

**UNITED STATES BANKRUPTCY COURT  
FOR THE MIDDLE DISTRICT OF FLORIDA  
JACKSONVILLE DIVISION**

In re:

SUGARLEAF TIMBER, LLC,

Debtor.

Case No. 3:11-BK-03352-PMG

Chapter 11

**DISCLOSURE STATEMENT WITH RESPECT TO  
DEBTOR'S CHAPTER 11 PLAN OF REORGANIZATION**

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## DISCLAIMER

THE INFORMATION CONTAINED IN THIS DISCLOSURE STATEMENT IS INCLUDED HEREIN FOR PURPOSES OF PROVIDING ADEQUATE INFORMATION WITH RESPECT TO THE PLAN OF REORGANIZATION (THE "PLAN" OR "PLAN OF REORGANIZATION") OF **SUGARLEAF TIMBER, LLC** (THE "DEBTOR") PROPOSED BY THE DEBTOR AND MAY NOT BE RELIED UPON FOR ANY PURPOSE OTHER THAN TO EVALUATE THE TERMS OF THE PLAN. NO PERSON MAY GIVE ANY INFORMATION OR MAKE ANY REPRESENTATIONS, OTHER THAN THE INFORMATION AND REPRESENTATIONS CONTAINED IN THIS DISCLOSURE STATEMENT, REGARDING THE PLAN OR THE SOLICITATION OF ACCEPTANCES OF THE PLAN, IF ANY.

ALL CREDITORS AND INTEREST HOLDERS ARE ADVISED AND ENCOURAGED TO READ THIS DISCLOSURE STATEMENT. PLAN SUMMARIES AND STATEMENTS MADE IN THIS DISCLOSURE STATEMENT ARE QUALIFIED IN THEIR ENTIRETY BY REFERENCE TO THE PLAN AND THE EXHIBITS AND SCHEDULES ANNEXED TO THE PLAN AND THIS DISCLOSURE STATEMENT. THE STATEMENTS CONTAINED IN THIS DISCLOSURE STATEMENT ARE MADE ONLY AS OF THE DATE HEREOF, AND THERE CAN BE NO ASSURANCE THAT THE STATEMENTS CONTAINED HEREIN WILL BE CORRECT AT ANY TIME AFTER THE DATE HEREOF.

THIS DISCLOSURE STATEMENT HAS BEEN PREPARED IN ACCORDANCE WITH SECTION 1125 OF THE UNITED STATES BANKRUPTCY CODE AND RULE 3016 OF THE FEDERAL RULES OF BANKRUPTCY PROCEDURE AND NOT NECESSARILY IN ACCORDANCE WITH FEDERAL OR STATE SECURITIES LAWS OR OTHER NON-BANKRUPTCY LAW. THIS DISCLOSURE STATEMENT HAS NOT BEEN APPROVED OR DISAPPROVED BY THE SECURITIES AND EXCHANGE COMMISSION (THE "SEC"), NOR HAS THE SEC PASSED UPON THE ACCURACY OR ADEQUACY OF THE STATEMENTS CONTAINED HEREIN.

AS TO CONTESTED MATTERS, ADVERSARY PROCEEDINGS AND OTHER ACTIONS OR THREATENED ACTIONS, THIS DISCLOSURE STATEMENT SHALL NOT CONSTITUTE OR BE CONSTRUED AS AN ADMISSION OF ANY FACT OR LIABILITY, STIPULATION OR WAIVER, BUT RATHER AS A STATEMENT MADE IN SETTLEMENT NEGOTIATIONS. THIS DISCLOSURE STATEMENT SHALL NOT BE ADMISSIBLE IN ANY NON-BANKRUPTCY PROCEEDING NOR SHALL IT BE CONSTRUED TO BE CONCLUSIVE ADVICE ON THE TAX, SECURITIES OR OTHER LEGAL EFFECTS OF THE PLAN AS TO HOLDERS OF CLAIMS AGAINST, OR EQUITY INTERESTS IN, SUGARLEAF TIMBER, LLC.

## **DISCLOSURE STATEMENT**

NOW COMES Sugarleaf Timber, LLC, as Debtor and Plan Proponent, pursuant to 11 U.S.C. § 1125 and Rule 3017 of the Federal Rules of Bankruptcy Procedure (“Bankruptcy Rules”), and proposes the following Disclosure Statement in connection with its proposed Plan of Reorganization.

### **I. INTRODUCTION**

This Disclosure Statement is proposed by Debtor in connection with the filing of the Debtor’s Chapter 11 Plan of Reorganization (“Plan”), a copy of which is attached as Exhibit “A.” The Plan provides for the reorganization of the Debtor and distributions to its creditors.<sup>1</sup>

The purpose of this Disclosure Statement and the accompanying Plan is to provide adequate information to enable creditors and any and all claimants of the Debtor to make an informed judgment with respect to voting to accept or reject the Plan. The Disclosure Statement and proposed Plan proposed herein should be read together. Creditors, partners and other parties in interest including equity holders may wish to consult with their own counsel or other advisors with respect to the contents of this instrument.

