financing, see Article VIII below, entitled The Plan of Liquidation.

19 The following table (the "Plan Summary Table") summarizes the treatment of Claims and
20 Interests under the Plan with: (a) the Proponents estimate of the amount of Claims in each category
21 or Class that will be finally determined to be Allowed Claims, and (b) a description of the treatment
22 provided for in the Plan for each Class of Claims and Interests. The estimated aggregate amounts of
23 all Allowed Claims in each Class are based on the Proponents' good faith estimates of the aggregate
24 amount of such Claims upon resolution of all such Claims that are Disputed Claims, based on all
25 currently known information. The dollar amounts included in the Plan Summary Table have been
26 estimated by the Proponents as of the date of the Disclosure Statement and do not constitute an
27 admission by the Debtors or the Committee as to the validity or amount of any particular Claim or
28

1 Interest. The Debtors and the Committee reserve the right to dispute the validity or amount of any
2 Claim or Interest that has not already been Allowed by the Bankruptcy Court or by agreement of the
3 parties and nothing in the Plan or this Disclosure Statement shall be a waiver of any of the rights of
4 the Liquidating Trustee or the Post-Confirmation Oversight Committee to object to any Claim.

5 **SUMMARY OF CLAIMS AND INTERESTS UNDER THE PLAN**

Class	Claim/Interest	Treatment	Estimated Aggregate Unpaid Amount	Estimated Percentage Recovery on Allowed Claims
n/a	<p>ADMINISTRATIVE CLAIMS:</p> <p>Pachulski Stang Ziehl & Jones LLP</p> <p>Levene, Neale, Bender, Yoo & Brill L.L.P.</p> <p>Thompson & Knight LLP, Debtors' special real estate counsel</p> <p>Kennerly, Lamishaw & Rossi LLP, Debtor's special corporate counsel¹</p> <p>Haskell & White LLP, Debtor's</p>	<p>Unless claimant agrees to a different treatment, the Allowed Administrative Claim, which is a Professional Fee Claim, will be paid in full on the later of the (a) Effective Date; and (b) date of entry of order of the Bankruptcy Court approving the Final Fee Application of the claimant.</p> <p>Unless claimant agrees to a different treatment, the Allowed Administrative Claim, which is a Professional Fee Claim, will be paid in full on the later of the (a) Effective Date; and (b) date of entry of order of the Bankruptcy Court approving the Final Fee Application of the claimant.</p> <p>Unless claimant agrees to a different treatment, the Allowed Administrative Claim, which is a Professional Fee Claim, will be paid in full on the later of the (a) Effective Date; and (b) date of entry of order of the Bankruptcy Court approving the Final Fee Application of the claimant.</p> <p>Unless claimant agrees to a different treatment, the Allowed Administrative Claim, which is a Professional Fee Claim, will be paid in full on the Effective Date or as soon as practical thereafter.</p> <p>Unless claimant agrees to a different treatment, the Allowed Administrative</p>	<p>\$150,000 (estimated)</p> <p>\$150,000 (estimated)</p> <p>\$162,000 (estimated)</p> <p>\$31,000 (estimated)</p>	100%

27 ¹ Although Kennerly, Lamishaw & Rossi LLP (“KLR”) was nominally engaged as Debtors’ special real estate counsel,
28 as set forth in the Application to retain and employ Thompson & Knight LLP, KLR is actually the Debtors’ special corporate counsel.

Class	Claim/Interest	Treatment	Estimated Aggregate Unpaid Amount	Estimated Percentage Recovery on Allowed Claims
	accountant Trigild, Inc. Franchise Tax Board Clerk's Office Fees Office of the U.S. Trustee Fees	Claim, which is a Professional Fee Claim, will be paid in full on the Effective Date or as soon as practical thereafter. Unless claimant agrees to a different treatment, the Allowed Administrative Claim will be paid in full on the Effective Date or as soon as practical thereafter. Claim to be paid in full on the Effective Date or as soon as practical thereafter. Claim to be paid in full on the Effective Date or as soon as practical thereafter. Claim to be paid in full on the Effective Date or as soon as practical thereafter.	\$25,000 (estimated) \$150,000 (estimated) Unknown \$0 \$0	
n/a	PRIORITY TAX CLAIMS: Internal Revenue Service [SCI] Internal Revenue Service [Secured California]	Paid in full on or as soon as practicable after the Effective Date (i) if there is no dispute regarding the amount, validity and priority of such claim and (ii) if in the reasonable discretion of the Liquidating Trustee, with the consent of the Post-Confirmation Oversight Committee, sufficient cash is available in the Liquidating Trust to pay the Allowed Priority Tax Claim; but in no event, later than five (5) years after the Petition Date. Interest shall accrue on the principal balance of the Allowed Priority Tax Claim at 2.2% per annum commencing on the Effective Date, pursuant to IRC § 6621. Paid in full on or as soon as practicable after the Effective Date (i) if there is no dispute regarding the amount, validity and priority of such claim and (ii) if in the reasonable discretion of the Liquidating Trustee, with the consent of the Post-Confirmation Oversight Committee, sufficient cash is available in the Liquidating Trust to pay the Allowed Priority Tax Claim; but in no event, later than five (5) years after the	\$2,400.00 \$1,887.29	100%

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Class	Claim/Interest	Treatment	Estimated Aggregate Unpaid Amount	Estimated Percentage Recovery on Allowed Claims
	Franchise Tax Board [SCI]	<p>Petition Date. Interest shall accrue on the principal balance of the Allowed Priority Tax Claim at 2.2% per annum commencing on the Effective Date, pursuant to IRC § 6621.</p> <p>Paid in full on or as soon as practicable after the Effective Date (i) if there is no dispute regarding the amount, validity and priority of such claim and (ii) if in the reasonable discretion of the Liquidating Trustee, with the consent of the Post-Confirmation Oversight Committee, sufficient cash is available in the Liquidating Trust to pay the Allowed Priority Tax Claim; but in no event, later than five (5) years after the Petition Date. Interest shall accrue on the principal balance of the Allowed Priority Tax Claim at 3.0% per annum commencing on the Effective Date.</p>	\$800.00	
	City of Los Angeles [SCI]	<p>Paid in full on or as soon as practicable after the Effective Date (i) if there is no dispute regarding the amount, validity and priority of such claim and (ii) if in the reasonable discretion of the Liquidating Trustee, with the consent of the Post-Confirmation Oversight Committee, sufficient cash is available in the Liquidating Trust to pay the Allowed Priority Tax Claim; but in no event, later than five (5) years after the Petition Date. Interest shall accrue on the principal balance of the Allowed Priority Tax Claim at 3.2% per annum commencing on the Effective Date.</p>	\$232,235.21	
	Employment Development Department [SCI]	<p>Paid in full on or as soon as practicable after the Effective Date (i) if there is no dispute regarding the amount, validity and priority of such claim and (ii) if in the reasonable discretion of the Liquidating Trustee, with the consent of the Post-Confirmation Oversight Committee, sufficient cash is available in the Liquidating Trust to pay the Allowed Priority Tax Claim; but in no event, later than five (5) years after the Petition Date.</p> <p>Interest shall accrue on the principal balance of the Allowed Priority Tax Claim at 3.0%</p>	\$0.00 [for information only]	

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Class	Claim/Interest	Treatment	Estimated Aggregate Unpaid Amount	Estimated Percentage Recovery on Allowed Claims
		per annum commencing on the Effective Date, pursuant to Section 19521 of the <i>California Revenue and Taxation Code</i> .		
1	<p>SECURED CLAIMS:</p> <p>Collateralized Parties Pursuant to 2009 Pledge and Security Agreements Re Loan and Placement Agreements entered into from 2003 – 2008</p> <p>(See Plan Exhibit “C”)</p> <p><u>Collateral description</u> = See Plan Exhibit “D”</p> <p><u>Claim Priority</u> = Unknown</p> <p><u>Collateral value</u> = Unknown – to be determined upon disposition of collateral.</p>	<p>Allowed Class 1 Claims will be paid at such time and from the Net Proceeds generated from the disposition of the Collateral securing such Claims. (“Net Proceeds” means gross proceeds less (i) commissions, fees, and costs directly associated with the disposition or collection of such proceeds and (ii) Liquidating Trustee Surcharge Amount. The Liquidating Trustee reserves his right to seek allowance of the Liquidating Trustee Surcharge Amount.) The Liquidating Trustee and the Post-Confirmation Oversight Committee shall have standing to seek disallowance of Class 1 Claims and/or avoidance of some or all Liens or interests securing Class 1 Claims. To the extent that Class 1 Claims are undersecured or wholly unsecured, the unsecured portion of the Claims shall be Class 4 Claims and will receive the treatment for such Claims as set forth below.</p>	Scheduled for \$7.44 million (approx.)	100% (of the Allowed secured portion of the Claim, if any)
2	<p>SECURED CLAIMS;</p> <p>Collateralized Parties re SCICG Mezzanine Fund I, LLC</p> <p>(See Plan Exhibit “E”)</p> <p><u>Collateral description</u> = See Plan Exhibit “F”</p> <p><u>Claim Priority</u> = Unknown</p>	<p>Allowed Class 2 Claims will be paid at such time and from the Net Proceeds generated from the disposition of the Collateral securing such Claims by the Liquidating Trustee, if any.</p> <p>The Liquidating Trustee and the Post-Confirmation Oversight Committee shall have standing to seek disallowance of Class 2 Claims and/or avoidance of some or all Liens or interests securing Class 2 Claims.</p> <p>To the extent that Class 2 Claims are undersecured or wholly unsecured, the unsecured portion of the Claims shall be</p>	Scheduled for \$10.8 million (approx.)	100% (of the Allowed secured portion of the Claim, if any)

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Class	Claim/Interest	Treatment	Estimated Aggregate Unpaid Amount	Estimated Percentage Recovery on Allowed Claims
	Collateral value = Unknown – to be determined upon disposition of collateral.	<p>Class 4 Claims and will receive the treatment for such Claims as set forth below.</p> <p>As discussed more fully in Section V.D. below, the Debtors believe that the Liens held by Holders of Class 2 Claims are subject to avoidance under Chapter 5 of the Bankruptcy Code. To avoid such litigation being Filed, a Holder of a Class 2 Claim may elect to surrender its Lien or interest by indicating such surrender on the Ballot. If a Holder of a Class 2 Claim surrenders its Lien or interest in this manner, its Class 2 Claim shall be reclassified as a Class 4 Claim and such Class 4 Claim will be treated as such for all purposes under the Plan. The surrender of such Lien or interest shall be effective upon receipt of the Ballot by the Debtors in accordance with the instructions set forth in the Disclosure Statement.</p>		
3	<p>Claims for wages under section 507(a)(4) of the Bankruptcy Code of:</p> <p>Marc Paul and Robert Robotti (SCI only)</p>	<p>Allowed Priority Unsecured Claims shall be paid in full on the later of (1) the Effective Date or as soon as practicable thereafter and (2) if the Priority Unsecured Claim is a Disputed Claim, after such dispute is resolved by agreement of the parties or a Final Order</p> <p>The Class 3 Claims are Disputed Claims.</p>	<p>\$23,500 total (maximum of</p> <p>\$11,750 per claimant)</p>	100%
4	All Allowed General Unsecured Claims	<p>Interim and final Distributions to the Holders of allowed Class 4 General Unsecured Claims will be made by the Liquidating Trustee as follows:</p> <p>(1) On the Effective Date, or as soon as practicable thereafter, the Liquidating Trustee will distribute the sums then available (after funding the Reserve Account as set forth below in VI.D.2.c.(10)) to the Holders of Allowed Class 4 General Unsecured Claims on a <u>pro rata</u> basis.</p> <p>(2) If at any time after the Effective Date the</p>	Estimated amount of Allowed General Unsecured Claims is \$44.85 million.	Unknown

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Class	Claim/Interest	Treatment	Estimated Aggregate Unpaid Amount	Estimated Percentage Recovery on Allowed Claims
		Liquidating Trustee is holding more than \$1,000,000 in Available Cash or at such times as instructed by the Post-Confirmation Oversight Committee (unless such instruction is determined by the Court on motion by the Liquidating Trustee to be unreasonable), the Liquidating Trustee will distribute the Available Cash to the Holders of Allowed Class 4 General Unsecured Claims on a <u>pro rata</u> basis; and (3) Upon the resolution of all Claims and litigation, and the liquidation of all Liquidating Trust Assets, the Liquidating Trustee shall distribute all Cash remaining in the Liquidating Trust by making a final distribution to the Holders of Allowed Class 4 General Unsecured Claims, subject to the provisions of Section VI.C.2.c.(9) of the Plan.		
5	All Membership Interests in Debtors	Class 5 Interests will receive and retain no value under the Plan, and all Class 5 Interests will be cancelled on the Effective Date.	\$0	0%

THE TREATMENT AND DISTRIBUTIONS PROVIDED TO HOLDERS OF ALLOWED CLAIMS AND INTERESTS PURSUANT TO THE PLAN ARE IN FULL AND COMPLETE SATISFACTION OF THE ALLOWED CLAIMS AND INTERESTS ON ACCOUNT OF WHICH SUCH TREATMENT IS GIVEN, AND DISTRIBUTIONS ARE MADE.

V.

BACKGROUND

A. General Case Background

On February 11, 2011, the Petition Date, the Debtors Filed voluntary petitions for relief under chapter 11 of the Bankruptcy Code. The Debtors continue to operate their business and manage their affairs as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. No trustee or examiner has been appointed in this Case. On May 2, 2011, the

1 Office of the United States Trustee appointed the Committee. On October 27, 2011, the Court
2 entered and order approving the engagement by the Debtors of Bill Hoffman of Trigild,
3 Incorporated as CRO of the Debtors.

4 **B. General Description of the Debtors**

5 With a history stretching back to 1994, the Debtors built and maintained a successful
6 business acquiring and syndicating interests in commercial real estate properties, most often on
7 behalf of tenant-in-common and other private investors. The Debtors do not own any real property
8 directly. As part of a group of private investors, however, the Debtors have significant cash equity
9 investments in approximately sixty (60) separate limited liability companies (each a “FeeCo” and
10 collectively the “FeeCos”). Each FeeCo owns an interest, as a tenant-in-common, in a real property
11 asset along with other unaffiliated tenant-in-common owners. The properties in which the FeeCos
12 own an interest (each a “Property” and collectively the “Properties”) are described on Exhibit B to
13 the Plan.

14 One of the Debtors is the managing member of each FeeCo. While the Debtors have a
15 minority equity interest in each of the FeeCos and contractual claims for Dispo Fees upon the
16 Triggering Events as discussed below, neither of the Debtors control the disposition of the
17 Properties. The Debtors do not manage the Properties nor do they control investment-making
18 decisions for those Properties. The Debtors, therefore, do not and cannot dictate the timing and
19 exercise of each FeeCo’s investment decisions with respect to any potential sale or refinancing of a
20 given Property.

21 The Debtors have historically generated income by syndicating properties on behalf of
22 investors and generating fees at the time of acquisitions and dispositions of the syndicated real
23 estate properties. Debtors flourished for many years. After years of serving their investors
24 faithfully, the Debtors were hard hit by the historic downturn in the real estate and credit markets of
25 the latter part of the last decade. The collapse of these markets prevented the Debtors’ investors
26 from monetizing the substantial real estate assets within their portfolio. Prior to filing the Cases,
27 the Debtors worked for many months to renegotiate their debt with their principal creditors but
28

1 were unsuccessful. The Debtors contend that they were compelled to File these Cases to avoid
2 aggressive collection actions taken by a minority of their creditors that are successors to firms that
3 historically had financed the Debtors' acquisition activities.

4 **C. The Debtors' Assets**

5 In addition to their equity investments in approximately sixty (60) FeeCos, as of the Petition
6 Date, the Debtors' assets included approximately \$40 million in deferred Dispo Fees payable to the
7 Debtors upon the voluntary or involuntary sale of the Properties, including without limitation,
8 foreclosure proceedings, the maturity of the loans secured by the Properties (whether maturity occurs
9 by the passage of time, acceleration of debt, or through a refinancing of the existing loans), or upon
10 other events (collectively, the "Triggering Events"). In addition, the Debtors hold an unsecured
11 note in the approximate amount of \$8.1 million, referred to herein as the "Duke Note", generated by
12 amounts infused into the Erwin Plaza, aka "Duke Property," in order to protect their private
13 investors' interests in that property. As of the date of filing this Disclosure Statement, the Debtors
14 have approximately \$243,000 Cash on-hand. On the Effective Date, the Debtors will have at least
15 the \$3,000,000 from the Exit Financing available as well.

16 **D. The Debtors' Indebtedness**

17 The Debtors' have two groups of claimants who allege that they hold Secured Claims.² One
18 is the group allegedly holding Claims secured by Collateral pursuant to the 2009 Pledge and Security
19 Agreements regarding Loan and Placement Agreements entered into from 2003 through 2008. See
20 Exhibits C-F to the Plan. These alleged Claims, in the approximate amount of \$7.44 million, to the
21 extent they become Allowed Secured Claims, comprise Class 1 under the Plan. The Liquidating
22 Trustee and the Post-Confirmation Oversight Committee reserve all rights to object to the Claims
23 and the alleged secured status of the Claims on any basis, including, but not limited to, challenging
24 the characterization of these "claims" as debt rather than as equity investments and the 2009 Pledge
25

26 ² The Debtors and the Committee dispute, or reserve the right to dispute, the amount, validity, and/or priority of all
27 Secured Claims asserted against the Debtors or either of them and/or their Assets. The Liquidating Trustee and the Post-
28 Confirmation Oversight Committee shall have standing and the right to file objections to any Secured Claims on and
after the Effective Date. Nothing herein will be construed as a waiver of any rights of the Debtors, the Committee, the
Liquidating Trustee or the Post-Confirmation Oversight Committee to dispute the Secured Claims.

