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7 UNITED STATES BANKRUPTCY COURT
8 NORTHERN DISTRICT OF CALIFORNIA
9 SAN JOSE DIVISION

10 In re: Case No. 09-61196
11 SANTA CLARA SQUARE, LLC, Chapter 11
12 Debtor.
13

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15 **DISCLOSURE STATEMENT IN SUPPORT OF DEBTOR'S**
16 **FIRST AMENDED CHAPTER 11 PLAN OF REORGANIZATION**
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1 Debtor in Possession Santa Clara Square, LLC (“Debtor”) submits the following Disclosure
2 Statement (“Disclosure Statement”) with respect to Debtor’s First Amended Chapter 11 Plan of
3 Reorganization (the “Amended Plan”).

4 **I. PURPOSE OF DISCLOSURE STATEMENT**

5 This Disclosure Statement contains information which may bear upon your decision to
6 accept or to reject the Amended Plan. The information presented in this Disclosure Statement is
7 provided to enable the parties in interest to make a reasonably informed decision as to whether to
8 vote for or against the Amended Plan.

9 All of Debtor’s statements and representations in this Disclosure Statement, including those
10 relating to the financial, business, and accounting data are those of the Debtor and are not those of
11 the professionals who represent the Debtor. The financial information in this Disclosure Statement
12 concerning the Debtor is compiled from Debtor's books and records and is unaudited. The Debtor is
13 unable to warrant or represent that information contained herein is without error, although all
14 reasonable efforts under the circumstances have been made to be accurate.

15 This Disclosure Statement has been prepared by Debtor’s representatives and counsel
16 pursuant to Section 1125 of the Bankruptcy Code in connection with the solicitation of votes on the
17 Amended Plan which is provided to you with this Disclosure Statement. The purpose of this
18 Disclosure Statement is to provide to Debtor’s creditors, who are entitled to vote on the Amended
19 Plan, adequate information to make an informed judgment about whether to accept or reject the
20 Amended Plan.

21 The Disclosure Statement describes the relevant background and history of Debtor and
22 significant events both before and after the commencement of the Chapter 11 case. The Disclosure
23 Statement also describes the terms and provisions of the Plan of Reorganization, including the
24 treatment of the various classes of creditors, according to the types of claims held by each creditor,
25 and the manner in which the Debtor will be able to provide such treatment.

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1 **II. VOTING REQUIREMENTS**

2 A creditor whose legal rights are impaired under the Amended Plan and who has filed or is
3 deemed to have filed a proof of claim is entitled to vote to accept or to reject the Amended Plan,
4 unless an objection to such creditor's claim has been filed with the Court. A claim which is the
5 subject of a pending objection is not entitled to vote on the Amended Plan unless the holder of the
6 claim successfully moves the Court to temporarily allow the claim for voting purposes or unless the
7 Court allows some portion of the claim. If the Debtor or other party in interest files an objection to
8 your claim, you must move the Court to allow your claim for voting or your vote will not be counted.

9 In order for the Amended Plan to be confirmed by the Court, two-thirds (2/3) in dollar
10 amount and more than one-half (1/2) in number of the allowed claims in an impaired class which vote
11 must accept the Amended Plan. Voting percentages will be based upon the number of ballots
12 actually cast.

13 After carefully reviewing the Disclosure Statement and the Amended Plan, please indicate
14 your vote to accept or to reject the Amended Plan on the enclosed ballot and return it to Debtor's
15 counsel no later than the date and time specified in the Order Approving Disclosure Statement,
16 which is served herewith. The ballot should be returned to the following address:

17 COHEN AND JACOBSON
18 Attn: Lawrence A. Jacobson
19 900 Veterans Boulevard, Suite 600
20 Redwood City, CA 94063

21 Your ballot will not be counted unless **received** by the deadline. Your ballot will not be
22 counted if it is not signed. Your ballot will not count unless you indicate whether you accept or
23 reject the Amended Plan.

24 In tabulating acceptances and rejections, Debtor will use the lesser of (a) the dollar amount
25 you state on your ballot, (b) the dollar amount of your claim as shown on the official claims register,
26 or, if you did not file a proof of claim, (c) the undisputed amount of your claim on Debtor's
schedules, unless you move the Bankruptcy Court to allow your claim for voting purposes in a

1 different amount. The claims register reflects the amount you included on a proof of claim if you
2 filed a proof of claim. You may review the official claims register and Debtor's schedules at the
3 office of the Clerk of the Bankruptcy Court, Third Floor, 280 South First Street, San Jose, California
4 95113, or by using the PACER electronic docketing system (charges may apply for use of PACER).