### **II. CONDITIONS TO CONFIRMATION UNDER THE BANKRUPTCY CODE**

In order to confirm the Plan, the Bankruptcy Code (“Code”) requires that the Bankruptcy Court (“Court”) make a series of determinations concerning the Plan, including that (i) the Plan has classified creditor, partner and shareholder interests in a permissible manner; (ii) the contents of the Plan comply with the technical requirements of Chapter 11 of the Code; (iii) the Debtor has proposed the Plan in good faith; and (iv) the plan proponents’ disclosures concerning the Plan have been adequate, and have included information concerning all payments made or promised in connection with the Plan and the Chapter 11 proceeding.

The Code also requires that: (i) the Plan be accepted by the requisite vote of holders of claims and interests; (ii) the Plan be feasible; and (iii) the confirmation of the Plan be in the “best interests” of all creditors, partners and equity holders. To confirm the Plan, the Court must find that all three conditions are met. As a result, even if creditors, partners and equity holders of the Debtor accept the Plan by the requisite vote, the Court must make independent findings with respect to the Plan’s feasibility, and whether it is in the “best interests” of the parties in interest. The classification, best interests, acceptance and feasibility conditions to confirmation are discussed below.

If the Plan is not accepted and confirmed, an alternate plan submitted by the Debtor or by another party in interest may be accepted by creditors, partners and equity holders and confirmed by the Court, or the Debtor may be liquidated pursuant to Chapter 7 of the Code with the net proceeds of such liquidation being distributed in the following order: case administration expenses incurred by the Debtor, priority creditors, unsecured creditors, and equity holders.

#### **A. Classification of Claims and Interests**

The Court requires that a plan of reorganization place each creditor’s claim and each partner’s or shareholder’s interest in a class with other claims or interests which are “substantially similar.” The dollar amount of a claim is not usually the basis upon which to

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<sup>1</sup> Unless defined in this Disclosure Statement, all defined terms shall have the meaning ascribed to them in the Debtor’s Chapter 11 Plan of Reorganization.

distinguish it from other claims. However, an exception to the general rule is permitted in a case of a separate class of claims consisting of only unsecured claims, each of which is less than an amount that the Court approves as reasonable and necessary for administrative convenience.

### **B. Best Interests of Unsecured Creditors and Interest Holders**

Notwithstanding creditor, partner and equity holder acceptance of the Plan, the Court must independently determine that the Plan is in the best interests of all classes of creditors and interest holders. “Best Interests” means that the Plan provides to each member of each impaired class of claims and interests a recovery which has a present value at least equal to the present value of the distribution which each such person would receive if the Debtor were liquidated under Chapter 7 of the Code. The Plan Proponent believes that the Plan is in the best interests of all creditors.

To calculate what the members of each impaired class of unsecured claims and interests would receive if the Debtor were liquidated, the Court must first determine the dollar amount that would be generated from the liquidation. After determining this amount, the Bankruptcy Court must subtract:

- (i) the costs of liquidation (including trustee’s fees, the fees of counsel and other professionals employed by the trustee and selling expenses);
- (ii) unpaid expenses incurred by the Debtor during its reorganization proceeding (such as fees for attorneys, accountants and other professionals); and
- (iii) claims arising by reason of the trustee’s rejection of obligations incurred by the Debtor during reorganization. These costs and expenses, such other claims as might arise during liquidation, and secured claims which may attach to liquidation proceeds, are paid in full out of the liquidation proceeds before the balance is distributed to holders of unsecured claims. *See* Exhibit “B” Liquidation Analysis.

### **C. Acceptance**

The Code requires as a condition to confirmation that each impaired class of claims or interests accept the Plan, with the exception described in Section D below. The Code defines acceptance of the plan of reorganization by a class of claims as acceptance by two-thirds (2/3) in dollar amount and majority in the number of claims of that class, but for that purpose counts only those claims who actually vote to accept or reject the Plan. Holders of claims or interests who fail to vote are not counted as either accepting or rejecting the Plan.

Classes of claims or interests that are not “impaired” under the Plan are deemed to have accepted the Plan. A class is “impaired” if the legal, equitable, and contractual rights attaching to the claims or interests of that class are modified, other than by curing defaults, by reinstating maturities or by payment in full in cash. The proposed Plan impairs certain creditor classes.

### **D. Confirmation Without Acceptance by all Impaired Classes**

The Code contains provisions for confirmation of a plan even if the Plan is not accepted by all impaired classes, as long as at least one impaired class of claims has accepted it. These “cram-down” provisions for confirmation of a plan despite the non-acceptance of one or more impaired classes of claims of interests are set forth in § 1129(b) of the Code.

If a class of secured claims rejects the Plan it may still be confirmed so long as the Plan meets one of several different tests including: (i) that the Plan provides that each holder included in the class retains its liens securing such claims, whether the property subject to such claims is retained by the Debtor or transferred to another entity, to the extent of the allowed amount of such claims, and each holder receives on account of its claim deferred cash payments totaling the allowed amount of such claim, for value, as of the effective date of the Plan, of at least the value of such holder's interest in the Debtor's interest in such property; or (ii) that the Plan provides each holder included in the class with the realization of the indubitable value of the claim.