1 and Security Agreements as fraudulent conveyances. The Collateral held by these claimants
2 (assuming that the “claims” are determined to be Allowed Secured Claims) is described in Exhibit D
3 to the Plan. The value of the Collateral is unknown and will be determined upon the disposition of
4 the Collateral, therefore, it cannot be estimated at this time how much of the amount of these
5 “claims”, if they become Allowed Claims, will be unsecured and will, therefore, be treated as Class
6 4 Claims.

7 The second group of claimants allege that they are holding Secured Claims in the
8 approximate amount of \$10.8 million. See Exhibit E to the Plan. These Claims, to the extent that
9 they become Allowed Secured Claims, comprise Class 2 of the Plan. The Debtors’ granted this
10 group of investors the liens against and security interests in their alleged Collateral, described in
11 Exhibit F to the Plan, on December 28, 2010, in an attempt to make the investors whole on amounts
12 previously invested in projects structured by the Debtors. The value of the Collateral is unknown at
13 this time and will be determined upon its disposition, therefore, it cannot be estimated at this time
14 how much of the amount of these “claims”, if they become Allowed Claims, will be unsecured and
15 will, therefore, be treated as Class 4 Claims. The Liquidating Trustee and the Post-Confirmation
16 Oversight Committee reserve all rights to object to the Claims and the alleged secured status of the
17 Claims on any basis, including, but not limited to, challenging the characterization of these “claims”
18 as debt rather than as equity investments and that the liens and security interests granted are subject
19 to avoidance as preferences and/or fraudulent conveyances under applicable bankruptcy and non-
20 bankruptcy law.

21 The Administrative Claims held against the Debtors are primarily the fees and expenses of
22 the Professionals. The estimated unpaid amount of these claims as of the Effective Date of the Plan
23 is \$668,000. The priority claims consist of tax and wage claims in the total approximate amount of
24 \$260,000.

25 The Debtors’ principal unsecured creditors are (1) Wells Fargo Bank, NA (“Wells”) and First
26 Citizens Bank (“FCB”). Wells has filed proofs of claim with a total face amount of \$57.9 million.³

27
28 ³ Wells acquired the assets of Wachovia Bank, including the Debtors’ loan portfolio, upon Wachovia’s collapse.

1 FCB alleges that it holds a General Unsecured Claim in the approximate amount of \$18 million.⁴ As
2 of the Petition Date, the Debtors estimate that they owed valid General Unsecured Claims in the
3 approximate amount of \$44.85 million, excluding the approximate \$15.98 million in claims that
4 were filed as Secured Claims but that the Debtors believe may be subject to lien avoidance actions.

5 **VI.**

6 **THE DEBTORS' CHAPTER 11 CASES**

7 **A. Retention of the Debtors' Professionals**

8 Prior to the commencement of the Case, the Debtors retained PSZ&J as bankruptcy counsel
9 and KLR as its special corporate counsel.⁵ The Bankruptcy Court approved the retention of these
10 Professionals effective as of the Petition Date, pursuant to orders entered on March 29, 2011 [Docket
11 No. 35] and March 30, 2011 [Docket No. 36], respectively. The Debtors have also retained Haskell
12 & White as their accountants, approved by order of the Bankruptcy Court entered May 2, 2011
13 [Docket No. 45] and Thompson & Knight LLP as their special real estate counsel, approved by order
14 of the Bankruptcy Court entered January 3, 2012 [Docket No. 119].

15 **B. Appointment of Committee and Retention of Committee Professionals**

16 On May 2, 2011, the United States Trustee formed the Committee to represent the interests
17 of the Holders of General Unsecured Claims. The three Creditors appointed to the Committee were
18 (a) Mary Greco (b) Howard Simon, and (c) Wells Fargo Bank (as successor by merger to Wachovia
19 Bank). The Committee employed LNBY&B as its bankruptcy counsel, which employment was
20 approved by the Bankruptcy Court by order entered June 10, 2011 [Docket No. 58].

21 **C. Summary of First Day Orders**

22 Soon after the commencement of the case, the Bankruptcy Court entered orders (a) directing
23 joint administration of the Cases [Docket No. 14], and (b) extending time for the Debtors to File
24 their Schedules [Docket No. 17].

25
26
27 ⁴ FCB acquired the assets of First Regional Bank, including the Debtors' loan portfolio, via FDIC action.

28 ⁵ Although KLR was nominally engaged as Debtors' special real estate counsel, as set forth in the Application to retain
and employ Thompson & Knight LLP, KLR has actually been acting as the Debtors' special corporate counsel.

1 **D. Claims Bar Date**

2 On July 27, 2011, the Court entered its *Order Establishing a Bar Date for Filing Proofs of*
3 *Claim or Interest Pursuant to 11 U.S.C. §501 Including, but not Limited to, Claims Asserted*
4 *Pursuant to 11 U.S.C. §503(b)(9)* (the “Bar Date Order”) [Docket No. 73]. The Bar Date Order
5 established September 30, 2011 as the last date to File all Claims that arose before the Petition Date
6 except the following: (1) Claims of “governmental units” (as defined in section 101(27) of the
7 Bankruptcy Code); (2) Claims arising from rejection of executory contracts or unexpired leases
8 pursuant to section 365 of the Bankruptcy Code; and (3) Claims arising as the result of transfer
9 avoidance pursuant to chapter 5 of the Bankruptcy Code, which were subject to other bar dates.

10 **E. Plan Negotiations and Extensions of the Exclusive Periods**

11 Throughout the pendency of these Cases, the Debtors continued their diligent prepetition
12 efforts to develop a restructuring plan that would benefit all creditors. Prior to the appointment of
13 the Committee in May, 2011, the Debtors continued negotiations with their major Creditors,
14 including Wells and FCB, to fashion a plan that would garner the support of these major Creditors
15 while yielding a meaningful recovery for trade and other unsecured creditors. During this period of
16 time, the Debtors prepared and circulated a plan term sheet, however, no consensus was reached.

17 As a result of the appointment of the Committee in May, 2011, the Debtors expanded the
18 plan negotiation process to include the Committee. The Debtors immediately began bringing the
19 Committee “up to speed” so that the Committee could play an active role in finalizing a plan with
20 major creditors.

21 In order to protect the status quo during this learning period for the Committee and also to
22 give the Debtors an opportunity to negotiate the terms of a consensual plan with the Committee and
23 the other major creditors without the concern that another party would File a plan, on June 9, 2011,
24 the Debtors Filed their first motion (the “First Exclusivity Motion”) seeking an order extending by
25 one hundred and twenty (120) days the time periods during which only the Debtors could File a plan
26 and solicit acceptances of that plan [Docket No. 56]. The Debtors and the Committee reached an
27 agreement to extend plan exclusivity for ninety (90) days. On July 21, 2011, the Court entered an
28

1 order [Docket No. 70] granting the First Exclusivity Motion and extending the exclusive period to
2 File a plan to September 12, 2011.

3 During the period following the granting the First Exclusivity Motion, the Committee and
4 Wells conducted substantial informal discovery by way of document requests relating to the
5 Debtors' transactions and relationship with Debtors' management. Due to the extensive nature of
6 documents requested, provided and reviewed, such investigation was a primary focus for the
7 Committee and the Debtors' management. Nonetheless, the Debtors and the Committee, continued
8 to work cooperatively toward a consensual resolution of the Cases through a chapter 11 plan,
9 although the definitive terms of a chapter 11 plan were not yet agreed upon. Therefore, the Debtors
10 Filed their *Second Motion for Order Pursuant to Section 1121(d) of the Bankruptcy Code Extending*
11 *the Time Periods During Which the Debtors Have the Exclusive Right to File a Plan of*
12 *Reorganization and to Solicit Acceptances Thereof* [Docket No. 93]. While the Debtors' second
13 exclusivity motion was pending, the Committee requested, and the Debtors agreed, that further
14 extensions of plan exclusivity would provide the Committee with the equal opportunity to file a
15 chapter 11 plan as the Debtors. On October 13, 2011, the Court entered an Order [Docket No. 101]
16 providing that only the Debtors or the Committee could File a plan during the exclusive period,
17 which was extended through December 11, 2011.

18 Subsequently, the Debtors and the Committee agreed to the principal terms of a liquidating
19 plan. The Debtors and the Committee, during this period, also agreed to engage a CRO who would
20 replace the Debtors' management. It was also agreed that the CRO would serve as the Liquidating
21 Trustee under a consensual liquidating chapter 11 plan. The Debtors and the Committee Filed a
22 joint motion for approval of the engagement of Trigild for the purpose of providing a CRO (see
23 Section V. F below). However, in light of these developments, additional time was necessary to
24 prepare and File a joint plan of liquidation prior to December 11, 2011.

25 On December 9, 2011, the Debtors Filed the *Third Motion for Order Pursuant to Section*
26 *1121(d) of the Bankruptcy Code Extending the Time Periods During Which the Debtors and the*
27 *Committee Have the Exclusive Right to File a Plan of Reorganization and to Solicit Acceptances*
28

1 *Thereof* [Docket No. 112]. On January 25, 2012, the Court entered an Order [Docket No. 137]
2 extending the exclusive period for the Debtors or the Committee to File a plan to February 3, 2012.

3 The Debtors and the Committee continued to work together on the preparation of a
4 liquidating plan for the Debtors and jointly Filed the Plan on February 3, 2012. They filed the First
5 Amended Plan on April 19, 2012.

6 **F. Appointment of a Chief Restructuring Officer**

7 As mentioned above, the Committee conducted an investigation of the Debtors' management
8 and subsequently requested that the Debtors agree to the engagement of a CRO. The Committee and
9 the Debtors participated in a series of interviews of potential candidates to serve as CRO and as the
10 Liquidating Trustee under the Plan. At the conclusion of the interviews, the Debtors and the
11 Committee agreed to seek the Bankruptcy Court's approval of the Debtors' engagement of Trigild,
12 Incorporated to provide a CRO for the Debtors and to provide certain Trigild employees to assist the
13 CRO. On October 27, 2011, the Bankruptcy Court entered an Order [Docket No. 104] authorizing
14 the retention of Trigild and the appointment of William Hoffman, the President and Chief Executive
15 Officer of Trigild, as CRO of the Debtors.

16 **G. Settlement Regarding the Duke Note**

17 On October 31, 2011, the Debtors Filed the *Motion Pursuant to Bankruptcy Rule 9019(a) for*
18 *Approval of Settlement Regarding Payment of Disposition Fee and Notes Relating to Erwin Plaza*
19 *Transaction* (the "Erwin Plaza Motion") [Docket No. 105] seeking approval of a settlement that
20 would liquidate for the benefit of creditors, the Duke Note, one of the Debtors' most valuable Assets
21 which is related to the property located at 2200 West Main Street, in Durham, North Carolina
22 ("Erwin Plaza").⁶ The Duke Note resulted from the Debtors' expenditure of a substantial amount of
23 money on Erwin Plaza, in which one of the FeeCos owned an interest, to make up for the loss of a
24 major tenant, conduct repairs, and avoid foreclosure in order to protect their and their private
25 investors' interests in the property.

26
27
28 ⁶ Erwin Plaza was also sometimes commonly referred to as the "Duke Property".

1 In addition to the Duke Note, SCI Property Management, Inc, an affiliate of the Debtors,
2 pursuant to the Management Agreement dated May 5, 2003, between the owners of Erwin Plaza (the
3 “EP Owners”) and SCI Property Management, claimed the right to a Disposition Fee upon the sale
4 of Erwin Plaza. The EP Owners had agreed to the sale of Erwin Plaza, however disputes arose
5 between the Debtors and the EP Owners regarding the Management Agreement, the sale of Erwin
6 Plaza and the amounts due and owing on account of the Disposition Fee.

7 In order for the sale of Erwin Plaza to proceed to closing – which, considering the current
8 general economic times and the real estate market in particular, was in the best interests of the EP
9 Owners and the Debtors – the EP Owners and the Debtors, with the consent of the Committee,
10 reached a settlement of all of the disputes between them, which settlement was key to the closing of
11 the sale. The settlement, which was conditioned upon the sale of Erwin Plaza closing pursuant to the
12 terms of the signed Purchase Agreement, would have resulted in payment of the Duke Note in full
13 plus \$645,750 of the Disposition Fee,⁷ and the exchange of mutual releases between the EP Owners
14 and the Debtors. Once the settlement was reached, the Debtors filed the Erwin Plaza Motion seeking
15 Bankruptcy Court approval of the settlement.

16 Prior to the lodging of an order and filing of a declaration of non-opposition to the Erwin
17 Plaza Motion, however, the purchaser sought and obtained the agreement of the EP Owners to
18 revised deal terms, including a reduction of the purchase price from approximately \$41 million to
19 approximately \$37 million. In order accommodate the sale of Erwin Plaza in accordance with these
20 revised deal terms, the Debtors and the EP Owners agreed to modify the terms of the settlement to
21 provide that the Debtors would waive their right to a Disposition Fee in full. All other terms of the
22 settlement remained the same, including that, upon the closing of the sale, the Duke Note would be
23 paid and the Debtors would receive their distribution on account of their equity stake in Erwin Plaza.

24 On January 5, 2012, the Debtors Filed the Supplement to the Erwin Plaza Motion [Docket
25 No. 129] seeking the Bankruptcy Court’s approval of revised settlement terms. On January 20,
26

27 _____
28 ⁷ The payment of \$645,750 is an amount equal to one-half of the difference between 4% and the commission paid to the outside broker on the transaction (i.e., 50% of the Disposition Fee due under the Management Agreement).

1 2012, the Bankruptcy Court entered the Order [Docket No. 135] approving the settlement; however,
2 the sale of Erwin Plaza did not proceed to closure and the settlement did not become effective.

3 **VII.**

4 **INVESTIGATION AND ANALYSIS OF AVOIDANCE ACTIONS**

5 After the Effective Date, the Liquidating Trustee, under the oversight of the Post-
6 Confirmation Oversight Committee, will investigate all possible avoidance actions, including the
7 avoidance actions discussed above regarding the alleged Secured Claims. THE LIQUIDATING
8 TRUSTEE, WITH THE ADVICE AND CONSENT OF THE POST-CONFIRMATION
9 OVERSIGHT COMMITTEE, WILL MAKE THE DECISION OF WHETHER OR NOT TO
10 PURSUE ANY AVOIDANCE CAUSE OF ACTION. THIS DECISION WILL BE BASED UPON
11 HIS AND THE POST-CONFIRMATION OVERSIGHT COMMITTEE'S REVIEW OF THE
12 MERITS OF THE VARIOUS CLAIMS AS WELL AS THE COSTS REQUIRED TO
13 PROSECUTE SUCH CLAIMS IN LIGHT OF THE LIMITED RESOURCES AVAILABLE FOR
14 THE DISTRIBUTION TO CREDITORS. THE LIQUIDATING TRUSTEE MAY SEEK TO
15 RETAIN COUNSEL ON A CONTINGENCY BASIS TO PROSECUTE SOME OR ALL OF
16 SUCH CLAIMS OR MAY DECIDE NOT TO PURSUE SUCH CLAIMS AT ALL. AS SET
17 FORTH IN THE PLAN, THE LIQUIDATING TRUSTEE, HIS EMPLOYEES, CONTRACTORS,
18 OFFICERS, DIRECTORS, SUCCESSORS, AND ASSIGNS AND THE EMPLOYEES OF THE
19 DEBTOR AND THEIR RESPECTIVE PROFESSIONALS AND REPRESENTATIVES SHALL
20 NOT HAVE ANY LIABILITY ARISING OUT OF THE LIQUIDATING TRUSTEE'S GOOD
21 FAITH DETERMINATION OF WHETHER OR NOT TO PURSUE PROSECUTION OF THE
22 FOREGOING CLAIMS.

23 **VIII.**

24 **THE PLAN OF LIQUIDATION**

25 **A. Overview of the Plan**

26 The following is a brief summary of the treatment of Claims and Interests under the Plan.
27 The description of the Plan set forth below is a summary only. To the extent the description below
28

1 conflicts with the terms of the Plan, the terms of the Plan shall govern. Creditors and other parties in
2 interest are urged to review the Plan themselves.

3 **B. Unclassified Claims**

4 Certain types of claims are not placed into voting classes; instead they are unclassified. They
5 are not considered impaired and they are not entitled vote on the Plan because they are automatically
6 entitled to specific treatment provided for them in the Bankruptcy Code. As such, the Proponents
7 have not placed the following claims in a class:

8 **1. Administrative Claims**

9 Administrative Claims are Claims for costs or expenses of administering the Cases that are
10 Allowed under section 503(b) of the Bankruptcy Code. The Bankruptcy Code requires that all
11 Administrative Claims be paid on the Effective Date unless a particular claimant agrees to a different
12 treatment.

13 The following chart lists estimates of certain of the Debtors' known Administrative
14 Claims and their treatment under the Plan:

<u>Name</u>	<u>Amount Owed</u> ⁸	<u>Treatment</u>
Pachulski Stang Ziehl & Jones LLP, Debtors' bankruptcy counsel	\$150,000 (estimated)	Unless claimant agrees to a different treatment, the Allowed Administrative Claim, which is a Professional Fee Claim, will be paid in full on the later of the (a) Effective Date; and (b) date of entry of order of the Bankruptcy Court approving the Final Fee Application of the claimant.
Levene, Neale, Bender, Yoo & Brill L.L.P., Committee's general bankruptcy counsel	\$150,000 (estimated)	Unless claimant agrees to a different treatment, the Allowed Administrative Claim, which is a Professional Fee Claim, will be paid in full on the later of the (a) Effective Date; and (b) date of entry of order of the Bankruptcy Court approving the Final Fee Application of the claimant.

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28 ⁸ The actual amount of the respective Professional Fee Claims may be higher or lower than the estimate set forth herein. Allowed Professional Fee Claims shall be as ordered by the Bankruptcy Court.

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<u>Name</u>	<u>Amount Owed</u> ⁸	<u>Treatment</u>
Thompson & Knight LLP, Debtors' special real estate counsel	\$162,000 (estimated)	Unless claimant agrees to a different treatment, the Allowed Administrative Claim, which is a Professional Fee Claim, will be paid in full on the later of the (a) Effective Date; and (b) date of entry of order of the Bankruptcy Court approving the Final Fee Application of the claimant.
Kennerly, Lamishaw & Rossi LLP, Debtor's special corporate counsel ⁹	\$31,000 (estimated)	Unless claimant agrees to a different treatment, the Allowed Administrative Claim, which is a Professional Fee Claim, will be paid in full on the Effective Date or as soon as practical thereafter.
Haskell & White LLP, Debtor's accountant	\$25,000 (estimated)	Unless claimant agrees to a different treatment, the Allowed Administrative Claim, which is a Professional Fee Claim, will be paid in full on the Effective Date or as soon as practical thereafter.
Trigild, Inc.	\$150,000 (estimated)	Unless claimant agrees to a different treatment, the Allowed Administrative Claim will be paid in full on the Effective Date or as soon as practical thereafter.
Franchise Tax Board	unknown	Allowed Administrative Claim that is a tax Claim to be paid in full on the Effective Date or as soon as practical thereafter.
Clerk's Office Fees	\$0	Administrative Claim for fees be paid in full on the Effective Date or as soon as practical thereafter.
Office of the U.S. Trustee Fees	\$0 (estimated)	U.S. Trustee Fees will be paid in full on the Effective Date or as soon as practical thereafter.

IF NOT PREVIOUSLY ALLOWED, ENTITIES THAT HOLD ADMINISTRATIVE CLAIMS AND THAT DO NOT TIMELY FILE AND SERVE A MOTION OR APPLICATION SEEKING PAYMENT IN ACCORDANCE WITH THIS SECTION WILL BE **FOREVER BARRED** FROM ASSERTING THOSE ADMINISTRATIVE CLAIMS AGAINST THE DEBTORS, THEIR BANKRUPTCY ESTATES, THE LIQUIDATING TRUSTEE OR THE LIQUIDATING TRUST ASSETS.

⁹ Although KLR was nominally engaged as Debtors' special real estate counsel, as set forth in the Application to retain and employ Thompson & Knight LLP, KLR is actually the Debtors' special corporate counsel.

1 **a. Allowance of Non-Ordinary Course Administrative Claims**

2 Unless otherwise expressly provided in the Plan, Non-Ordinary Course Administrative
3 Claims will be Allowed Claims only if:

4 (i) No later than 60 days after the Effective Date, the Holder of such Non-Ordinary
5 Course Administrative Claim both Files with the Bankruptcy Court a motion requesting allowance
6 of the Non-Ordinary Course Administrative Claim in accordance with applicable Bankruptcy Rules
7 and the Local Bankruptcy Rules and serves the motion on the Liquidating Debtors, the Liquidating
8 Trustee, the Post-Confirmation Oversight Committee and the U.S. Trustee; and

9 (ii) an order is entered by the Bankruptcy Court allowing the Non-Ordinary Course
10 Administrative Claim.

11 **Entities holding Non-Ordinary Course Administrative Claims that do not timely File**
12 **and serve a request for payment will be forever barred from asserting those Claims against the**
13 **Debtors, the Liquidating Debtors, the Liquidating Trustee, the Liquidating Trust, the Estates,**
14 **or their respective property.**

15 The Liquidating Trustee, Post-Confirmation Oversight Committee, or other party in interest
16 with standing to do so, must File any objection to a Non-Ordinary Course Administrative Claim by
17 no later than sixty (60) days after the deadline to File the Non-Ordinary Course Administrative
18 Claim; provided however, this 60 day deadline may be initially extended for sixty (60) days by the
19 Liquidating Trustee or the Post-Confirmation Oversight Committee by filing with the Bankruptcy
20 Court a notice of such extension, subject to further extension. Thereafter, the deadline for objection
21 to Non-Ordinary Course Administrative Claims may be further extended only by an order of the
22 Bankruptcy Court.

23 **b. Allowance of Ordinary Course Administrative Claims**

24 Holders of Ordinary Course Administrative Claims shall not be required to File any request
25 for payment of such Claims.

26 **c. Allowance of Professional Fee Claims**

27 Each Holder of a Professional Fee Claim (except for Professional Fee Claims falling under
28 clause (b) of the definition of Professional Fee Claim, which claims are subject to the Non-Ordinary

1 Course Administrative Claims Bar Date) seeking an award by the Bankruptcy Court of
2 compensation for services rendered or reimbursement of expenses incurred through and including
3 the Effective Date must (i) File its Final Fee Application for allowances of compensation for
4 services rendered and reimbursement of expenses incurred through the Effective Date by no later
5 than the sixtieth (60th) day following the Effective Date. Any objection to such Professionals Fee
6 Claims shall be Filed on or before the date specified in the Final Fee Applications. All such requests
7 for payment of such Professional Fee Claims will be subject to the authorization and approval of the
8 Bankruptcy Court.

9 **Persons holding Professional Fee Claims who do not timely File and serve a final fee**
10 **application will be forever barred from asserting those Claims against the Debtors, the**
11 **Liquidating Debtors, the Estates, the Liquidating Trustee, or the property of the Liquidating**
12 **Trust.**

13 **d. Allowance of Cure Claims**

14 A Cure Claim shall become an Allowed Cure Claim when the assumption of the affected
15 unexpired lease or executory contract is effective, pursuant to the applicable order of the Bankruptcy
16 Court that addresses the assumption of the applicable unexpired lease or executory contract.

17 **2. Priority Tax Claims**

18 Priority Tax Claims include certain unsecured income, employment and other taxes described
19 by section 507(a)(8) of the Bankruptcy Code. The Bankruptcy Code requires that each Holder of a
20 Priority Tax Claim receive the present value of such Claim in regular installment payments in Cash
21 (i) of a total value, as of the Effective Date of the Plan, equal to the allowed amount of such Claim;
22 (ii) over a period ending not later than five (5) years after the Petition Date; and (iii) in a manner not
23 less favorable than the most favored nonpriority Unsecured Claim provided for under the Plan.

24 The following chart lists all of the Debtors' Priority Tax Claims and their treatment under the
25 Plan:¹⁰

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28 ¹⁰ The chart below is for informational purposes and is not an admission as to the validity of any particular Claim.

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DESCRIPTION	TREATMENT
Priority Tax Claim of: Internal Revenue Service [SCI] Amount of Claim = \$2,400.00	Paid in full on or as soon as practicable after the Effective Date (i) if there is no dispute regarding the amount, validity and priority of such claim and (ii) if in the reasonable discretion of the Liquidating Trustee, with the consent of the Post-Confirmation Oversight Committee, sufficient cash is available in the Liquidating Trust to pay the Allowed Priority Tax Claim; but in no event, later than five (5) years after the Petition Date. Interest shall accrue on the principal balance of the Allowed Priority Tax Claim at 2.2% per annum commencing on the Effective Date, pursuant to IRC § 6621.
Priority Tax Claim of: Internal Revenue Service [Secured California] Amount of Claim = \$1,887.29	Paid in full on or as soon as practicable after the Effective Date (i) if there is no dispute regarding the amount, validity and priority of such claim and (ii) if in the reasonable discretion of the Liquidating Trustee, with the consent of the Post-Confirmation Oversight Committee, sufficient cash is available in the Liquidating Trust to pay the Allowed Priority Tax Claim; but in no event, later than five (5) years after the Petition Date. Interest shall accrue on the principal balance of the Allowed Priority Tax Claim at 2.2% per annum commencing on the Effective Date, pursuant to IRC § 6621.
Priority Tax Claim of: Franchise Tax Board [SCI] Amount of Claim = \$800.00	Paid in full on or as soon as practicable after the Effective Date (i) if there is no dispute regarding the amount, validity and priority of such claim and (ii) if in the reasonable discretion of the Liquidating Trustee, with the consent of the Post-Confirmation Oversight Committee, sufficient cash is available in the Liquidating Trust to pay the Allowed Priority Tax Claim; but in no event, later than five (5) years after the Petition Date. Interest shall accrue on the principal balance of the Allowed Priority Tax Claim at 3.0% per annum commencing on the Effective Date.
<u>Priority Tax Claim of:</u> City of Los Angeles [SCI] <u>Amount of Claim =</u> \$232,235.21	Paid in full on or as soon as practicable after the Effective Date (i) if there is no dispute regarding the amount, validity and priority of such claim and (ii) if in the reasonable discretion of the Liquidating Trustee, with the consent of the Post-Confirmation Oversight Committee, sufficient cash is available in the Liquidating Trust to pay the Allowed Priority Tax Claim; but in no event, later than five (5) years after the Petition Date. Interest shall accrue on the principal balance of the Allowed Priority Tax Claim at 3.2% per annum commencing on the Effective Date.
<u>Priority Tax Claim of:</u> Employment Development Department [SCI] <u>Amount of Claim =</u> \$0.00 [for information only]	Paid in full on or as soon as practicable after the Effective Date (i) if there is no dispute regarding the amount, validity and priority of such claim and (ii) if in the reasonable discretion of the Liquidating Trustee, with the consent of the Post-Confirmation Oversight Committee, sufficient cash is available in the Liquidating Trust to pay the Allowed Priority Tax Claim; but in no event, later than five (5) years after the Petition Date. Interest shall accrue on the principal balance of the Allowed Priority Tax Claim at 3.0% per annum commencing on the Effective Date, pursuant to Section 19521 of the <i>California Revenue and Taxation Code</i> .

C. Classified Claims and Interests

1. Classes of Secured Claims

Secured Claims are Claims secured by Liens on property belonging to either of the Estates.

The Debtors and the Committee reserve all rights to dispute the amount, validity, and/or priority of all Secured Claims asserted against the Debtors or either of them and property of the Debtors' Estates, which rights are reserved and preserved for, by and on behalf of the Liquidating Trust and the Post-Confirmation Oversight Committee.

The following chart lists the Classes containing the alleged Secured Claim and their treatment under the Plan.

CLASS #	DESCRIPTION	INSIDER (Y/N)	IMPAIRED (Y/N)	TREATMENT
1	Secured claim of: Collateralized Parties Pursuant to 2009 Pledge and Security Agreements Re Loan and Placement Agreements entered into from 2003 – 2008 (See Plan Exhibit “C” to the Plan) Collateral description = See Plan Exhibit “D” to the Plan Claim Priority = Unknown Collateral value = Unknown – to be determined upon disposition of Collateral. Amount of Claim = Scheduled for \$7.44 million (approx.) Interest Rate = Allowed Secured Claims shall accrue simple interest at the lower of the contract rate or prime rate plus 1% measured from the Effective Date.	N	Y (Creditors with Claims in this Class that are not Disputed Claims are entitled to vote on the Plan)	Allowed Class 1 Claims will be paid at such time and from the Net Proceeds generated from the disposition of the Collateral securing such Claims. (“Net Proceeds” means gross proceeds less (i) commissions, fees, and costs directly associated with the disposition or collection of such proceeds and (ii) Liquidating Trustee Surcharge Amount. The Liquidating Trustee reserves his right to seek allowance of the Liquidating Trustee Surcharge Amount.) The Liquidating Trustee and the Post-Confirmation Oversight Committee shall have standing to seek disallowance of Class 1 Claims and/or avoidance of some or all Liens or interests securing Class 1 Claims. To the extent that Class 1 Claims are undersecured or wholly unsecured, the unsecured portion of the Claims shall be Class 4 Claims and will receive the treatment for such Claims as set forth below.

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<u>CLASS #</u>	<u>DESCRIPTION</u>	<u>INSIDER (Y/N)</u>	<u>IMPAIRED (Y/N)</u>	<u>TREATMENT</u>
2	<p>Secured claim of: Collateralized Parties re SCICG Mezzanine Fund I, LLC</p> <p>(See Plan Exhibit "E" to the Plan)</p> <p><u>Collateral description</u> = See Plan Exhibit "F" to the Plan</p> <p><u>Claim Priority</u> = Unknown</p> <p><u>Collateral value</u> = Unknown – to be determined upon disposition of Collateral.</p> <p><u>Amount of Claim</u> = Scheduled for \$10.8 million (approx.)</p> <p><u>Interest Rate</u> = Allowed Secured Claims shall accrue simple interest at the lower of the contract rate or the prime rate plus 1% measured from the Effective Date.</p>	N	Y (Creditors with Claims in this Class that are not Disputed Claims are entitled to vote on the Plan)	<p>Allowed Class 2 Claims will be paid at such time and from the Net Proceeds generated from the disposition of the Collateral securing such Claims by the Liquidating Trustee, if any.</p> <p>The Liquidating Trustee and the Post-Confirmation Oversight Committee shall have standing to seek disallowance of Class 2 Claims and/or avoidance of some or all Liens or interests securing Class 2 Claims.</p> <p>To the extent that Class 2 Claims are undersecured or wholly unsecured, the unsecured portion of the Claims shall be Class 4 Claims and will receive the treatment for such Claims as set forth below.</p> <p>As set forth in the Disclosure Statement, the Debtors believe that the Liens held by Holders of Class 2 Claims are subject to avoidance under Chapter 5 of the Bankruptcy Code. To avoid such litigation being Filed, a Holder of a Class 2 Claim may elect to surrender its Lien or interest by indicating such surrender on the Ballot. If a Holder of a Class 2 Claim surrenders its Lien or interest in this manner, its Class 2 Claim shall be reclassified as a Class 4 Claim and such Class 4 Claim will be treated as such for all purposes under the Plan. The surrender of such Lien or interest shall be effective upon receipt of the Ballot by the Debtors in accordance with the instructions set forth in the Disclosure Statement.</p>

2. Class of Priority Unsecured Claims

Certain priority claims that are referred to in sections 507(a)(3), (4), (5), (6), and (7) Bankruptcy Code are required to be placed in Classes. These Priority Unsecured Claims are entitled

1 to priority treatment as follows: the Bankruptcy Code requires that each Holder of a Priority
 2 Unsecured Claim receive Cash on the Effective Date equal to the allowed amount of such Claim.
 3 However, a Holders of Class 3 Claims may vote to accept deferred Cash payments of a value, as of
 4 the Effective Date, equal to the allowed amount of such Claims. Except as set forth in the chart
 5 below, the Proponents are not aware of any Priority Unsecured Claims. The Plan preserves all rights
 6 of the Liquidating Trustee to dispute such Claims and File objections relating to any and all Priority
 7 Unsecured Claims as set forth herein and in the Liquidating Trust Agreement.

<u>CLASS #</u>	<u>DESCRIPTION</u>	<u>INSIDER (Y/N)</u>	<u>IMPAIRED (Y/N)</u>	<u>TREATMENT</u>
3	<p><u>Claims for wages under section 507(a)(4) of the Bankruptcy Code of:</u></p> <p>Marc Paul and Robert Robotti (SCI only)</p> <p><u>Amount of Claims:</u> \$23,500 total (maximum of \$11,750 per claimant)</p>	Y	<p>N</p> <p>(Creditors with Claims in this Class are <u>not</u> entitled to vote on the Plan)</p>	<p>Allowed Priority Unsecured Claims shall be paid in full on the later of (1) the Effective Date or as soon as practicable thereafter and (2) if the Priority Unsecured Claim is a Disputed Claim, after such dispute is resolved by agreement of the parties or a Final Order</p> <p>The Class 3 Claims are Disputed Claims.</p>

16 **3. Class of General Unsecured Claims**

17 General Unsecured Claims are Claims that are not entitled to priority under section 507(a) of
 18 the Bankruptcy Code.

19 The Plan preserves all rights of the Liquidating Trustee to dispute and File objections relating
 20 to any and all General Unsecured Claims as set forth herein and in the Liquidating Trust Agreement.
 21 The Plan also preserves all rights of the Liquidating Trustee and the Post-Confirmation Oversight
 22 Committee to File motions requesting that the Bankruptcy Court estimate the amounts of any
 23 contingent, unliquidated or disputed Claim, including, but not limited to, those Claims based on
 24 guaranties of loans as set forth in Claim No. 127 filed by Wells Fargo Bank, N.A., solely in its
 25 capacity as master servicer for various commercial mortgage loan securitizations and not as an
 26 individual creditor.