If an impaired class of unsecured claims rejects the Plan, it may still be confirmed so long as the Plan provides that: (i) each holder of a claim included in the rejecting class receives or retains on account of that claim property which has a value, as of the effective date of the Plan, equal to the allowed amount of such claim, or (ii) the holder of any claims or interest that is junior to the claim of such class will not receive or retain on account of such junior claim or interest any property at all.

If an impaired class of interests rejects the Plan, it may still be confirmed so long as the Plan provides that: (i) each holder of an interest of such Class receive or retain on account of such interest property of a value, as of the effective date of the Plan, equal to the greatest of the allowed amount of any fixed liquidation preference to which such holder is entitled, any fixed redemption price to which such holder is entitled, or the value of such interest; or (ii) the holder of any interest that is junior to the interest of such Class will not receive or retain any property under the Plan on account of such junior interest.

The Plan represents a legally binding arrangement and must be read in its entirety and in connection with this Disclosure Statement.

### **III. HISTORICAL BACKGROUND**

#### **A. Overview**

The Sugarleaf Timber project is a ten-year project to acquire and develop land in Clay County, Florida. Sugarleaf Timber, LLC, ("Sugarleaf") was formed as a Florida limited partnership on April 13, 2007 for the purpose of purchasing, developing, and ultimately selling 7,981 acres of land located in Clay County, Florida, comprising two tracts of land (collectively, the "Properties").

On April 13, 2007, a Florida land trust named "Land Trust No. 17" was created to take legal title to the Properties, with Frank J. Yong as the initial trustee. Sugarleaf was and is the sole beneficiary of Land Trust No. 17.<sup>2</sup> Diversified Investments of Jacksonville, LLC ("Diversified Investments") is the Manager of Sugarleaf, and Victoria Towers is both the Manager of Diversified Investments and Sugarleaf's agent for purposes of this case. The Debtor's operations are located at the office of its manager, Diversified Investments, 3030 Hartley Road, Suite 140, Jacksonville, Florida.

On May 11, 2007, Sugarleaf purchased the Properties for \$42.3 million, of which \$20 million was funded by Sugarleaf through its investors, with the balance financed pursuant to three loans (the "Farm Credit Loans") from Farm Credit of North Florida, FLCA ("Farm

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<sup>2</sup> On April 20, 2010, Gresham Trustee, LLC, a Florida limited liability company, was appointed as successor trustee of Land Trust No. 17.

Credit”). In connection with the loans, Farm Credit obtained security interests in the Properties, as described more fully below.

In an appraisal commissioned by Farm Credit and performed by one of its approved appraisers using Farm Credit’s specified appraisal criteria, Natural Resource Planning Services, Inc. opined that the combined value of the 7,981 acres Sugarleaf was purchasing had a value of \$41,910,000.00 as of April 28, 2007.

The Farm Credit Loans are evidenced by a note executed on May 11, 2007, in the original principal amount of \$20.45 million, and two additional notes also executed on May 11, 2007 in the original principal amounts of \$5 million each (collectively, the “Notes”). The Notes were secured by three mortgages, each dated May 11, 2007, and each recorded in the public records of Clay County, Florida on May 31, 2007, at Book 2902, Pages 1369-1414 (the “Mortgages”). Sugarleaf’s payment obligations under the Notes appear to be subject to limited guaranties from Gary A. Miller, Richard A. Miller, Frank A. Miller, A. J. Johns, L. Randall Towers, Avery C. Roberts and Anthony Nasrallah, each of whom was, either directly or indirectly, an investor in Sugarleaf.<sup>3</sup>

The Properties are immediately south of and adjacent to a parcel of land owned by the Gustafson Family in southeast Clay County, Florida (the “Gustafson Property”). The Gustafson Property consists of approximately 9,000 acres and is located immediately south of the City of Green Cove Springs, Florida. The eastern side of the Properties parallels US 17, and borders several rural residential neighborhoods, including a small private fly-in community. The southern property line parallels Clarks Creek, Warner Road and Sungarden Road. The Property has direct access to US 17, Warner Road and Sungarden Road (which is the boundary line between Clay County and Putnam County), and there is a rail spur along Warner Road that terminates on an adjacent parcel.

In 2008, Sugarleaf made applications to Clay County and the State of Florida to change the Land Use for the Properties to allow for 13 acres of Commercial Use, 396 acres of Industrial Use, 705 acres of Rural Residential Use, 6,227 acres of Agricultural Use, 317 acres of Conservation, and 54 acres of Future Right-of-Way. These applications have been approved.

In 2009, Sugarleaf began negotiations with private waste companies regarding a southern 2,700 acre site for a proposed regional landfill. These negotiations are ongoing. Presently, there are also stands of pre-merchantable pine timber on the Properties of a value in excess of \$6,000,000.00 over the next 9 years.