27 The following chart identifies the Plan's treatment of General Unsecured Claims:
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<u>CLASS #</u>	<u>DESCRIPTION</u>	<u>INSIDER (Y/N)</u>	<u>IMPAIRED (Y/N)</u>	<u>TREATMENT</u>
4	<p>Claims: All Allowed General Unsecured Claims</p> <p><u>Amount of Claims</u> Estimated Allowed Unsecured Claims of \$44.85 million.</p>	N	Y (Creditors with Claims in this Class that are not Disputed Claims are entitled to vote on the Plan)	<p>Interim and final Distributions to the Holders of Allowed Class 4 General Unsecured Claims will be made by the Liquidating Trustee as follows:</p> <p>(1) On the Effective Date, or as soon as practicable thereafter, the Liquidating Trustee will distribute the sums then available (after funding the Reserve Account as set forth below in Section VI.D.2.c.(10)) to the Holders of Allowed Class 4 General Unsecured Claims on a <u>pro rata</u> basis.</p> <p>(2) If at any time after the Effective Date the Liquidating Trustee is holding more than \$1,000,000 in Cash in addition to the amounts in the Reserve Account or at such times as instructed by the Post-Confirmation Oversight Committee (unless such instruction is determined by the Court on motion by the Liquidating Trustee to be unreasonable), the Liquidating Trustee will distribute the Available Cash to the Holders of Allowed Class 4 General Unsecured Claims on a <u>pro rata</u> basis; and</p> <p>(3) Upon the resolution of all Claims and litigation, and the liquidation of all Liquidating Trust Assets, the Liquidating Trustee shall distribute the all Cash remaining in the Liquidating Trust by making a final distribution to the Holders of Allowed Class 4 General Unsecured Claims, subject to the provisions of Section VI.C.2.c.(9) of the Plan.</p>

4. Class of Interest Holders

Interest Holders are the parties who hold an ownership interest (i.e., equity interest) in the Debtors. The following chart identifies the Plan's treatment of the Class of Interest Holders.

<u>CLASS #</u>	<u>DESCRIPTION</u>	<u>IMPAIRED (Y/N)</u>	<u>TREATMENT</u>
5	All Membership Interests in Debtors	Y (Interest Holders are not entitled to vote	The membership interests in the Debtors are cancelled.

		but are deemed to have rejected the Plan.)	
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D. Executory Contracts and Unexpired Leases

a. Assumptions

On the Effective Date, the Liquidating Debtors will be deemed to have assumed any and all executory contracts or unexpired leases which may be in effect that were not previously rejected. The Confirmation Order, subject to the occurrence of the Effective Date, shall constitute an Order approving the Debtors' assumption of all such executory contracts and unexpired leases. The Debtors will File a schedule of proposed Cure Claims and/or a statement that the Debtors are not aware of any Cure Claims due under 11 U.S.C. § 365, not later than seven (7) days before the Confirmation Hearing Date and will serve the schedule on the non-Debtor counterparties to such executor contracts and unexpired leases.

b. Rejections

The Debtors reserve the right to seek approval of its rejection of any executory contract or unexpired lease prior to the Confirmation Date. Debtors will File a schedule of contracts and leases to be rejected under the Plan not later than seven (7) days before the Confirmation Hearing Date and will serve the schedule on non-Debtor counterparties to such contracts and leases.

c. Bar Date for Rejection Damage Claims

THE BAR DATE FOR FILING A PROOF OF CLAIM BASED ON A CLAIM ARISING FROM THE REJECTION OF AN EXECUTORY CONTRACT OR UNEXPIRED LEASE WILL BE THIRTY (30) DAYS AFTER THE CONFIRMATION DATE. Any Claim based on the **rejection of an executory contract or unexpired lease will be barred if the proof of claim is not timely Filed.**

E. Means of Effectuating the Plan

1. Funding for the Plan, including Exit Financing

On the Effective Date, the Liquidating Trust Assets shall be transferred to the Liquidating Trust. To the extent necessary and subject to the authority set forth in the Liquidating Trust Agreement, the Liquidating Trustee may seek to fund the administration of the Liquidating Trust

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1 Assets by way of, without limitation, (i) Cash on hand, (ii) proceeds of the Exit Financing, (iii)
2 repayment of the Duke Note, (iv) collection of Dispo Fees earned upon the occurrence of Triggering
3 Events, (v) sales proceeds from the liquidation of Liquidating Trust Assets, (vi) recoveries on claims
4 and causes of action transferred by the Debtors to the Liquidating Trust, and (vii) obtaining
5 additional financing or such other methods of raising capital as is reasonable and customary to
6 facilitate the orderly disposition of the Liquidating Trust Assets for the benefit of the Beneficiaries.
7 The Liquidating Trust shall also be funded by proceeds generated from the collection by the
8 Liquidating Trustee of any Liquidating Trustee Surcharge Amount.

9 **2. Exit Financing and Trust Assets as Security for Exit Financing**

10 The CRO has arranged for financing ("Exit Financing") anticipated to be available to the
11 Liquidating Trustee, upon and after the Effective Date, in the form of a revolving line of credit in an
12 amount up to \$3,000,000 from Benchmark Bank (the "Exit Lender") of Plano, Texas. However, no
13 binding commitment or obligation to lend or borrow exists or will exist prior to the Effective Date.
14 The following paragraph and the contents of the Indicative Term Sheet below describe certain
15 material terms and provisions of the Exit Financing, including conditions and requirements which
16 must be met (or waived) before the Exit Lender and Liquidating Trustee are obligated to proceed
17 with the Exit Financing.

18 The Exit Financing is contingent on approval of the Plan. More specifically, the Exit
19 Financing will not be available unless and until the Plan (including the Exit Financing described
20 herein and in the Plan) is approved, the Court's order approving the Plan (including the Exit
21 Financing) becomes final and non-appealable, and the Effective Date occurs. Conversely, the
22 occurrence of the Effective Date following approval of the Plan is contingent on availability of the
23 Exit Financing. More specifically, if the Exit Financing is not available on the date which would
24 otherwise be the Effective Date, the Effective Date will not occur. Following is the **Indicative**
25 **Term Sheet** for the Exit Financing:

26 Date Available: Effective Date
27 Borrower: Liquidating Trustee, as Trustee on behalf of the Liquidating Trust
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Guarantors: All existing and future direct and indirect subsidiaries of Borrower

Exit Lender: Benchmark Bank

Exit Financing
Amount and Type: \$3,000,000 revolving credit facility (the "Facility")

Use of proceeds: To satisfy obligations of and support actions taken by the Liquidating Trustee under the Liquidating Trust Agreement and the Plan, including obligations to be paid on and after the Effective Date and actions taken to administer the Liquidating Trust Assets.

Collateral and
Priority: The Exit Lender will have first priority security interests and/or liens in and to all of the Liquidating Trust Assets, both as to currently unencumbered Liquidating Trust Assets under Section 364(c)(2) of the Bankruptcy Code and as to currently encumbered Liquidating Trust Assets under Section 364(d) of the Bankruptcy Code. The security interests and/or liens in favor of the Exit Lender will be first, prior and senior to the holders of all Allowed Claims and Interests, including, without limitation, Allowed Administrative Claims, Allowed Priority Tax Claims, and Allowed Class 1 – 5 Claims. The Exit Lender will also have an Allowed Super-Priority Administrative Claim under Section 364(c)(1) of the Bankruptcy Code with priority over any or all Allowed Administrative Claims to further secure repayment of the Facility.

Term: The Facility will have a term of 36 months from the Effective Date.

Repayment
of Principal and
Interest: Interest will be due and payable monthly on the entire outstanding principal amount. The Facility will not be subject to scheduled amortization of principal prior to the date that is 36 months after the closing date (the "Maturity Date"). All principal, interest, fees, expenses and other amounts outstanding under the Facility will be due and payable in full on the Maturity Date.

Mandatory
Prepayments: Upon the closing of (a) a sale of the Erwin Plaza building ("Erwin Plaza"), (b) a refinancing of the indebtedness secured by a lien on Erwin Plaza or (c) the consummation of any other liquidating event with respect to the interests of the Borrower in Erwin Plaza:

(i) the proceeds therefrom shall be disbursed by the escrow agent (or any other person) handling the closing in the following order:

First, the portion of such proceeds necessary to pay the holder of the first lien mortgage or deed of trust against Erwin Plaza, and reasonable and customary closing costs, will be used to pay such first lien indebtedness and closing costs; and

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Second, the portion of such proceeds necessary to pay the aggregate principal (\$8,076,000) and accrued but unpaid interest on the Duke Note (the "Duke Note Proceeds") shall be paid as described in clause (ii) below; and

Third, the remainder of such proceeds, if any, shall be transferred to the persons legally entitled thereto, including the owners of Erwin Plaza to the extent legally entitled thereto; and

(ii) the portion of such proceeds representing the Duke Note Proceeds shall be disbursed by the escrow agent (or any other person) handling the closing in the following order:

First, the portion of the Duke Note Proceeds necessary to prepay the Facility in full will be transferred to Exit Lender and used to prepay all principal, interest, fees, expenses and other amounts outstanding under the Facility; and

Second, the remainder of the Duke Note proceeds, if any, shall be transferred to the Liquidating Trustee or, if applicable, as otherwise required by the Plan; and

(iii) upon Exit Lender's receipt of the Duke Note Proceeds from the sale of Erwin Plaza as set forth above, Exit Lender, in its sole and absolute discretion, may:

(x) terminate the commitment and the remaining term of the Facility at which time all principal, interest, fees, expenses and other amounts outstanding under the Facility shall be due and payable in full;

(y) institute a borrowing base whereby borrowing will be limited to the lesser of the amount of the borrowing base or the initial amount of the Facility; or

(z) only if approved by Exit Lender and the Liquidating Trustee, each in its sole and absolute discretion, convert any remaining unpaid principal balance of the Facility to a term loan with scheduled amortization.

Termination By Liquidating Trustee: By irrevocable written notice to Exit Lender, Liquidating Trustee, in his sole and absolute discretion, may terminate the commitment and remaining term of the Facility at any time the outstanding balance under the Facility is zero.

Interest and Fees: The principal amount of all Exit Financing loans will accrue interest at a per annum rate equal to the prime rate of interest published in the

1 *Wall Street Journal* plus 1.00%, and the interest rate will float on a
2 daily basis, and be charged on the outstanding drawn amounts;

3 A one percent (1.00%) Commitment Fee on the full \$3,000,000
4 Facility Amount, is fully earned and payable on the Effective Date;
5 and

6 On the date that is one (1) year following the Effective Date, and
7 continuing on each anniversary of the Effective Date thereafter while
8 the Facility is outstanding, Liquidating Trustee shall pay to Exit
9 Lender a one percent (1.00%) annual fee on the full Facility Amount
10 of \$3,000,000 (subject to adjustment based on any appraisal of Erwin
11 Plaza as set forth below).

12 Upon an event of default under the Facility, the applicable interest rate
13 will be increased by two percent (2%) per annum, and all amounts
14 outstanding under the Facility will be payable on demand.

15 Collateral/Security: The Exit Lender will have first priority security interests and/or liens
16 in and to all of the Liquidating Trust Assets, including but not limited
17 to the following (which were formerly owned by the Debtors prior to
18 the Effective Date):

- 19 • All receivables and general intangibles of the Liquidating
20 Trustee, including all deferred fee receivables at any time owed
21 or owing to the Liquidating Trustee and previously owed to
22 SCI Real Estate Investments, LLC and/or Secured California
23 Investments, Inc., including all Dispo Fees
- 24 • All promissory notes payable to the Liquidating Trustee,
25 including those promissory notes comprising the Duke Note
- 26 • All economic benefits of all equity interests owned by the
27 Liquidating Trustee (formerly owned by the Debtors prior to
28 the Effective Date)
- All Liquidating Trust Assets subject to any prior valid,
perfected, and non-avoidable liens or security interests

Exit Financing

20 Loan Closing Date: Upon the Effective Date of the Plan, which is the date on which each
21 of the order(s) of the Court approving the Plan (including the Exit
22 Financing) is final and non-appealable; provided that the Exit
23 Financing Loan Closing Date will not occur unless all conditions
24 precedent are satisfied or waived by the Exit Lender, which waiver
25 may be given or withheld in the sole and absolute discretion of the
26 Exit Lender

24 Conditions Precedent
25 To Closing:

26 The Facility will be available subject to the satisfaction of conditions
27 that are customary for financings of this type including, without
28 limitation to the following:

- Execution and delivery by the Liquidating Trustee of loan
documentation (including mortgages and other lien and
security documents), and of guarantees by the Guarantors, each

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acceptable to the Exit Lender and approved by Exit Lender’s legal counsel;

- Receipt by the Exit Lender of additional documents as are customary for transactions of this type or as it may request, all in form and substance acceptable to the Exit Lender and its counsel;
- Exit Lender will receive all financial information, projections, budgets, business plans, cash flows and such other information as the Exit Lender shall reasonably request;
- Receipt by the Exit Lender of all fees required to be paid and all expenses related to the Facility for which invoices have been presented;
- Receipt by the Exit Lender of evidence satisfactory to Exit Lender, in Exit Lender’s sole discretion, of the Liquidating Trustee’s authority to enter into, and perform all obligations under, the loan documents;
- All filings, recordings (including, without limitation, mortgages and deeds of trust, as applicable) and searches necessary or desirable in connection with the liens and security interests referred to above under “Collateral/Security” shall have been duly made;
- All payment obligations under any existing debtor in possession facility shall have been paid in full and all liens on the Liquidating Trust Assets securing such facility shall have been terminated;
- Receipt of final non-appealable order(s) confirming and approving the Plan and the Exit Financing;
- Court confirmation and approval order(s) shall be acceptable to Exit Lender and shall authorize the Exit Financing;
- Court confirmation and approval order(s) shall be in full force and effect and shall not have been modified, reversed, stayed, or vacated;
- No litigation commenced in the Bankruptcy Court or any other court of competent jurisdiction which, if successful, could have a material adverse effect on the Plan or Facility;
- Completion by the Exit Lender of a business and legal due diligence investigation of the Borrower and its assets and satisfaction of the Exit Lender, in its sole and absolute discretion, with the results thereof in all respects; and
- Any other condition precedent agreed between the parties as necessary and set forth in the loan documents.

Additional Loan Requirements:

Semi-Annual financial reporting for the Liquidating Trust and other covenants and conditions that are typical for this type of transaction

Appraisal & Commitment

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1 Reduction: Exit Lender retains the right to perform an annual (or, if an event of
2 default has occurred and is continuing, more frequent) appraisal of the
3 Erwin Plaza, a 238,792 sq. ft. building located at 2200 West Main
4 Street, Durham, NC 27705 at the sole expense of the Borrower. The
5 maximum amount available under the Facility will be permanently
6 reduced dollar-for-dollar for the amount of any such appraisal that is
7 less than \$28,000,000 and the Borrower shall immediately prepay the
8 principal amount of the loans outstanding under the Facility in excess
9 of such reduced maximum amount, if any..

6 Expenses: All expenses of Exit Lender related to this transaction will be paid by
7 Liquidating Trustee; Exit Lender acknowledges receipt of an expense
8 deposit of \$25,000 to be applied to such expenses.

8 Exit Lender shall provide a preliminary budget for its due diligence
9 and legal costs, and agrees to limit such costs to \$50,000.00.
10 Provided, the Liquidating Trustee will reserve the right to agree to pay
11 amounts incurred by Exit Lender in excess of \$50,000.00 after
12 consultation with the applicable Creditors Committee.

11 Events of Default: Subject to negotiation but usual and customary for this type of
12 transaction

13 Additional Loan
14 Terms: To be determined but expected to be usual and customary terms for
15 this type of instrument and transaction

14 Additional
15 Considerations: While it is not being made a requirement of the Exit Financing, the
16 Exit Lender would request that its subsidiary Benchmark Title, LLC
17 be considered as the preferred title company of choice to close any
18 potential sale of real estate controlled by the Liquidating Trustee so
19 long as Benchmark Title, LLC provides its services at prevailing
20 market rates and on prevailing market terms.

18 No Commitment: **THE FOREGOING INDICATIVE TERM SHEET AND THE**
19 **CONTENTS THEREOF DO NOT CONSTITUTE A**
20 **COMMITMENT OF THE EXIT LENDER. Exit Lender shall be**
21 **under no commitment or obligation to lend funds until a written**
22 **loan agreement expressing an intention to be legally committed, is**
23 **executed by the Liquidating Trustee and the Exit Lender. The**
24 **Indicative Term Sheet can be withdrawn by the Exit Lender or the**
25 **prospective Liquidating Trustee without notice. Oral discussions**
26 **covering the Indicative Term Sheet or any part of it shall not bind**
27 **or obligate Exit Lender, the prospective Liquidating Trustee or**
28 **any other person or entity to any agreement unless such**
agreement is reduced to writing and signed by an authorized
representative of Exit Lender, the prospective Liquidating
Trustee, or such other person or entity, as applicable. The
foregoing Indicative Term Sheet is intended as an outline only and
does not purport to summarize all the conditions, covenants,
representations, warranties and other provisions which would be
contained in final loan documents evidencing the Facility.

1 **3. The Effective Date of the Plan and Conditions Thereto**

2 The Effective Date of the Plan shall be the first Business Day after all conditions to the
3 occurrence of the Effective Date have been satisfied or waived. The following are the conditions to
4 the Effective Date:

- 5 (i) the Court has entered the Confirmation Order, which approves the Exit Financing;
- 6 (ii) no order staying the effectiveness of the Confirmation Order has been entered by
7 the first Business Day after the fifteenth (15th) calendar day after the entry of the
8 Confirmation Order or, if an appeal of the Confirmation Order has been filed before
9 such date and there has been an order staying the effectiveness of the Confirmation
10 Order entered before such date, an order dismissing the appeal has become final and
11 non-appealable or the stay of the Confirmation Order has terminated; and
- 12 (iii) the Exit Financing is available.

13 **4. Post-Confirmation Management**

14 **a. The Liquidating Debtors**

15 Upon the occurrence of the Effective Date, the Debtors shall become the Liquidating
16 Debtors. After the Effective Date, the Liquidating Trustee is authorized to act as management of the
17 Liquidating Debtors and can execute such documents and enter into such transactions as necessary
18 for purposes of consummating the Plan, with the majority consent of the Post-Confirmation
19 Oversight Committee. If such consent from the Post-Confirmation Oversight Committee is not
20 forthcoming, the Liquidating Trustee and/or Liquidating Debtors may seek an order from the
21 Bankruptcy Court that the consent was unreasonably withheld, and if such an order is obtained, the
22 Liquidating Trustee and/or Liquidating Debtors can proceed to take such action as appropriate to
23 maximize the value of the Liquidating Trust Assets. Notwithstanding the authority granted to the
24 Liquidating Trustee, the Liquidating Debtors shall be separate and apart from the Liquidating Trust
25 created by the Plan, and release any and all rights, title and interest to the Liquidating Trust Assets.
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1 **b. Dissolution of the Committee and Formation of the Post-Confirmation**
2 **Oversight Committee**

3 On the Effective Date, the Committee will be deemed dissolved and its members will be
4 released and discharged from all further duties and obligations arising from or related to the Cases.
5 On the Effective Date, a Post-Confirmation Oversight Committee shall be appointed, which shall
6 consist of the members of the Committee as of the date of entry of the Confirmation Order. The
7 Post-Confirmation Oversight Committee shall serve without a bond. Except as expressly provided
8 herein and in the Liquidating Trust Agreement, decisions of the Post-Confirmation Oversight
9 Committee shall be made by majority vote of its members. Members of the Post-Confirmation
10 Oversight Committee shall receive reimbursement of actual costs and expenses (but not
11 reimbursement for individual counsel or advisor fees) in connection with their duties as members of
12 the Post-Confirmation Oversight Committee. Any member of the Post-Confirmation Oversight
13 Committee may opt-out of participation in the Post-Confirmation Oversight Committee by providing
14 written notice to the other members of the Post-Confirmation Oversight Committee and counsel for
15 the Liquidating Trustee. A member of the Post-Confirmation Oversight Committee who has chosen
16 to opt-out may be replaced pursuant to the procedures adopted in the by-laws of the Post
17 Confirmation Oversight Committee.

18 It is anticipated that Levene, Neale, Bender, Yoo & Brill, L.L.P. shall serve as counsel for the
19 Post-Confirmation Oversight Committee, and that Thompson & Knight LLP, Pachulski Stang Ziehl
20 & Jones LLP, Kennerly, Lamishaw & Rossi LLP and Pepper Hamilton LP (and other such counsel
21 as the Liquidating Trustee shall employ with Court approval or with the majority consent of the
22 members of the Post-Confirmation Oversight Committee) shall serve as counsel for the Liquidating
23 Trustee, commencing on the Effective Date.

24 As soon as practicable after the Effective Date, the Post-Confirmation Oversight Committee
25 shall have the right to adopt and be governed by by-laws that are customary for post-confirmation
26 committees.
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1 c. **The Liquidating Trust and the Liquidating Trustee**

2 **(1) Creation of the Liquidating Trust**

3 On the Effective Date and by operation of the Confirmation Order, a Liquidating Trust will
4 be established for the benefit of all Beneficiaries and, to the extent that all Allowed Claims are paid
5 in full with interest, the Holders of Allowed Interests in the Debtors. The Liquidating Trust
6 Agreement shall be executed by the parties thereto on or before the Effective Date. The Liquidating
7 Trust shall be a creditors' liquidating trust for all purposes, including Treasury Regulations Section
8 301.7701-4(d). The Liquidating Trust will be organized for the purpose of identifying, recovering,
9 preserving, monitoring, liquidating and disposing of the Liquidating Trust Assets in a manner that
10 maximizes the value, which may take into consideration the net present value at a reasonable
11 discount rate, of the Liquidating Trust Assets with no objective to continue or engage in the conduct
12 of a trade or business. On the Effective Date, the Debtors shall be deemed to have transferred all of
13 the Assets to the Liquidating Trust. The Liquidating Trust shall identify, recover, preserve, monitor,
14 receive, liquidate and distribute the Liquidating Trust Assets in accordance with the Liquidating
15 Trust Agreement. The Liquidating Trust is not a successor of either of the Debtors and, except as
16 expressly provided herein, shall not have liability for any Claim, right or action of any third party
17 that is based on any theory of successor liability or similar legal theory or doctrine. To the extent
18 there are any inconsistencies between the Plan and the Liquidating Trust Agreement, the terms of the
19 Liquidating Trust Agreement shall control.

20 **(2) Appointment of the Liquidating Trustee**

21 The initial Liquidating Trustee shall be William Hoffman. The Liquidating Trustee shall be
22 compensated at his/her customary hourly rate. The Liquidating Trustee shall administer the
23 Liquidating Trust pursuant to the Plan and the Liquidating Trust Agreement and shall perform all of
24 the obligations of the Liquidating Trustee under the Plan and the Liquidating Trust Agreement. The
25 Liquidating Trustee shall be the authorized representative of the Liquidating Trust. The Liquidating
26 Trustee shall serve without bond for the duration of the Liquidating Trust, subject to earlier death,
27 resignation, incapacity or removal as provided in the Plan and in the Liquidating Trust Agreement.
28 The Liquidating Trustee will also be required to do the following upon the receipt of written

1 instruction from the Post-Confirmation Oversight Committee: (1) commence or continue to
2 prosecute litigation with respect to any claims or causes of action on behalf of the Liquidating Trust;
3 (2) propose, accept or reject any settlement proposals with respect to any claims or causes of action
4 that are Liquidating Trust Assets; (3) propose, accept or reject any settlement proposals with respect
5 to any Claim asserted against the Debtors or the Liquidating Trust Assets whether arising prior to or
6 after the Effective Date; (4) make Distributions in accordance with the terms of the Plan or the
7 Liquidating Trust Agreement if such has not previously been timely made by the Liquidating
8 Trustee; (5) when appropriate, exercise the rights and powers set forth in the Liquidating Trust
9 Agreement; and (6) perform such other reasonable and necessary acts in order to carry out the terms
10 of the Plan, the Liquidating Trust, and/or which are in the best interests of the Beneficiaries if such
11 does not violate any provision of the Plan, the Liquidating Trust Agreement, or applicable law. If
12 the Liquidating Trustee disagrees with any instruction received by the Post-Confirmation Oversight
13 Committee, then the Liquidating Trustee may seek an order from the Bankruptcy Court that the
14 instruction received was unreasonably given, and if such an order is obtained, authorizing the
15 Liquidating Trustee to take such other action as appropriate to maximize the value of the Liquidating
16 Trust Assets.

17 The Post-Confirmation Oversight Committee shall have the authority during the term of the
18 Liquidating Trust to seek the removal and/or replacement of the Liquidating Trustee for cause shown
19 to the Bankruptcy Court if, after consultation with the Liquidating Trustee, the matter cannot be
20 resolved short of such action. In the event that the Liquidating Trustee is terminated by final
21 Bankruptcy Court order, then the Liquidating Trustee and his retained professionals shall be entitled
22 to recover all earned and unpaid fees and expenses through the date of termination. In addition, the
23 Liquidating Trustee may resign with thirty (30) days prior written notice, provided, however, the
24 Liquidating Trustee shall continue to act as the Liquidating Trustee until such time as the Post-
25 Confirmation Oversight Committee shall find a suitable substitute Liquidating Trustee; provided,
26 however, the Liquidating Trustee shall not continue to serve as the Liquidating Trustee more than
27 one-hundred eighty (180) days after he/she submits his/her written notice of resignation. If the Post-
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1 Confirmation Oversight Committee has not found a suitable replacement for the Liquidating Trustee
2 by the end of the one-hundred eighty (180) day period, the Post-Confirmation Oversight Committee
3 shall perform the duties of the Liquidating Trustee until a suitable replacement can be found.

4 Annexed to the Plan as Exhibit “G” is a proposed operating budget for administration of the
5 Liquidating Trust prepared for the period from the Effective Date through December 31, 2017,
6 which budget shall be subject to the majority approval of the Post-Confirmation Oversight
7 Committee (the “Initial Post-Confirmation Budget”). Budgets shall be prepared no later than (60)
8 days in advance of the expiration of the end of each calendar year and shall be subject to majority
9 approval of the Post-Confirmation Oversight Committee (the “Successive Post-Confirmation
10 Budgets”). Successive Post-Confirmation Budgets shall cover a forward-looking period of not less
11 than five years or until such earlier time as the Liquidating Trust is anticipated to terminate. If
12 approval of the budget is not given by from the Post-Confirmation Oversight Committee, the
13 Liquidating Trustee may seek an order from the Bankruptcy Court that the approval was
14 unreasonably withheld, and if such an order is obtained, the Liquidating Trustee can administer the
15 Liquidating Trust in accordance with such Initial Post-Confirmation Budget or such Successive Post-
16 Confirmation Budget.

17 The Liquidating Trustee shall provide a quarterly written report to the Post-Confirmation
18 Oversight Committee regarding the status of the matters within the responsibility of the Liquidating
19 Trustee on the twentieth (20th) day of the month (or the first Business Day thereafter if such date is
20 on a weekend or legal holiday) following the end of the immediately preceding three calendar month
21 period (each such period being a “quarter”, with the first quarter being that period that includes the
22 first three full calendar months following the Effective Date) or at such other intervals and in such
23 form as reasonably requested by the Post-Confirmation Oversight Committee (the “Periodic Trustee
24 Reports”). The Periodic Trustee Reports shall include (i) monthly financial statements/reports
25 generated by the Liquidating Trustee; (ii) such other information as reasonably requested regarding
26 the Initial Post-Confirmation Budget or any Successive Post-Confirmation Budget; (iii) pertinent
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1 current or historical financial or operational information; and (iv) such other documents as are
2 appropriate relating to the administration of the Liquidating Trust.

3 **(3) Disbursing Agent**

4 The Liquidating Trustee shall act as the Disbursing Agent for purposes of making all
5 distributions provided for under the Plan and the Liquidating Trust Agreement. The Liquidating
6 Trustee shall serve in this capacity without bond.

7 **(4) Transfer of the Assets to the Liquidating Trust**

8 The Debtors on the Effective Date shall transfer all Assets to the Liquidating Trust. All
9 Liquidating Trust Assets, which include all rents, profits and proceeds from Liquidating Trust Assets
10 and related rights and claims that may accrue after the Effective Date, shall be held in trust for the
11 benefit of the Beneficiaries, subject to the provisions of the Plan and the Liquidating Trust
12 Agreement. The Liquidating Debtors and their Estates shall retain no interest in the Assets or the
13 Liquidating Trust Assets.

14 **(5) Sale or Other Disposition of Liquidating Trust Assets**

15 Except as otherwise set forth in the Plan or in the Liquidating Trust Agreement, after the
16 Effective Date, the Liquidating Trust may use, acquire, sell or otherwise dispose of Liquidating
17 Trust Assets. Subject to the approval of the Post-Confirmation Oversight Committee, the
18 Liquidating Trustee shall have the authority to monetize, sell, liquidate or otherwise dispose of all
19 Liquidating Trust Assets without need to obtain approval from the Bankruptcy Court or the United
20 States Trustee. The Liquidating Trustee shall use reasonable commercial efforts to collect all
21 monies owed to the Liquidating Trust whether based on a contract or any other basis. If the
22 Liquidating Trustee wishes to settle any Monetary Claim for less than the full face amount of the
23 Monetary Claim or monetize any other Liquidating Trust Asset, such transaction(s) shall be subject
24 to majority approval by the Post-Confirmation Oversight Committee. Unanimous approval of the
25 Post-Confirmation Oversight Committee is required as a condition to the Liquidating Trustee
26 entering into any transaction or settlement that represents a discount of more than \$100,000 or 20%
27 (whichever is less) of the face amount of the Monetary Claim. However, if the Post-Confirmation
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1 Oversight Committee does not give its consent, the Liquidating Trustee may seek a ruling from the
2 Bankruptcy Court that the Post-Confirmation Oversight Committee's consent was unreasonably
3 withheld, and if so, seek Bankruptcy Court approval of the proposed settlement. Any funds held or
4 received by the Liquidating Trustee shall be maintained in one or more segregated bank accounts
5 maintained to hold funds to be distributed under the Plan. If the Post-Confirmation Oversight
6 Committee instructs the Liquidating Trustee to File a Litigation Claim, including any action under
7 Chapter 5 of the Bankruptcy Code, and the Liquidating Trustee elects not to do so, the Post-
8 Confirmation Oversight Committee shall have standing to File any such Litigation Claim in the
9 appropriate forum.

10 The Liquidating Trustee, with the consent or upon instruction of a majority of the Post-
11 Confirmation Oversight Committee, may, in accordance with the procedure set forth in the
12 Liquidating Trust Agreement, abandon to the Liquidating Debtors or disclaim any interest in a Trust
13 Asset if it is determined that the Liquidating Trust Asset is burdensome to the Liquidating Trust or
14 that it is of inconsequential value or benefit to the Liquidating Trust.

15 **(6) Investigation and Prosecution of Claims**

16 All Litigation Claims held by the Liquidating Debtors and their Estates as of the Effective
17 Date shall be, as a matter of law, transferred free and clear of liens and interests, claims and
18 encumbrances to the Liquidating Trust as part of the Liquidating Trust Assets. The Liquidating
19 Trustee shall have the standing and authority to initiate, prosecute, compromise or otherwise resolve
20 any and all Litigation Claims, either in consultation with or at the instruction of the Post-
21 Confirmation Oversight Committee. The Bankruptcy Court shall have continuing non-exclusive
22 jurisdiction to hear and determine any litigation commenced with respect to a Litigation Claims.

23 The Liquidating Trustee shall have the duty to investigate all Litigation Claims and
24 determine which, if any, should be prosecuted for the benefit of the Liquidating Trust. Except as
25 otherwise set forth herein and subject to the approval of the Post-Confirmation Oversight
26 Committee, all Litigation Claims are preserved by the Plan, and the Liquidating Trustee shall have
27 the authority to settle, adjust, retain, enforce or abandon any Litigation Claim as the representative of
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1 the Debtors' Estates under section 1123(b)(3)(B) of the Bankruptcy Code without supervision of, or
2 need for approval by, the Bankruptcy Court. The Liquidating Trustee shall provide a written
3 description of any proposed settlement, compromise or dismissal of any Litigation Claim (i.e., any
4 right or cause of action) to the Post-Confirmation Oversight Committee for approval.

5 **(7) Bankruptcy Powers**

6 The Liquidating Trust shall have, and the Debtors shall be deemed to have preserved,
7 transferred and assigned to the Liquidating Trust on the Effective Date, all of the rights, claims,
8 powers, objections, counterclaims, defenses, setoffs and actions of the Debtors and their Estates
9 under the Bankruptcy Code. After the Effective Date, all claims, rights and causes of action of the
10 Debtors and their Estates shall be Filed and prosecuted in the name of the Liquidating Trust. The
11 entry of a final decree in or order closing the Cases or either of them shall not eliminate any claim,
12 right or cause of action, or any counterclaim, defense or objection that existed prior to such final
13 decree or order closing the Cases or either of them, and the Bankruptcy Court shall retain
14 jurisdiction as set forth in Section VI.D.3. of the Plan notwithstanding such final decree or closure of
15 the Cases.

16 **(8) Employment and Compensation of Professionals, Reimbursement**
17 **of Expenses**

18 The Liquidating Trustee and the Post-Confirmation Oversight Committee are authorized to
19 employ attorneys and/or other professionals as appropriate to discharge their duties without need for
20 Bankruptcy Court approval, specifically including the payment of any professional utilized by the
21 CRO/Liquidating Trustee in the drafting of the Plan, Liquidating Trust Agreement and all related
22 documents drafted before the Effective Date relating to the Liquidating Trustee and the Liquidating
23 Trust. Members of the Post-Confirmation Oversight Committee shall be entitled to reimbursement
24 of out-of-pocket costs incurred in the course of the performance of their duties; however, such
25 reimbursement does not apply to the fees or costs of any professionals retained by any individual
26 member of the Post-Confirmation Oversight Committee. Professionals employed by the Liquidating
27 Trustee and the Post-Confirmation Oversight Committee shall be compensated based on their
28 customary rates and terms on a monthly basis without need for Court approval of fees and expenses.

1 Professionals employed by the Liquidating Trustee and the Post-Confirmation Oversight Committee
2 shall submit monthly bills to both the Liquidating Trustee and the Post-Confirmation Oversight
3 Committee in the ordinary course of the professionals' billing practices. The Liquidating Trustee
4 and the Post-Confirmation Oversight Committee shall have ten(10) calendar days to object to the
5 payment of the fees and expenses provided in such billings (the "Fee Objection Date"). If no written
6 objection is received by the respective professional(s) by the Fee Objection Date, then such fees
7 shall be paid by the Liquidating Trustee in the full amount requested without need for further review
8 or authorization.