In 2010, notwithstanding the nationwide economic slowdown that began in late 2008, Sugarleaf negotiated the prospective sale of certain tracts of the Properties at favorable prices in excess of \$6,000.00 per acre. Farm Credit refused for a significant period of time to approve the sales or provide the lien releases required for the sales to close. Eventually, certain sales were consummated in 2010, and net sale proceeds of over \$1,400,000.00 were paid to Farm Credit.

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<sup>3</sup> The original members of Sugarleaf were Gary A. Miller, Trustee of the Gary A. Miller Living Trust, JWT Investments, LLC, Richard A. Miller, Frank A. Miller, A. J. Johns, L. Randall Towers, Avery C. Roberts and Anthony Nasrallah. Mr. Nasrallah resigned his interest shortly before the Petition Date.

In April 2010, due to the existence of substantial equity in the Properties, Sugarleaf requested that Farm Credit agree to the restructure of the Farm Credit Loans. Instead, on June 18, 2010, Farm Credit declared a default and, on July 30, 2010, denied Sugarleaf's request to restructure the Farm Credit Loans.

On August 4, 2010, pursuant to Farm Credit's rules and regulations, Sugarleaf requested that Farm Credit reconsider its denial of Sugarleaf's application for restructuring. *See* 12 U.S.C. § 2202(b)(2). As part of Sugarleaf's request for reconsideration, Sugarleaf requested an independent appraisal of the Property pursuant to the rules governing Farm Credit. Those same rules also required Farm Credit to consider the results of this independent appraisal in its final determination with respect to the restructuring of the Loan: "Within 30 days after a request for an appraisal under paragraph (1), the credit review committee . . . shall consider the results of such appraisal in any final determination with respect to the loan. *See* 12 U.S.C. § 2202(d)(2).

On August 10, 2010, Farm Credit provided Sugarleaf with the names of three approved appraisers from which Sugarleaf was permitted to choose to obtain an independent appraisal of the Property. *See* 12 U.S.C. § 2202(d). From the list of three approved appraisers, Sugarleaf chose Broom, Moody, Johnson & Grainger, Inc. ("Broom Moody") to appraise the Properties using the specific and unusual appraisal criteria imposed by Farm Credit.<sup>4</sup>

On October 20, 2010, Broom Moody delivered an appraisal to Farm Credit and Sugarleaf which determined that the Properties had a value, as of October 15, 2010, of \$31,000,000.00 (approximately \$3,996.00 per acre) (the "Broom Moody Appraisal"). Sugarleaf maintains that , as of October 15, 2010, the value of the Properties (\$31 million) exceeded the principal amount of the Farm Credit debt (the "Farm Credit Claim") by at least \$4.4 million.<sup>5</sup>

On November 19, 2010, Farm Credit rejected Sugarleaf's renewed application for restructuring. In doing so, Farm Credit made no mention of the Broom Moody Appraisal or its determination that the Properties had a value which exceeded the principal amount of Farm Credit's claim by at least \$4.4 million.

On December 13, 2010, as a result of Farm Credit's refusal to restructure the Farm Credit Loans, Sugarleaf delivered to Farm Credit a letter and a deed to the Properties by which Sugarleaf unconditionally surrendered title to all the Properties to Farm Credit. Farm Credit refused to accept Sugarleaf's unconditional surrender of the Properties and, instead, returned the deed of to Sugarleaf. At the time of Sugarleaf's unconditional surrender of the Properties, the value of the Properties, as determined by the Broom Moody Appraisal (\$31 million), exceeded the principal amount of the debt owed by Sugarleaf to Farm Credit under the Farm Credit Loans by at least \$4.4 million.

In 2010 and 2011, the Debtor actively negotiated with Farm Credit regarding the loan

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<sup>4</sup> The Debtor believes that the appraisal criteria imposed by Farm Credit resulted in values that are less than the fair market value of the properties, and asserts that in reaching its determination of value the Bankruptcy Court is not bound by the appraisal criteria imposed by Farm Credit.

<sup>5</sup> The valuation was provided in compliance with Farm Credit's collateral evaluation requirements. *See* 12 C.F.R. § 614.4240, *et seq.*

issues, but such negotiations were unsuccessful. No foreclosure on the Properties has been instituted by Farm Credit (or by any lienholder). When negotiations continued to be unsuccessful, the Debtor was compelled to file this Chapter 11 case on May 8, 2011 (the "Petition Date").

#### **IV. MAJOR EVENTS DURING THE DEBTOR'S CHAPTER 11 CASE**

On the Petition Date, May 8, 2011, the Debtor filed its *Voluntary Petition, Chapter 11 Case Management Summary, Schedules A,B,C,D,E,F,G,H, Summary of Schedules, List of Creditors Holding 20 Largest Unsecured Claims, Verification of Creditor Matrix, List of Equity Security Holders, and Statement of Corporate Ownership*. The Clerk of the Bankruptcy Court established September 8, 2011 (the "Claims Bar Date") as the last date on which a non-governmental creditor or interest holder could file a proof of claim or a proof of interest.