9 The Bankruptcy Court will retain exclusive jurisdiction to resolve any fee disputes among the
10 Liquidating Trustee, the Post-Confirmation Oversight Committee and retained professionals.

11 **(9) Distributions from the Liquidating Trust**

12 Distributions to be made by the Liquidating Trustee on the Effective Date on account of any
13 Allowed Claim shall be made on the Effective Date or as promptly thereafter as practicable.

14 Distributions to be made by the Liquidating Trustee under the Plan or the Liquidating Trust
15 Agreement shall be made, after consultation with the Post-Confirmation Oversight Committee, by
16 check drawn on a domestic bank or by wire transfer. Holders of Allowed Claims shall receive
17 distributions in their order of statutory priority as set forth above in Sections VI.A. and VI.B. of the
18 Plan.

19 Interim and final distributions to the Holders of Allowed Class 4 General Unsecured Claims
20 will be made by the Liquidating Trustee as follows:

21 (1) On the Effective Date, or as soon as practicable thereafter, the Liquidating Trustee will
22 distribute the sums then available after funding of the Reserve Account, to the Holders of Allowed
23 Class 4 General Unsecured Claims on a Pro Rata basis;

24 (2) If at any time after the Effective Date, the Liquidating Trustee is holding more than
25 \$1,000,000 (one million) in Cash that is not necessary to fund the Reserve Account or at such other
26 times upon instruction of the Post-Confirmation Oversight Committee, the Liquidating Trustee will
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1 distribute the Available Cash to the Holders of Allowed Class 4 General Unsecured Claims on a Pro
2 Rata basis; and

3 (3) Upon the resolution of all objections to Claims, litigation, and the liquidation of all
4 Liquidating Trust Assets, the Liquidating Trustee shall distribute the remaining cash from the
5 Liquidating Trust Assets and the Reserve Account by making a final distribution to the Holders of
6 Allowed Class 4 General Unsecured Claims subject to the provisions of Section VI.C.2.c.(9) in the
7 Plan.

8 Except as otherwise agreed to by the Liquidating Trustee in writing, distributions to be made
9 to Beneficiaries may be delivered by regular mail, postage prepaid, to the address shown in the
10 Schedules Filed with the Bankruptcy Court, as they may from time to time be amended in
11 accordance with Bankruptcy Rule 1009, or, if a different address is stated (a) in a proof of claim duly
12 Filed with the Court or (b) in a written notice of change of address (i) delivered by the Record Date
13 to the Debtors or (ii) thereafter, at least thirty (30) days prior to any Distribution, to the Liquidating
14 Trustee, to such address. If no address is available either on a proof of claim, on the Schedules or in
15 a written notice delivered in a timely manner to the appropriate party, the Distribution will be
16 deemed to be undeliverable and subject to the provisions below relating to “Unclaimed Property”.

17
18 **(a) Minimum Amount of Interim Distributions.**

19 A Distribution made by the Liquidating Trustee to any individual Beneficiary shall not be
20 less than \$25.00, unless such distribution constitutes the final distribution to be made to such
21 Beneficiary under the Plan.

22 **(b) Failure to Negotiate Checks Distributed by Liquidating
23 Trustee.**

24 Checks issued by the Liquidating Trustee to pay Allowed Claims shall be null and void if not
25 negotiated (each, a “Void Check”) within one hundred eighty (180) days after the date of issuance
26 thereof (the “Claiming Period”). Requests for reissuance of any check by a Beneficiary to whom
27 such check was originally issued must be received by the Liquidating Trustee prior to the expiration
28 of the Claiming Period. After the expiration of the Claiming Period, any unclaimed property held on

1 account of such Void Check shall be re-distributed to the remaining Beneficiaries on a pro rata basis
2 based on their relative statutory priority under the Bankruptcy Code. After the expiration of the
3 Claiming Period, the unpaid balance of an Allowed Claim of a Beneficiary to whom the Void Check
4 was sent shall be disallowed, and such Beneficiary shall be forever barred, estopped and enjoined
5 from seeking payment from the Liquidating Trust on account of such Claim.

6 **(c) Unclaimed Property.**

7 Without further Court order, and notwithstanding any federal or state escheat laws to the
8 contrary, unclaimed funds held by the Liquidating Trust in an amount of \$10,000 or less on the date
9 that the Liquidating Trust is terminated may be redistributed to the remaining Beneficiaries on a Pro
10 Rata basis based on their relative statutory priority under the Bankruptcy Code, donated to a charity
11 selected by the Post-Confirmation Oversight Committee, or may be used for such other purpose
12 consistent with the Plan and applicable law at the discretion and instruction of the Post-Confirmation
13 Oversight Committee. If a Distribution is returned to the Liquidating Trustee as an undeliverable
14 Distribution or is otherwise deemed to be an undeliverable Distribution, the Liquidating Trustee will
15 not make any further Distribution to the Beneficiary, except as provided below.

16 If a Distribution to a Beneficiary is returned as undeliverable or a Beneficiary fails to provide
17 the Liquidating Trustee its Federal Tax Identification Number or Social Security Number within
18 forty-five (45) days after the date of the Liquidating Trustee's written request, no further
19 Distributions shall be made to such Beneficiary unless and until the Liquidating Trustee is notified in
20 writing of such Beneficiary's then current address or requested tax identification number. Unclaimed
21 and undeliverable Distributions shall remain in the possession of the Liquidating Trust until such
22 time as a Distribution becomes Distributable. All unclaimed and undeliverable Cash Distributions
23 will be held in unsegregated, noninterest-bearing bank accounts for the benefit of the entities entitled
24 to the Distributions (the "Unclaimed Distributions Reserve"). Any Beneficiary who does not claim
25 in writing the undeliverable or uncashed Distribution within 180 days after the date such Distribution
26 was to be made shall be deemed to have waived all of such Beneficiary's rights and claims with
27 respect to the unpaid balance of its Allowed Claim and such Beneficiary shall be forever barred,
28

1 estopped and enjoined from seeking payment from the Liquidating Trust on account of its Allowed
2 Claim. Such unclaimed or undeliverable Distribution shall be transferred from the Unclaimed
3 Distributions Reserve to the applicable bank account for subsequent Distributions according to the
4 Plan.

5 Without further Court order, at such time that all pro rata Distributions have been made to
6 each and all Classes of creditors as required under the Plan, any unclaimed or undeliverable Cash
7 held by the Liquidating Trust in the Unclaimed Distributions Reserve shall be redistributed to all
8 Beneficiaries in accordance with the Plan other than those Beneficiaries whose last Distribution was
9 unclaimed or was undeliverable; however, if such unclaimed or undeliverable Cash is \$10,000 or
10 less, in the discretion of the Liquidating Trustee, such may be donated to a charity selected by the
11 Liquidating Trustee and the Post-Confirmation Committee or may be used for such other purpose
12 consistent with the Plan and applicable law.

13 Nothing in the Plan or otherwise requires the Liquidating Trustee to attempt to locate any
14 entity holding an Allowed Claim whose Distribution is undeliverable.

15
16 **(d) Record Date.**

17 The record date for purposes of the initial Distributions under the Plan and Liquidating Trust
18 Agreement shall be the date the Bankruptcy Court enters the Confirmation Order. The Liquidating
19 Trustee will rely on the Schedules and/or register of proofs of claim Filed in the Cases except to the
20 extent a notice of transfer of Claim or Interest or change of address of a Holder has been Filed with
21 the Court prior to the Record Date pursuant to Bankruptcy Rule 3001.

22 **(10) Reserve Accounts**

23 The Liquidating Trustee will create one or more Reserve Accounts and, prior to any
24 Distribution to Beneficiaries holding Allowed Class 4 Claims, shall establish a cash reserve in an
25 amount that is agreed by the Post-Confirmation Oversight Committee to be sufficient at any given
26 time for (1) all Disputed Claims; (2) expenses to administer the Liquidating Trust Assets, including
27 all fees, costs and expenses of the Liquidating Trust and the Post-Confirmation Oversight Committee
28

1 and post-confirmation professionals and employees; (3) unpaid Allowed Class 1 and Class 2 Claims,
2 such amounts consisting of and to the extent of the realized Net Proceeds of the Collateral; (4)
3 unpaid Allowed Priority Tax Claims and Allowed Unsecured Priority Claims; and (5) the Unclaimed
4 Distribution Reserve (items (1) – (5) being collectively referred to as the “Reserve Account”). The
5 amount to be deposited in the Disputed Claim Reserve shall be that which is reasonably estimated by
6 the Liquidating Trustee, with the consent of the Post-Confirmation Oversight Committee, to be
7 payable to the Holder of a Disputed Claim on a pro rata basis if such claim ultimately became an
8 Allowed Claim.

9 The amount in the Disputed Claim Reserve, in the discretion of the Liquidating Trustee after
10 consultation with the Post-Confirmation Oversight Committee, may be adjusted from time to time as
11 Disputed Claims are resolved and distributions are made on account of any Disputed Claim that has
12 become an Allowed Claim in whole or in part. The Disputed Claims Reserve shall be maintained at
13 appropriate funding levels in the reasonable discretion of the Liquidating Plan Trustee until the
14 resolution of all Disputed Claims. No payments of Cash or distributions of other property or other
15 consideration of any kind shall be made on account of any Disputed Claim unless and until such
16 claim becomes an Allowed Claim or is deemed to be such for purposes of Distribution. Upon the
17 allowance of a previously Disputed Claim, the initial Distribution to the Holder of the newly
18 Allowed Claim will be the next Distribution Date for the applicable Class following the date on
19 which the Disputed Claim becomes an Allowed Claim.

20 (11) **No Action Against the Liquidating Trust Without Bankruptcy**
21 **Court Approval**

22 On and after the Effective Date, no action or proceeding may be commenced or continued by
23 any entity in any court or other tribunal, other than the Bankruptcy Court, against the Liquidating
24 Trust, the Liquidating Trustee, the Post-Confirmation Oversight Committee, or any of their directors,
25 officers, shareholders, employees, professionals, agents, members or representatives, without the
26 prior approval of the Bankruptcy Court in a final, non-appealable order. On and after the Effective
27 Date, there shall be no act to collect or recover from, or offset against, or to create, perfect or enforce
28 any right, claim, interest or remedy by any entity, against the Liquidating Trust, the Liquidating

1 Trustee, the Post-Confirmation Oversight Committee, or any of their officers, employees,
2 professionals, agents, members or representatives, without the prior approval of the Bankruptcy
3 Court. This provision does not require that a defendant in a proceeding filed by the Liquidating
4 Trust or Post-Confirmation Oversight Committee obtain the approval of the Bankruptcy Court to
5 assert any defense or setoff in such proceeding.

6 **(12) Termination of the Liquidating Trust**

7 The Liquidating Trust shall be irrevocable and shall have a term of five years from and after
8 the Effective Date, subject to extension as provided herein and the Liquidating Trust Agreement.
9 The Liquidating Trust shall terminate when the Liquidating Trustee has performed all of his/her
10 duties under the Plan and the Liquidating Trust Agreement, including the liquidation and distribution
11 of all Liquidating Trust Assets. However, if warranted by the facts and circumstances, upon a
12 determination by the Post-Confirmation Oversight Committee that an extension of the term of the
13 Liquidating Trust is necessary to accomplish the liquidation purpose of the Liquidating Trust, the
14 Liquidating Trust's term may be extended for a finite term based on facts and circumstances.

15 **(13) Reports by the Liquidating Debtors and the Liquidating Trustee**

16 The Liquidating Debtors will provide an accounting to the Liquidating Trustee of all cash on
17 hand and in their attorneys' client trust account as of the date of the entry of the Confirmation Order.

18 Until the Court enters a final decree, the Liquidating Trustee shall File quarterly status
19 reports with the Court to indicate: (a) the status of the liquidation of the Liquidating Trust Assets, (b)
20 the total amount of Cash received and Distributions made from the Liquidating Trust, (c) the total
21 amount held by the Liquidating Trust in the Reserve Account, (d) a list of all Holders of Unsecured
22 Claims, (e) a list of all Disputed Claims, and (f) a list identifying the total Distributions made to date
23 to each Holder of an Allowed Claim.

24 The Liquidating Trust shall serve the United States Trustee with any and all documents that it
25 Files with the Bankruptcy Court after the Confirmation Date. In addition, the Liquidating Trust is
26 responsible for the timely payment of US Trustee Fees incurred pursuant to 28 U.S.C. § 1930 (a)(6).
27 In connection with calculating such fees, the Liquidating Trust shall File with the Bankruptcy Court
28

1 and serve on the US Trustee a quarterly Post Confirmation Status Report regarding all income and
2 disbursements for each quarter (or portion thereof) the Cases remain open. The Liquidating Trustee
3 shall prepare and distribute any other reports or other information that may be required by the
4 Bankruptcy Court, the Federal Rules and the Local Rules and/or that the Liquidating Trustee
5 determines are necessary or appropriate.

6 **(14) No Recourse against the Liquidating Trustee or Post-**
7 **Confirmation Oversight Committee**

8 No recourse shall ever be had, directly or indirectly, against the Liquidating Trustee, the
9 Post-Confirmation Oversight Committee, or any of their officers, employees, professionals, agents,
10 members or representatives, whether by legal, equitable or other proceedings, by virtue of any law,
11 statute, regulation or otherwise, or by virtue of any indebtedness of the Debtors, the Estates or the
12 Liquidating Trust, it being expressly understood and agreed that all liabilities of the Liquidating
13 Trust shall be enforceable only against, and be satisfied only out of, the Liquidating Trust Assets.

14 **(15) Tax Treatment of the Liquidating Trust**

15 For federal income tax purposes, the Liquidating Debtors, the Liquidating Trustee and the
16 Beneficiaries shall treat the Liquidating Trust as a liquidating trust within the meaning of Treasury
17 Income Tax Regulation Section 301.7701-4(d). For federal income tax purposes, the transfer of
18 assets to the Liquidating Trust under the Plan is treated as a deemed transfer to the Beneficiaries in
19 satisfaction of their Claims followed by a deemed transfer of the assets by the Beneficiaries to the
20 Liquidating Trust. For federal income tax purposes, the Beneficiaries will be deemed to be the
21 grantors and owners of the assets held by the Liquidating Trust. Consequently, for federal income
22 tax purposes, the Liquidating Trust will be taxed as a grantor trust (a non-taxable pass-through tax
23 entity) owned by the Beneficiaries. The Liquidating Trust will file federal income tax returns as a
24 grantor trust under IRC Section 671 and Treasury Income Tax Regulation Section 1.671-4 and
25 report, but not pay tax on the Liquidating Trust's tax items of income, gain, loss deductions and
26 credits ("Tax Items"). The Beneficiaries will report on their federal income tax returns and pay any
27 federal income tax liability attributable to such Liquidating Trust's Tax Items. The Liquidating
28 Debtors, the Liquidating Trustee and the Beneficiaries will use consistent valuations of the assets

1 transferred to the Liquidating Trust for all federal income tax purposes, such valuations to be
2 determined jointly by the Liquidating Trustee and the Post-Confirmation Oversight Committee.

3 **5. Review of and Objections to Expenses, Claims and Interests**

4 Except as otherwise set forth in the Plan, on and after the Effective Date, the Liquidating
5 Trustee and the Post-Confirmation Oversight Committee may review all Claims Filed or deemed
6 Filed and may object to or seek subordination of any Claim Filed or Scheduled in the Cases. Claims
7 objections must be Filed no later than the first Business Day that is at least one calendar year after
8 the Effective Date, subject to extension of such deadline upon motion Filed with the Bankruptcy
9 Court.

10 As provided by section 502(c) of the Bankruptcy Code, the Court may estimate any
11 contingent or unliquidated Disputed Claim for purposes of Confirmation of the Plan. The
12 Bankruptcy Court shall retain jurisdiction over all Claims Filed or asserted against the Debtors'
13 Estates, the Liquidating Trust to resolve objections to Claims following the Confirmation Date.

14 Nothing contained in the Plan shall constitute a waiver or release by the Debtors or the
15 Liquidating Trust of any rights of setoff or recoupment or of any defense with respect to any Claim.

16 **6. Effective Date Payments and Distributions to Be Made From the Liquidating**
17 **Trust**

18 Distributions required to be made on the Effective Date shall be made by the Liquidating
19 Trustee on the Effective Date or as soon thereafter as practicable, and shall be paid by check drawn
20 on a domestic bank or by wire transfer, at the sole election of the Liquidating Trustee. After the
21 Effective Date, all distributions shall be made by the Liquidating Trustee.