On May 8, 2011, the Debtor filed its *Complaint against Farm Credit of North Florida, ACA* (Adv. Proc. No. 3:11-ap-00243-PMG).

On May 16, 2011, the Court entered its *Order Authorizing Debtor-in-Possession to Operate its Business* (Docket No. 13).

On May 16, 2011, the Debtor filed an *Application to Employ Robert D. Wilcox, as Attorney for the Debtor* (Docket No. 15). The Bankruptcy Court has entered an order granting that Application.

On May 23, 2011, the Debtor filed its *Statement of Financial Affairs* (Docket No. 20).

On May 27, 2011, Farm Credit of Florida, ACA as a secured creditor appeared in the case through Brian P. Hall, Esq. (Docket No. 22).

On May 29, 2011, the Debtor filed its *Motion for 2004 Examination of Natural Resources Planning Services, Inc.* (Docket No. 23) The Court entered an Order granting this motion on July 28, 2011 (Docket No. 35).

On June 1, 2011, the initial meeting of creditors was held and concluded.

On June 8, 2011, Farm Credit of Florida, ACA filed its *Motion for Relief from Stay Re: Real Property, or, Alternatively, to Dismiss the Case* (Docket No. 24) through Brian P. Hall, Esq. The Debtor filed an *Objection to Farm Credit's Motion for Stay Relief, or, In the Alternative to Dismiss Case* on August 8, 2011 (Docket No. 45). A Preliminary Hearing on Farm Credit of Florida, ACA's *Motion for Relief from Stay*, was held on August 8, 2011, and a final evidentiary hearing on the Motion to Dismiss is scheduled for November 9, 2011.

On June 27, 2011, the Debtor filed its *Motion to Sell Property Free and Clear of Liens* (Docket No. 33) relating to 2 parcels of property of approximately 17 and 477 acres respectively to Clarence Smith, or his Assignee. The motion was granted at a hearing on August 17, 2011, and the sale is in progress with all net proceeds to go to satisfy the lienholder. The Debtor has also entered into a contract for the sale of 1,000 acres to St. Johns River Mitigation, LLC, and has sought court approval of that sale (Docket No. 59).

On July 27, 2011, the Debtor filed its *Application to Employ Broom, Moody, Johnson & Grainger, Inc. as Consultant* (Docket No. 37). The application was granted at a Preliminary Hearing on August 17, 2011, and an order approving the retention has been entered (Docket No. 54).



On August 5, 2011, the Debtor filed its *Application to Heyward M. Cantrell as Consulting Property Appraiser* (Docket No. 43). The application was granted by the Court at a hearing on August 17, 2011, subject to the filing of a supplemental affidavit from Mr. Cantrell, and an order approving the retention has been entered (Docket No. 54).

The Debtor anticipates receiving approximately \$50,000.00 prior to October 1, 2011 from Natural Resource Planning Services, Inc. pursuant to a prepetition Master Hunting Lease. The Debtor proposes to use a portion of those funds, which are subject to the liens of Farm Credit, to fund a “timber cruise” to determine the feasibility of, and likely revenue that can be obtained from, a sale of timber located on the Properties. Based upon its investigation to date, the Debtor believes that it is reasonable to expect that it could contract for a timber cut that would generate in excess of \$475,000.00 net of expenses within the next six months. Those net proceeds would, subject to an order of the Bankruptcy Court providing otherwise, be turned over to Farm Credit and credited toward the amounts due under the Farm Credit Loans.<sup>6</sup>

The Debtor has filed its Monthly Operating Reports for May, 2011 and June, 2011. The report covering the period from June 1, 2011 to June 30, 2011 shows that as of June 30, 2011 the Debtor had cash on hand of \$6,248.74.<sup>7</sup> Any cash-on-hand amount will be reduced by (a) administrative expenses in the case including post-petition obligations for taxes, insurance, and professional fees, (b) “adequate protection” payments made to secured creditors, and (c) marketing and other costs associated with the consummation of the Plan. A copy of the June 2011 Monthly Operating Report is attached as Exhibit “C.”

#### **A. The Debtor’s Financial Condition as of the Petition Date**

The Debtor filed Schedules and a Statement of Financial Affairs listing approximately 7,712 acres of real property owned, with a listed value of as of the Petition Date of \$31,000,000.00. That value was based upon the Broom Moody Appraisal<sup>8</sup>, and the Debtor believes that value the was conservative. In addition, the Debtor list uncut timber on its Properties as having a value over the next ten years of \$6,000,000.00, a bank account containing \$9,486.03, equipment having a value of \$7,000.00, and an ownership interest in Greenwise Energy, LLC having an “unknown value”. Greenwise Energy, LLC has no operations or assets, and the Debtor believes the value of its ownership interest is \$0.00. The Debtor also listed liabilities of \$26,781,078.62, including the debt to Farm Credit, which was identified as disputed. The dispute arises from the amount of the debt.

The Debtor also identified 2010 income of \$1,489,730.00 and 2011 income prior to May 8, 2011 of \$258,000.00. All income in 2010 and 2011 came from the operation of the Debtor’s business. A copy of the Voluntary Petition with Schedules and the Statement of Financial Affairs is attached as Exhibit “D”.

#### **B. The Adversary Proceedings**

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<sup>6</sup> Because the proceeds from the Master Hunting Lease constitute “cash collateral” subject to the liens of Farm Credit, then pursuant to Section 363(c)(2) of the Bankruptcy Code, the Debtor will need either the consent of Farm Credit to the proposed use, or the approval of the Bankruptcy Court. If Bankruptcy Court approval is needed, the Debtor will file an appropriate motion. The proposed timber sale will also require the approval of the Bankruptcy Court.

<sup>7</sup> As of September 4, 2011, the Debtor has cash on hand of \$1,186.36.

<sup>8</sup> See the discussion above regarding the criteria used in that appraisal.

Adv. Proc. No. 3:11-ap-00243-PMG (the “Debtor’s Lawsuit”)

As stated above, on May 8, 2011, the Debtor, acting as Plaintiff, initiated an adversary proceeding by filing a Complaint against Farm Credit, Gary A. Miller, Richard A. Miller, Frank A. Miller, A. J. Johns, L. Randall Towers, Avery C. Roberts and Anthony Nasrallah<sup>9</sup> (aside from Farm Credit and Mr. Nasrallah, the “Individual Defendants”). The Individual Defendants filed an Answer on June 24, 2011 (Doc. No. 6) and Farm Credit filed a Motion to Dismiss on June 30, 2011 (Doc No. 7), which motion is scheduled for preliminary hearing on September 6, 2011. The Debtor has filed a Motion to Amend Complaint (Doc. No. 13), in which it seeks leave of the Bankruptcy Court to file an Amended Complaint against Farm Credit and the Individual Defendants. In the adversary proceeding, the Debtor seeks, inter alia, to establish the value of the Clay County Properties together with and separate from the Clay County Remaining Tract, for both the purposes of confirmation and for the purposes of whether or not Farm Credit’s entitlement to further interest, penalties, attorney fees and costs was, as a matter of law, cut off when it failed to accept the December 13, 2010 deed tender from Sugarleaf. No trial or final hearing on those requests has been scheduled as of September 4, 2011.

Adv. Proc. No. 3:11-ap-00733-PMG (the “Removal Lawsuit”)

On August 5, 2011, Farm Credit commenced an action in Clay County, Florida, Circuit Court, styled as *Farm Credit of Florida ACA v. Avery Roberts, L. Randall Towers, Richard A. Miller, Gary A. Miller, Frank E. Miller and A.J. Johns*, Case No. 2011-CA-001034 (the “State Court Action”), seeking, inter alia, to enforce alleged personal guaranties against the defendants, who are identical to the “Individual Defendants” in the adversary proceeding initiated by the Debtor and described above. On September 1, 2011, the Individual Defendants initiated Adv. Proc. No. 3:11-ap-00733-PMG by filing collectively a Notice of Removal in the Bankruptcy Court alleging, inter alia, that the State Court Action is substantially related to issues in the Debtor’s Lawsuit. No trial or final hearing has been scheduled as of September 4, 2011 in the Removal Lawsuit.

### **C. Claims Filed in the Case**

As stated above, the last date on which the claims of non-governmental entities may be filed is September 8, 2011.<sup>10</sup> As of September 4, 2011, sixteen claims had been filed, and some creditors filed more than one claim. Unsecured claims, other than contingent claims filed by the Individual Defendants related to reimbursement for possible liability on their personal guaranties, total \$404,039.17. Including those contingent liability claims, unsecured claims filed to date total \$32,795,286.67. Two secured claims were filed, one by Farm Credit for \$27,310,618.40, and a second by the Tax Collector of Clay County, Florida for \$7,551.51. The Debtor will be reviewing the claims filed and will be objecting to certain claims. The Debtor’s lawsuit identified above also contains an objection to Farm Credit’s claim. A copy of the Claims Register as of September 2, 2011 is attached as Exhibit “E.”

## **V. THE PLAN OF REORGANIZATION**

### **A. The Debtor as Plan Proponent**

The Debtor is the plan proponent.

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<sup>9</sup> As stated above Mr. Nasrallah resigned as a member of Sugarleaf prior to the Petition Date. Mr. Nasrallah reached a settlement with Farm Credit, and is no longer involved in Sugarleaf or this adversary proceeding.

<sup>10</sup> A creditor may seek leave of the Bankruptcy Court to file a claim after that date.

## **B. Reorganization**

If the Court enters an order confirming the Plan, the Plan will take effect on the “Effective Date,” which is the date thirty (30) days following the date upon which the confirmation order becomes a final order, or such other earlier date on or after the confirmation hearing date as the Plan Proponent may elect. If such day is a weekend day and/or a legal holiday, the effective date shall be the next business day.