22 **7. Exculpations and Releases**

23 *To the maximum extent permitted by law, neither the Debtors, the Estates, the CRO,*
24 *Trigild, the Committee, the Exit Lender, nor any of their employees, officers, directors,*
25 *shareholders, agents, members, representatives, or the professionals employed or retained by any*
26 *of them, whether or not by Bankruptcy Court order (each, a "Released Person"), shall have or*
27 *incur liability to any person or entity for an act taken or omission made in good faith in*
28 *connection with or related to the formulation of the Plan, the related Disclosure Statement, or a*

1 *contract, instrument, release, or other agreement or document created in connection therewith,*
2 *the solicitation of acceptances for or Confirmation of the Plan, or the consummation and*
3 *implementation of the Plan, the Liquidating Trust and the transactions contemplated therein.*

4 **8. Injunctions**

5 *As of the Effective Date, the Confirmation Order shall enjoin the prosecution, whether*
6 *directly, derivatively or otherwise, of any Claim, obligation, suit, judgment, damage, demand, debt,*
7 *right, cause of action, liability or interest released, discharged or terminated pursuant to the Plan.*

8 *Except as provided in the Plan or the Confirmation Order, as of the Effective Date, all*
9 *entities that have held, currently hold, or may hold a Claim or other debt or liability that is or may*
10 *be discharged are permanently enjoined from taking any of the following actions against the*
11 *Debtors or their Estates or their property on account of any such claims, debts or liabilities: (1)*
12 *commencing or continuing, in any manner or in any place, any action or other proceeding; (2)*
13 *enforcing, attaching, collecting or recovering in any manner any judgment, award, decree or*
14 *order; (3) creating, perfecting or enforcing any lien or encumbrance; (4) asserting a setoff, right*
15 *of subrogation or recoupment of any kind against any debt, liability or obligation due to the*
16 *Debtors; and (5) commencing or continuing any action in any manner, in any place that does not*
17 *comply with or is inconsistent with the provisions of the Plan.*

18 **F. Other Provisions of the Plan**

19 **1. Changes in Rates Subject to Regulatory Commission Approval**

20 The Debtors are not subject to governmental regulatory commission approval of its rates.

21 **2. Retention of Jurisdiction/Consent to Jurisdiction by Holders and Parties in**
22 **Interest**

23 After the Confirmation Date and occurrence of the Effective Date, in addition to jurisdiction
24 which exists in any other court, the Bankruptcy Court will retain such jurisdiction as is legally
25 permissible, and all Holders of Claims and Interests and parties in interest that have notice of the
26 Plan shall be deemed to have consented to such jurisdiction, including for the following purposes:

27 a. To resolve any and all disputes regarding the operation and interpretation of
28 the Plan, the Confirmation Order, and/or the Liquidating Trust Agreement;

1 b. To resolve any and all disputes arising out of or regarding the Exit Financing;

2 c. To decide and enter orders and judgments with respect to all motions, claims
3 or causes of action relating to the sale or other disposition of the Liquidating Trust Assets;

4 d. To determine and enter orders and judgments with respect to any claims,
5 causes of action held by the Liquidating Trust or settlement of claims or causes of action,
6 notwithstanding that settlements of any Litigation Claims need not be approved by the Court;

7 e. To determine and enter orders and judgments with respect to the allowance,
8 classification, or priority of Claims and Interests upon objection by the Liquidating Trustee,
9 the Post-Confirmation Oversight Committee, or by other parties in interest with standing to
10 bring such objection or proceeding;

11 f. To determine and enter orders and judgments with respect to the extent,
12 validity and priority of any Lien asserted against the Liquidating Trust Assets;

13 g. To hear actions and enter orders and judgments to implement, consummate
14 and enforce the Plan, the Confirmation Order, the Liquidating Trust Agreement, and to
15 determine all matters that may be pending before the Court in the Cases on or before the
16 Effective Date with respect to any person or entity related thereto;

17 h. To determine and enter orders and judgments with respect to any request for
18 payment of Administrative Claims;

19 i. To hear and determine any motion for surcharge of Collateral by the
20 Liquidating Trustee;

21 j. To determine and enter orders and judgments with respect to all applications,
22 motions, adversary proceedings, contested matters, and any other litigated matters instituted
23 by the Debtors, the Liquidating Trustee, or the Post-Confirmation Oversight Committee
24 during the pendency of these bankruptcy cases whether before, on, or after the Effective
25 Date;

26 k. To determine and enter orders and judgments with respect to such other
27 matters and for such other purposes as may be provided in the Confirmation Order;
28

1 l. To modify the Plan under section 1127 of the Bankruptcy Code in order to
2 remedy any apparent defect or omission in the Plan or to reconcile any inconsistency in the
3 Plan so as to carry out its intent and purpose;

4 m. Except as otherwise provided herein or the Confirmation Order, to issue
5 injunctions to take such other actions or make such other orders as may be necessary or
6 appropriate to restrain interference with the Plan or the Confirmation Order, or the execution
7 or implementation by any Person of the Plan or the Confirmation Order;

8 n. To consider and enter any order or judgment with respect to any action Filed
9 to remove and/or replace the Liquidating Trustee;

10 o. To resolve disputes between the Liquidating Trustee and the Post-
11 Confirmation Oversight Committee;

12 p. To hear and resolve any action by a third party against the Liquidating Trustee
13 and/or any member of the Post-Confirmation Oversight Committee in their representative
14 capacities arising out of or relating to the Cases, the Plan and/or the Liquidating Trust; and

15 q. To enter a final decree closing these Cases.

16 **IX.**

17 **EFFECT OF CONFIRMATION OF PLAN**

18 **A. Discharge**

19 Subject to the provision below, Confirmation shall bind the Debtors, all Holders of Claims,
20 all Holders of Interests, and other parties in interest to the provisions of the Plan whether or not the
21 Claim or Interest of any such Holder is impaired under the Plan and whether or not any such Holder
22 has accepted the Plan.

23 Except as otherwise provided in the Plan or in the Confirmation Order, on the Effective Date,
24 to the extent applicable, the Debtors will be discharged from any debt that arose before confirmation
25 of the Plan, and any debt of a kind specified in section 502(g) or 502(i) of the Bankruptcy Code
26 whether or not a proof of claim based on such debt was Filed or deemed Filed under section 501 of
27 the Bankruptcy Code, such claim was allowed under section 502 of the Bankruptcy Code or the
28

1 Holder of such Claim accepted the Plan. Nothing contained herein shall limit the effect of
2 Confirmation as described in sections 524 and/or 1141 of the Bankruptcy Code, and on the Effective
3 Date, the Debtors shall be deemed discharged and released to the fullest extent permitted by section
4 1141 of the Bankruptcy Code.

5 **B. Vesting of Property in the Liquidating Trust**

6 All assets of the Debtors shall be transferred to the Liquidating Trust and shall be the
7 Liquidating Trust Assets.

8 **C. Modification of Plan**

9 The Proponents may modify the Plan at any time before Confirmation. However, the Court
10 may require a new disclosure statement and/or re-voting on the Plan, unless the modification is non-
11 material or relates only to the extension of the Effective Date, which modification shall not require a
12 new disclosure statement and/or re-voting on the Plan.

13 The Proponents may also seek to modify the Plan at any time after Confirmation only if (1)
14 the Plan has not been substantially consummated and (2) the Court authorizes the proposed
15 modifications after notice and a hearing.

16 **D. Post-Confirmation Status Report**

17 Within no more than 120 days of the entry of the Confirmation Order, the Liquidating
18 Trustee shall File a status report with the Bankruptcy Court explaining what progress has been made
19 toward consummation of the confirmed Plan. The status report shall be served on the United States
20 Trustee, the Post-Confirmation Oversight Committee and those parties who have requested special
21 notice. Further status reports shall be Filed no more than every 120 days and served on the same
22 parties.

23 **E. Post-Confirmation Conversion/Dismissal**

24 If for any reason the Court orders the Cases converted to chapter 7 cases after the Effective
25 Date, such conversion will have no impact or effect on the Liquidating Trust or the Liquidating Trust
26 Assets, including, but not limited to, the liens and security interests given the Exit Lender to secure
27
28

1 the Exit Financing, and the Liquidating Trustee and the Post-Confirmation Oversight Committee
2 shall continue to perform their duties as set forth in the Liquidating Trust Agreement.

3 The Confirmation Order may be revoked under very limited circumstances. The Court may
4 revoke the Confirmation Order if it was procured by fraud and if the party in interest brings an
5 adversary proceeding to revoke confirmation within 180 days after the entry of the Confirmation
6 Order.

7 **F. Post-Confirmation U.S. Trustee Fees**

8 All fees incurred after the Effective Date pursuant to 28 U.S.C. § 1930(a)(6) shall be paid by
9 the Liquidating Trustee from the Liquidating Trust Assets.

10 **G. Confirmation of the Plan Pursuant to Bankruptcy Code § 1129(b)**

11 The Proponents request Confirmation of the Plan under section 1129(b) of the Bankruptcy
12 Code with respect to any Impaired Class that does not accept the Plan pursuant to section 1126 of the
13 Bankruptcy Code. For a discussion of what the Debtors must demonstrate in order to confirm the
14 Plan over the rejection of any Impaired Class, see Section XII.C.2 below. The Proponents reserve
15 the right to modify the Plan in order to satisfy the requirements of section 1129(b) of the Bankruptcy
16 Code, if necessary.

17 **H. Final Decree**

18 Once these Estates have been fully administered as referred to in Bankruptcy Rule 3022, the
19 Liquidating Debtors, the Liquidating Trustee or the Post-Confirmation Oversight Committee shall
20 have authority to File a motion with the Bankruptcy Court to obtain a final decree to close the Cases.

21
22 **X.**

23 **CERTAIN RISK FACTORS TO BE CONSIDERED**

24 Holders of Impaired Claims should read and consider carefully the factors set forth below, as
25 well as other information set forth in this Disclosure Statement and the documents delivered together
26 herewith and/or incorporated by reference herein, prior to voting to accept or reject the Plan.
27
28

1 **A. Risks that the Debtors Will Have Insufficient Cash for the Plan to Become Effective.**

2 The Plan cannot be confirmed by the Bankruptcy Court unless the Debtors have sufficient
3 funds by the Effective Date to pay (or reserve for) all Allowed Administrative Claims and Allowed
4 Priority Claims, unless particular Holders of such Claims agree to a deferred payment of their
5 Claims. The Proponents believe that at the time of Confirmation the Debtors will have sufficient
6 Cash to satisfy (or reserve for) all such Claims.

7 **B. Risk Regarding the Distributions to Be Made to Holders of Allowed Claims**

8 Because of the nature of the Debtors' Assets and the current state of the real estate market,
9 the Proponents are not able to project the possible recovery by the Holders of Allowed General
10 Unsecured Claims or the timing of Distributions to those Holders. Further, to the extent any Claims
11 are determined to be Secured Claims, the Proponents are not able to project the value of the
12 Collateral securing those Claims.

13 **C. Bankruptcy Risks.**

14 Section 1122 of the Bankruptcy Code provides that a plan may place a claim or an interest in
15 a particular class only if such claim or interest is substantially similar to the other claims or interests
16 of such class. The Debtor believes that the classification of Claims and Interests under the Plan
17 comply with the requirements set forth in the Bankruptcy Code. However, there can be no assurance
18 that the Bankruptcy Court would reach the same conclusion.

19 Even if all Classes of Claims that are entitled to vote accept the Plan, the Plan might not be
20 confirmed by the Bankruptcy Court. Section 1129 of the Bankruptcy Code sets forth the
21 requirements for Confirmation and requires, among other things, that the Confirmation of a Plan is
22 not likely to be followed by the liquidation or the need for further financial reorganization of the
23 Debtors, and that the value of distributions to dissenting creditors and Interest Holders not be less
24 than the value of distributions such creditors and Interest Holders would receive if the Debtors were
25 liquidated under chapter 7 of the Bankruptcy Code. The Proponents believe that the Plan satisfies all
26 the requirements for Confirmation of the Plan.

1 **XI.**

2 **VOTING PROCEDURES AND REQUIREMENTS**

3 IT IS IMPORTANT THAT HOLDERS OF CLAIMS EXERCISE THEIR RIGHT TO
4 VOTE TO ACCEPT OR REJECT THE PLAN. All known Holders of Claims entitled to vote on the
5 Plan have been sent a Ballot together with this Disclosure Statement. Such Holders should read the
6 Ballot carefully and follow the instructions contained therein. Please use only the Ballot (or Ballots)
7 that accompanies this Disclosure Statement.

8 FOR YOUR VOTE TO COUNT, YOUR BALLOT MUST BE ACTUALLY RECEIVED
9 NO LATER THAN 5:00 P.M., PACIFIC TIME, ON MAY 30, 2012.

10 ANY BALLOT THAT IS EXECUTED AND RETURNED BUT THAT DOES NOT
11 INDICATE AN ACCEPTANCE OR REJECTION OF THE PLAN WILL BE DEEMED AN
12 ACCEPTANCE OF THE PLAN. IF YOU HAVE ANY QUESTIONS CONCERNING VOTING
13 PROCEDURES OR IF A BALLOT IS DAMAGED OR LOST, YOU MAY CONTACT
14 DEBTORS' COUNSEL: JEFFREY W. DULBERG, PACHULSKI STANG ZIEHL & JONES LLP,
15 10100 SANTA MONICA BOULEVARD, SUITE 1300, LOS ANGELES, CA 90067;
16 TELEPHONE: (310) 277-6910, EMAIL: JDULBERG@PSZJLAW.COM OR COUNSEL TO THE
17 COMMITTEE: DAVID L. NEALE, ESQ. OR DANIEL H. REISS, ESQ., LEVENE, NEALE,
18 BENDER, YOO & BRILL, L.L.P., 10250 CONSTELLATION BOULEVARD, SUITE 1700, LOS
19 ANGELES, CALIFORNIA 90067; TELEPHONE: (310) 229-1234; E-MAIL: DLN@NBYB.COM
20 OR DHR@LNBYB.COM, RESPECTIVELY.

21 **A. Parties in Interest Entitled to Vote**

22 Subject to the provisions of the Order approving this Disclosure Statement, any Holder of a
23 Claim against the Debtors as of the Petition Date, which Claim has not been disallowed by order of
24 the Bankruptcy Court or is not a Disputed Claim (unless the Bankruptcy Court, upon application by
25 such Holder, temporarily allows such Disputed Claim for the limited purpose of voting to accept or
26 reject the Plan), is entitled to vote to accept or reject the Plan if (1) such Claim is Impaired under the
27 Plan and is not in a Class that is deemed to have rejected the Plan pursuant to sections 1126(g) of the
28

1 Bankruptcy Code, and (2) either (a) such Holder's Claim has been Scheduled by the Debtors (and
2 such Claim is not Scheduled as disputed, contingent, or unliquidated), or (b) such Holder has Filed a
3 proof of claim on or before the Bar Date. In addition, any Holder of an Interest in the Debtor is not
4 entitled to vote to accept or reject the Plan because Class 5 is deemed to have rejected the Plan
5 pursuant to section 1126(g) of the Bankruptcy Code. A vote on the Plan may be disregarded if the
6 Bankruptcy Court determines, after notice and a hearing, that such vote was not solicited or procured
7 in good faith or in accordance with the provisions of the Bankruptcy Code.

8 **B. Classes Impaired and Entitled to Vote Under the Plan**

9 The following chart summarizes which Classes of Claims are Impaired and which Classes of
10 Claims are Unimpaired under the Plan.

11 CLASS	12 DESCRIPTION	13 IMPAIRED/ 14 UNIMPAIRED	15 VOTING 16 STATUS
17 Class 1	18 Secured Claim of: Collateralized Parties Pursuant to 2009 Pledge and Security Agreements Loan and Placement Agreements entered into from 2003-2008	19 Impaired	20 Voting
21 Class 2	22 Secured claim of Collateralized Parties re SCICG Mezzanine Fund I, LLC	23 Impaired	24 Voting
25 Class 3	26 Priority Wage 11 U.S.C. § 507(a)(4) Claims of Marc Paul and Robert Robotti	27 Unimpaired	28 Deemed to Accept
Class 4	General Unsecured Claims	Impaired	Voting
Class 5	Membership Interests	Impaired	Deemed to Reject

1 **1. Vote Required for Acceptance by Classes of Claims**

2 The Bankruptcy Code defines acceptance of a plan by a class of claims as acceptance by
3 holders of at least two-thirds in dollar amount and more than one-half in number of the claims of that
4 class that actually cast ballots for acceptance or rejection of the Plan, excluding ballots cast by
5 insiders of the debtor. Thus, acceptance by a Class of Claims occurs only if at least two-thirds in
6 dollar amount and a majority in number of the Holders of such Claims that vote cast their Ballots to
7 accept the Plan. A Class of Holders of Claims shall be deemed to accept the Plan in the event that
8 no Holder of a Claim within that Class submits a Ballot by the Ballot Date.

1 CREDITORS AND OTHER PARTIES IN INTEREST ARE CAUTIONED TO REVIEW
2 THE ORDER APPROVING THE DISCLOSURE STATEMENT, A COPY OF WHICH IS
3 ENCLOSED HEREWITH, FOR A FULL UNDERSTANDING OF VOTING REQUIREMENTS,
4 INCLUDING WITHOUT LIMITATION, USE OF BALLOTS.

5 **XII.**

6 **CONFIRMATION OF THE PLAN**

7 Under the Bankruptcy Code, the following steps must be taken to confirm the Plan.

8 **A. Confirmation Hearing**

9 Section 1128(a) of the Bankruptcy Code requires the Bankruptcy Court, after notice, hold a
10 hearing on confirmation of a plan. By order of the Bankruptcy Court, the hearing on the
11 Confirmation of the Plan has been scheduled for June 13, 2012 at 9:30 a.m. Pacific Time. The
12 Confirmation hearing may be adjourned from time to time by the Bankruptcy Court without further
13 notice except for an announcement made at the Confirmation hearing or any adjournment thereof.