The basic terms of the Plan are (a) the Reorganized Debtor shall transfer a portion of its properties to Farm Credit in full satisfaction of the Farm Credit Notes; and (b) the Reorganized Debtor shall operate its business, including the marketing and sale of the property vested in the Reorganized Debtor, to pay the remainder of its debts. Based upon its review of the claims and the plan treatments provided under the Plan of Reorganization, the Debtor believes that it will pay its secured and unsecured creditors in full. However, it cannot guarantee that result, as it is dependent upon the claims objection process and events in the case.

Management of the Reorganized Debtor will remain with Diversified Investments of Jacksonville, LLC through its Manager, Victoria Towers.

## **C. Classes, Allocations and Disbursements**

Distributions will be made to creditors through the transfer of properties owned by the Debtor on the Effective Date and from the proceeds from the lease and/or sale of its real property, timber and equipment.

The Plan identifies the express treatment of each Class, in the following particulars.

Not all classes of claims and interests are impaired under the Plan by virtue of 11 U.S.C. §1124. The Pre-Petition Date rights of the Classes and the obligations of the Debtor are modified and replaced by the following:

### Class 1 Claims:

Description of Debt. Class 1 consists of the Farm Credit of Florida, secured claim to the extent it is an Allowed Claim secured by Property of the Debtor.

Impairment. This class is impaired.

Treatment. The Debtor shall execute and effectuate a special warranty deed that will transfer all of the Debtor’s interest (as well as any corresponding title interest of Cresham Trustee, LLC) in (a) Clay County Property 1 Rayonier Tract and (b) Clay County Property 2 Gibbs Bay Tract, excluding specifically the Clay County Property Remaining Tract, to Farm Credit in full satisfaction of Farm Credit’s claim and all debts owed to it by the Debtor.

As an alternative treatment, at the Debtor’s option after notice to be provided to Farm Credit prior to the Effective Date, the Debtor shall execute and effectuate a special warranty deed that will transfer all of the Debtor’s interest (as well as any corresponding title interest of Cresham Trustee, LLC) in (a) Clay County Property 1 Rayonier Tract and (b) Clay County Property 2 Gibbs Bay Tract, and (c) the Clay County Property Remaining Tract to Farm Credit in full satisfaction of Farm Credit’s claim and all debts owed to it by the Debtor.

The transfer and deed delivery to Farm Credit shall provide the indubitable equivalence and fully satisfy all claims of Farm Credit against the Debtor. More specifically, upon such transfer, Farm Credit shall mark each of the Farm Credit Notes paid in full and return them to counsel for the Debtor, and shall cause its Deeds of Trust and all related security agreements to be released and/or cancelled. Further, Farm Credit shall dismiss with prejudice all litigation which relates to the Farm Credit Loans.

Class 2 Claims:

Description of Debt. Class 2 consists of the secured claim of the Clay County Tax Collector for past due taxes on the Debtor's real property, to the extent it is an Allowed Claim secured by Property of the Debtor.

Impairment. This class is not impaired.

Treatment. The Clay County, Florida Tax Collector, shall be paid in full with statutory interest, on the earlier of May 7, 2016 or the date of the sale or transfer of the Property on which on which the Tax Collector has a lien.

Class 3 Claims:

Description of Debt. Class 3 consists of all claims entitled to priority under section 507(a)(8) of the Bankruptcy Code.

Impairment. This class is not impaired.

Treatment. Class 3 Claimants holding Allowed Claims will receive payment in full from the Reorganized Debtor, on August 31, 2012, or earlier if the Reorganized Debtor so elects.

Class 4 Claims:

Description of Debt. Class 4 consists of all general unsecured claims not entitled to priority under Section 507 of the Bankruptcy Code and for which the Allowed Claim amount exceeds \$300.00.

Impairment. Class 4 is impaired.

Treatment. Class 4 claimants will be paid as follows

- A. \$50,000.00 on the later of (1) May 7, 2012; or (2) the first business day of the calendar month date on which the net proceeds from the sale of all or a portion of the Clay County Remaining Tract exceeds \$50,000.00, at which time Class 4 claimants shall receive their pro rata shares of the proceeds, and
- B. Additional \$50,000.00 payments on an annual basis on the anniversary of the Effective Date, with such payments to continue until the Allowed Claims in Class 4 are paid in full.

In no instance shall any holder of a claim in Class 4 be paid interest accruing after the Petition Date, nor shall such interest accrue.

Class 5 Claims:

Description of Debt. Class 5 consists of all general unsecured claims not entitled to priority under Section 507 of the Bankruptcy Code and for which the Allowed Claim amount does not exceed \$300.00.

Impairment. Class 11 is not impaired.

Treatment. Each holder of a Class 11 Allowed Claim will receive payment in full on the Initial Distribution Date.

#### **D. Distributions and Impairment**

Distributions will be made to creditors as funds are available with payments made pursuant to specific agreements between the respective Reorganized Debtor and recipients after the Debtor or Reorganized Debtor and the Claimant agree upon the amount of the Claim or the Claim is allowed by the Court.

#### **E. General and Miscellaneous Plan Provisions**

The Reorganized Debtor will, from and after confirmation of the Plan, be indebted for and obligated to pay those obligations and liabilities as set forth herein. The Bankruptcy Court shall retain jurisdiction post-confirmation.

#### **F. The Claims Bar Date**

ANY CLAIMANT WHO FAILS TO FILE A TIMELY PROOF OF CLAIM WILL BE FOREVER BARRED FROM ASSERTING THEIR CLAIM AGAINST THE DEBTOR. THE DEADLINE TO FILE PROOFS OF CLAIM OR INTERESTS, OTHER THAN BY GOVERNMENTAL UNITS, IS SEPTEMBER 8, 2011.

#### **G. Feasibility of the Plan and Status of Debtor after Confirmation**

The Plan is feasible because the transfer of the Clay County Properties to Farm Credit will satisfy all liability to Farm Credit, and reduce the Debtor's liabilities to approximately \$412,000.00. At that point, the Debtor will own the Clay County Remaining Tract which is approximately 8% of the combined total of the real property the Debtor owns. The Debtor will have assets worth several million dollars, as valued based upon the recent sales approved since the Petition Date, and will also have the ability to cut timber and enter into a hunting lease on that property. Since the value of the growing timber on all the Properties is \$6,000,000.00 over the next ten years, if eight percent of that timber is on the Remaining Tract, the ten year value is \$480,000.00.<sup>11</sup> In addition, of course, it is the eventual sale of the Clay County Remaining Tract in the course of its development and land sale business that will support the Reorganized Debtor's obligations under the Plan and its ongoing operations.

#### **H. Executory Contracts and Unexpired Leases**

To the extent not already assumed or rejected pursuant to order of the Bankruptcy Court, the Reorganized Debtor will reject all executory contracts and unexpired leases of the Debtor, except for the Master Hunting Lease.

#### **I. Discharge of the Debtor**

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<sup>11</sup> Once the proposed "timber cruise" is completed, the Debtor will have additional evidence of the net value of the timber on the Clay County Remaining Tract.

The entry of an Final Order Confirming Plan acts as a discharge of any and all liabilities of the Debtor that are dischargeable under § 1141 of the Bankruptcy Code. Entry of that order also acts as a permanent injunction against the assertion of any claim asserted in the case and addressed by the Plan in any manner inconsistent with the Plan.

#### **J. Post-Confirmation Acts**

The Reorganized Debtor shall have the ability to (a) pursue collection and avoidance actions, and to assert generally the Debtor's pre-confirmation rights, and (b) object to and negotiate claims. In addition the Debtor shall have the authority to take all actions reasonably necessary to effectuate the Plan, and to employ such professionals as reasonably necessary to do so, and to waive any conflict of interest based upon any professionals representation of the Debtor, and creditor, or based upon such professional's status as a creditor of the Debtor and/or a Reorganized Debtor. Management of the Reorganized Debtor shall be conducted by Agents appointed by the General Partner, Diversified Investments of Jacksonville, LLC. The Agent of the initial Reorganized Debtor shall be Victoria Towers. Initial compensation of the Agent shall be \$75.00 per hour, subject to negotiation or change. Interests in the Reorganized Debtor will be held by A.J. Johns, Avery C. Roberts, Frank E. Miller, Gary A. Miller, Trustee of Gary A. Miller Living Trust, JWT Investments, LLC, Lawrence R. Towers, and Richard A. Miller.

#### **K. Tax Consequences for Creditors and Interest Holders**

As stated in the Plain itself, the tax consequences resulting from confirmation of this Plan are likely to vary greatly among the various classes of creditors or within each class. Significant tax consequences may occur as a result of confirmation of the plan under the Internal Revenue Code and pursuant to state, local, and foreign tax statutes. Because of the various tax issues involved, the differences in the nature of the claims of various creditors, the taxpayer status and methods of accounting and prior actions taken by creditors with respect to their claims, as well as the possibility that events subsequent to the date hereof could change the tax consequences, no specific tax consequences to any creditor or holders of an interest are represented, implied or warranted.

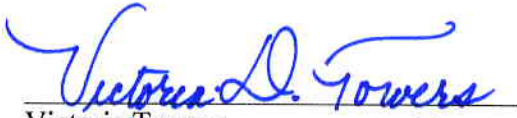
The proponent assumes no responsibility for the tax effect that consummation of this Plan will have on any given Holder of a Claim if Interest. Holders of Claims or Interest are strongly urged to consult their own tax advisors covering the federal, state, local and foreign tax consequences of the Plan to their individual situation.

#### **L. Conclusion**

The Plan Proponent is of the opinion that the provisions of the Plan will satisfy the claims against the Debtor in a manner providing each the maximum value to fairly and equitably satisfy these claims. The Plan Proponent believes that the Plan proposed by the Plan Proponent represents the highest possible recovery for the estate and its creditors, and is in the best interests of the estate and its creditors.

The Plan Proponent asks every creditor to vote to accept the Plan of Reorganization.

Sugarleaf Timber, LLC



Victoria Towers  
on behalf of Sugarleaf Timber, LLC

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