14 **B. Objections to Confirmation of the Plan**

15 Section 1128(b) of the Bankruptcy Code provides that any party in interest may object to
16 Confirmation of the Plan. Any objection to Confirmation of the Plan must be in writing, conform to
17 the Federal Rules of Bankruptcy Procedure and the Local Rules of the Bankruptcy Court, set forth
18 the name of the objecting party, the nature and amount of the Claim or Interest held or asserted by
19 the objecting party against either of the Debtors, the basis for the objection, and the specific grounds
20 upon which the objection is based. The objection, together with proof of service thereof, must then
21 be Filed with the Bankruptcy Court, with a copy to chambers, and served upon counsel to the
22 Debtor, Pachulski Stang Ziehl & Jones LLP, 10100 Santa Monica Boulevard, 13th Floor, Los
23 Angeles, California 90067, Attn: Jeffrey W. Dulberg, Esq. and counsel to the Committee, Levene,
24 Neale, Bender, Yoo & Brill, L.L.P., 10250 Constellation Boulevard, Suite 1700, Los Angeles,
25 California 90067, Attn.: David L. Neale, Esq. and Daniel H. Reiss, Esq.

26 Objections to Confirmation of the Plan are governed by Federal Rule of Bankruptcy
27 Procedure 9014. UNLESS AN OBJECTION TO CONFIRMATION IS TIMELY AND
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1 PROPERLY SERVED AND FILED, IT MAY NOT BE CONSIDERED BY THE BANKRUPTCY
2 COURT.

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

4 At the Confirmation Hearing, the Bankruptcy Court will confirm the Plan only if all of the
5 requirements of section 1129 of the Bankruptcy Code are met. Among the requirements for
6 Confirmation are that the Plan (1) has been accepted by all Impaired Classes of Claims and Interests
7 or, if rejected by an Impaired Class, that the Plan “does not discriminate unfairly” and is “fair and
8 equitable” as to such Class, (2) is feasible, and (3) is in the “best interests” of Holders of Claims and
9 Interests Impaired under the Plan.

10 **1. Acceptance**

11 Claims in Classes 1, 2, 4 and 5 are Impaired, the Holders of Claims in those Classes are
12 entitled to vote on the Plan and, therefore, each of the Impaired Classes must accept the Plan in order
13 for the Plan to be confirmed without application of the “fair and equitable test,” as described below
14 in section XII.C.2, to such Class. As stated above, a Class of Claims will have accepted the Plan if
15 the Plan is accepted by at least two-thirds in dollar amount, and a majority in number of the Claims
16 of each such Class (other than any claims of creditors designated under section 1126(e) of the
17 Bankruptcy Code) that have voted to accept or reject the Plan.

18 Interests in Class 5 are Impaired; however, Holders of such Interests will not receive or retain
19 property under the Plan and, therefore, such Class is deemed have rejected the Plan. Accordingly, in
20 order for the Plan to be confirmed over the rejection of such Class, the “fair and equitable test,” as
21 described below in Section XII.C.2, must be applied to such Class..

22 Claims in Classes 3 are Unimpaired by the Plan, and the Holders thereof are conclusively
23 presumed to have accepted the Plan.

24 **2. Fair and Equitable Test**

25 The Debtors will seek to confirm the Plan notwithstanding the non-acceptance or deemed
26 non-acceptance of the Plan by any Impaired Class of Claims or Interests. To obtain Confirmation
27 under those circumstances, it must be demonstrated to the Bankruptcy Court that the Plan “does not
28

1 discriminate unfairly” and is “fair and equitable” with respect to such dissenting Impaired Class. A
2 plan does not discriminate unfairly if the legal rights of a dissenting class are treated in a manner
3 consistent with the treatment of other classes whose legal rights are substantially similar to those of
4 the dissenting class, and if no class receives more than it is entitled to for its claims or interests. The
5 Proponents believe that the Plan satisfies this requirement.

6 The Bankruptcy Code establishes different “fair and equitable” tests for Secured Claims,
7 Unsecured Claims and Interests, as follows:

8 **a. Secured Claims**

9 Either the Plan must provide (i) that the Holders of such Allowed Secured Claims retain the
10 liens securing such Claims, whether the property subject to such liens is retained by the Debtors or
11 transferred to another entity, to the extent of the Allowed amount of such Claims, and each Holder of
12 such Allowed Secured Claim receives deferred cash payments totaling at least the Allowed amount
13 of such Claim, of a value, as of the Effective Date of the Plan, of at least the value of such Holder’s
14 interest in the Estates’ interest in such property; (ii) for the sale of any property that is subject to the
15 liens securing such Allowed Secured Claims, free and clear of such liens, with such liens to attach to
16 the proceeds of such sale; or (iii) for the realization by such Holders of the indubitable equivalent of
17 such Allowed Secured Claims.

18 **b. Unsecured Claims**

19 Either (i) each Holder of an Impaired Allowed Unsecured Claim receives or retains
20 under the Plan property of a value equal to the amount of its Allowed Claim, or (ii) the Holders of
21 Allowed Unsecured Claims and Interests that are junior to the Claims of the dissenting Class will not
22 receive any property under the Plan.

23 **c. Interests**

24 Either (i) each Holder of an Allowed Interest will receive or retain under the Plan property of
25 a value equal to the greater of (y) the fixed liquidation preference or redemption price, if any, of such
26 Interests; or (z) the value of the Interests, or (ii) the Holders of Interests that are junior to the
27 Interests in the dissenting Class will not receive any property under the Plan.
28

1 THE PROPONENTS BELIEVE THAT THE PLAN MAY BE CONFIRMED ON A
2 NONCONSENSUAL BASIS (PROVIDED AT LEAST ONE IMPAIRED CLASS OF CLAIMS
3 VOTES TO ACCEPT THE PLAN). ACCORDINGLY, THE PROPONENTS WILL
4 DEMONSTRATE AT THE CONFIRMATION HEARING THAT THE PLAN SATISFIES THE
5 REQUIREMENTS OF SECTION 1129(b) OF THE BANKRUPTCY CODE AS TO ANY NON-
6 ACCEPTING CLASS.

7 **3. Feasibility**

8 The Bankruptcy Code requires that confirmation of a plan is not likely to be followed by the
9 liquidation, or the need for further financial reorganization of a debtor. The Plan contemplates that
10 all Assets of the Debtors will be transferred to the Liquidating Trust and that ultimately the
11 Liquidating Trustee will dispose of all Liquidating Trust Assets and all proceeds of the Liquidating
12 Trust Assets will be distributed to the Holders of Allowed Claims pursuant to the terms of the Plan.
13 Since no further financial reorganization of the Debtors will be possible, the Proponents believe that
14 the Plan meets the feasibility requirement. In addition, subject to the discussion of “Risk Factors”
15 set forth above, the Proponents believe that sufficient funds will exist at Confirmation to make all
16 payments required by the Plan to be made on or near the Effective Date.

17 **4. “Best Interests” Test**

18 With respect to each Impaired Class of Claims and Interests, Confirmation of the Plan
19 requires that each Holder of an Impaired Claim or Interest either (a) accepts the Plan, or (b) receives
20 or retains under the Plan property of a value, as of the Effective Date of the Plan, that is not less than
21 the value such Holder would receive or retain if the Debtors were liquidated under chapter 7 of the
22 Bankruptcy Code. This analysis requires the Bankruptcy Court to determine what the Holders of
23 Allowed Claims and Allowed Interests in each Impaired Class would receive from the liquidation of
24 the Debtors’ Assets in the context of a chapter 7 liquidation case.

25 Most importantly, the Plan provides for an orderly administration of the primary assets of the
26 Estates – the Dispo Fees. As stated above, approximately \$40 million in deferred Dispo Fees are
27 payable upon the occurrence of certain Triggering Events - voluntary or involuntary sale of the
28

1 Properties, including without limitation, foreclosure proceedings, the maturity of the loans secured
2 by the Properties (whether maturity occurs by the passage of time, acceleration of debt, or through a
3 refinancing of the existing loans), or such other disposition events as specified in the various
4 transaction documents. It is anticipated that the Dispo Fees will be collected over the next five to
5 seven years. The Proponents believe that the value to be realized by the Debtors' creditors will be
6 far greater if the Dispo Fees are collected upon the occurrence of the Triggering Events, rather than a
7 sale by a chapter 7 trustee of the Estates' rights to future Dispo Fees to one or more speculators in
8 today's unpredictable real estate derivatives market.

9 Further, if the Cases were converted to cases under chapter 7, a liquidation under chapter 7
10 would result in the incurrence of administrative costs in excess of those to be incurred under the Plan
11 because a chapter 7 trustee would likely seek to retain counsel and perhaps other professionals and
12 that are completely unfamiliar with the Debtors' atypical assets and liabilities. Also, a new time
13 period for the filing of Claims would commence under Bankruptcy Rule 1019(2), possibly resulting
14 in the filing of additional Claims against the Estates. Conversion of the Case to a case under chapter
15 7 and appointment of a trustee for administration of the Estate could also delay liquidation and the
16 prosecution of the Avoidance Actions. The Liquidating Trustee's familiarity with the Debtors'
17 operations, because he has previously served as the Debtors' CRO, will allow him to complete
18 liquidation of the Assets and distribute the proceeds more efficiently than a chapter 7 trustee, while
19 maximizing the value of the Estates' assets for the benefit of creditors.

20 XIII.

21 FINANCIAL INFORMATION

22 Attached hereto as **Exhibit "3"** are financial statements for SCI Real Estate Investments,
23 LLC for the years 2009 and 2010 and attached as **Exhibit "4"** are financial statements for Secured
24 California Investments, Inc. for 2009 and 2010. Additional information regarding the Debtors'
25 financial performance after the Petition Date is contained in the Debtors' Monthly Operating Reports
26 which are Filed with the Bankruptcy Court.

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XIV.

ALTERNATIVES TO CONFIRMATION
AND CONSUMMATION OF THE PLAN; LIQUIDATION ANALYSIS

The Proponents have thoroughly evaluated all alternatives to the Plan. After studying these alternatives, the Proponents have concluded that the Plan is the best alternative, and will maximize recoveries by parties in interest, assuming Confirmation of the Plan. The Plan provides that the Debtor will obtain Exit Financing to assist with the funding of the Plan and the Liquidating Trust, that all of the Debtors' Assets will be transferred to the Liquidating Trust and for the orderly liquidation of the Liquidating Trust Assets by the Liquidating Trustee, who has served as the Debtors' CRO and as such is familiar with the Debtors' business and Assets. The Proponents are not aware of any possible reorganization of the Debtors as there are not funds available for such reorganization and the Debtors have been unable to secure any financing. As discussed above in the Section on the Best Interests of Creditors Test, converting the Cases to chapter 7 liquidating cases would slow the process down and would result in additional fees and expenses having to be paid from the proceeds of such liquidation. The Proponents, therefore, do not believe that there is any better alternative to the Plan.

XV.

CERTAIN U.S. FEDERAL AND STATE INCOME
TAX CONSEQUENCES OF THE PLAN

THE FOLLOWING IS INTENDED TO BE ONLY A SUMMARY OF SELECTED FEDERAL AND STATE INCOME TAX CONSEQUENCES OF THE PLAN AND IS NOT A SUBSTITUTE FOR CAREFUL TAX PLANNING WITH, AND RECEIPT OF TAX ADVICE FROM, A TAX PROFESSIONAL. THE SELECTED FEDERAL AND STATE TAX CONSEQUENCES THAT ARE DESCRIBED HEREIN AND OTHER FEDERAL, STATE AND LOCAL TAX CONSEQUENCES THAT ARE NOT ADDRESSED HEREIN ARE COMPLEX AND, IN SOME CASES, UNCERTAIN. SUCH TAX CONSEQUENCES MAY ALSO VARY BASED ON THE INDIVIDUAL CIRCUMSTANCES OF EACH HOLDER OF AN ALLOWED

1 CLAIM AGAINST OR INTEREST IN THE DEBTORS. ACCORDINGLY, AS NOTED ABOVE,
2 EACH HOLDER OF AN ALLOWED CLAIM OR INTEREST IS STRONGLY ADVISED TO
3 CONSULT WITH ITS OWN TAX ADVISOR REGARDING THE FEDERAL, STATE AND
4 LOCAL TAX CONSEQUENCES OF THE PLAN.

5 THE DEBTORS DO NOT INTEND TO REQUEST A TAX RULING FROM THE
6 INTERNAL REVENUE SERVICE OR ANY OTHER TAXING AUTHORITY WITH RESPECT
7 TO ANY OF THE TAX CONSEQUENCES OF THE PLAN. CONSEQUENTLY, THE
8 INTERNAL REVENUE SERVICE OR ANOTHER TAXING AUTHORITY MAY DISAGREE
9 WITH AND MAY CONTEST ONE OR MORE OF THE TAX CONSEQUENCES DESCRIBED
10 HEREIN.

11 During the Cases, some of the Debtors' Assets were liquidated or are in the process of being
12 liquidated, and some of the proceeds of such liquidation have been used to fund the costs of
13 administering the Estates prior to the Effective Date. The federal and state income tax consequences
14 with respect to the liquidation of these Assets have or will be reflected on the Debtors' federal and/or
15 state income tax returns. Depending on the Debtors' federal and state income tax classification
16 status, any gains of the Debtors as a result of the liquidation of Assets during the Cases may result in
17 tax liability to the Debtors.

18 **A. Federal Income Tax Consequences to the Creditors**

19 The character, amount and timing of income, gain or loss the holders of Allowed Claims
20 recognize as a consequence of the Distributions under the Plan will depend upon, among other
21 things, (i) the manner in which the Claim or Interest was acquired, (ii) the length of time the Claim
22 was held, (iii) whether the Claim was acquired at a discount, (iv) whether the Holder of an Allowed
23 Claim has taken a bad debt deduction for the Claim, (v) whether the Holder has previously included
24 accrued but unpaid interest with respect to the Claim, (vi) the Holder's method of tax accounting,
25 (vii) whether the Claim is an installment obligation under the tax laws, and (viii) the type of
26 consideration received or deemed received by the Holder of the Claim in exchange for its Claim. In
27 addition, in the event interest is paid on the Claim, the Holder may have interest income. Therefore,
28

1 Holders of Allowed Claims should consult their tax advisors for information that may be relevant to
2 their particular situations and circumstances and the particular tax consequences to such Holders as a
3 result thereof.

4 Depending on the nature of the Claim, the Liquidating Trust may be required to file
5 information returns with the appropriate taxing agencies to report payments to the Holders of
6 Allowed Claims. In order to make Distributions, the Liquidating Trustee will require that Holders of
7 Allowed Claims provide certain federal income taxpayer information, such as the Holder's taxpayer
8 identification number. Should the Holder fail to do so within forty-five days of the request, the
9 Liquidating Trustee may withhold and bar any Distribution to that Holder, and the other Holders'
10 proportionate shares of the amount to be distributed will be recalculated.

11 **B. Transfer Taxes**

12 Pursuant to section 1146(a) of the Bankruptcy Code, any transfer, or the making or delivery
13 of an instrument of transfer, of real property interests from or by the Debtors or Liquidating Debtors
14 to the Liquidating Trust or Liquidating Trustee or any other person or entity pursuant to the Plan,
15 including, without limitation, the Liquidating Trust Assets, shall not be subject to any document
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1 recording tax, stamp tax, conveyance fee, intangibles or similar tax, mortgage tax, stamp act, real
2 estate transfer tax, mortgage recording tax, or other similar tax or governmental assessment, and the
3 Confirmation Order shall direct the appropriate state or local governmental officials or agents to
4 forego the collection of any such tax or governmental assessment and to accept for filing and
5 recordation any of the foregoing instruments or other documents without the payment of any such
6 tax or governmental assessment.

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8 **XVI.**

9 **RECOMMENDATION**

10 The Proponents recommend that all creditors receiving a Ballot vote in favor of the Plan.
11 The Proponents believe that the Plan maximizes recoveries to all creditors and, thus, is in their best
12 interests. The Plan as structured, among other things, allows creditors to obtain distributions in
13 excess of those that would be available if the Debtors were liquidated under chapter 7 of the
14 Bankruptcy Code and minimizes delays in recoveries to all creditors.

15 Dated: April 19, 2012

SCI Real Estate Investments, LLC
Secured California Investments, Inc.

17 
18 By: _____
19 William Hoffman
20 Chief Restructuring Officer

21
22 **Official Committee of Unsecured Creditors**

23
24 By: _____
25 Wells Fargo Bank, NA
26 Chair of the Official Committee of Unsecured
27 Creditors through its authorized representative
28 Gail E. Tubbs, Vice President

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2 estate transfer tax, mortgage recording tax, or other similar tax or governmental assessment, and the
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26
27
28

1 Presented By:

2 PACHULSKI STANG ZIEHL & JONES LLP

3

4 By: /s/ Jeffrey W. Dulberg

5 JEFFREY N. POMERANTZ
6 JEFFREY W. DULBERG
7 Attorneys for Co-Proponents
8 SCI Real Estate Investments, LLC
9 Secured California Investments, Inc.
10 Debtors and Debtors in Possession

7

8 and

8

9 LEVENE, NEALE, BENDER, YOO
& BRILL, L.L.P.

9

10

11 By: 

11

12 DAVID L. NEALE
13 DANIEL H. REISS
14 Attorneys for Co-Proponent
15 Official Committee of Unsecured Creditors

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