5 **III. BACKGROUND¹**

6 **A. Preliminary Information**

7 **1. Debtor's Name:**

8 The Debtor is Santa Clara Square, LLC.

9 **2. Form of Debtor:**

10 Debtor is a California limited liability company that was created on July 29, 2003. The
11 members of Debtor are E& H SC Family Limited Partnership (51%), Santa Clara QVN, LLC (18%),
12 Hung Nguy (8%), Albert Wang (6%), Chia Van Dang (5%), Jenny Nguy (5%), Minh Nguy (5%),
13 and Linh My Nguy (2%).

14 **3. Debtor's Business:**

15 Debtor is in the business of investing in commercial real property. More particularly, Debtor
16 is in the business of purchasing, leasing, renovating and selling commercial real property. Debtor
17 currently owns certain commercial real property commonly known as 3610 - 3700 El Camino Real,
18 Santa Clara, California (the "Property"). Debtor's current income is derived from the leasing of the
19 commercial units, but the maximum potential value of the Property may be as a development project
20 for residential and additional commercial improvements.

21 **4. Related Entities:**

22 Debtor does not have any parent, subsidiary, or other related entities.

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24
25 ¹ Throughout this Disclosure Statement Debtor may refer to certain defined terms which are
26 designated with capital letters (e.g., Effective Date). The defined terms used herein are more fully
described in the Plan, and the Disclosure Statement may use the defined terms from the Plan as if the
definition is fully set forth herein.

1 **5. Other Sources of Income:**

2 The Debtor has no other sources of income other than from the rental of the commercial
3 property. Debtor’s members have advanced funds to the Debtor. Those funds remain on deposit in
4 the DIP Account.

5 **6. Date of Chapter 11 Petition:**

6 This case was commenced on December 21, 2009.

7 **7. Events That Caused the Filing:**

8 The Property has a current value of approximately \$19,000,000 (based upon recent offers for
9 purchase of the Property). The secured claim has a principal balance of \$14,494,109.57, and
10 therefore there is significant equity in the Property to be protected. Prior to the commencement of
11 the bankruptcy case, the secured lender, East West Bank as the assignee of the FDIC receivership of
12 United Commercial Bank (“East West Bank”) recorded and published a Notice of Default and a
13 Notice of Trustee’s Sale, with the sale set to occur on December 22, 2009. Debtor attempted to
14 negotiate a resolution of the issues with East West Bank and to obtain a postponement of the
15 foreclosure sale but was unable to do so.

16 Prior to the filing of the bankruptcy case, Essex Property Trust, Inc. (“Essex”) submitted an
17 offer for purchase of the Property, with Essex offering the purchase price of \$19,000,000.
18 Contingencies were scheduled to be removed on December 21, 2009, with escrow to close on
19 December 27, 2009. However, on November 16, 2009, the Bank caused a Notice of Trustee’s sale to
20 be recorded, with the sale set for December 22, 2009. During this period Debtor understands that the
21 note and rights under the Deed of Trust were transferred from the FDIC, as the receiver for United
22 Commercial Bank, to East West Bank. The sale would have resulted in payment of all claims,
23 including that of the Bank, but East West Bank refused to continue the foreclosure sale to allow the
24 voluntary sale to consummate. Accordingly, Debtor was forced to file the bankruptcy case to
25 reorganize its financial affairs, and to prevent foreclosure of the property, thereby protecting the
26 significant equity.

1 **B. Status of Bankruptcy Case**

2 **1. Procedural Compliance**

3 Debtor has operated as Debtor-in-Possession since the commencement of the case. For cash
4 collateral purposes the Debtor and the secured creditor have treated the rents and related income as
5 cash collateral, and have entered into various stipulations for payment of necessary expenses. Debtor
6 and East West Bank have more recently entered into a broader cash collateral stipulation authorizing
7 use of cash collateral in renewable 90 day increments, with a budget of \$7,500 per month. Payments
8 beyond the \$7,500 limit may be made provided that the bank consents or court approval is obtained.
9 Debtor's monthly expenses have been less than \$7,500 in all but one month during the pendency of
10 this case. As set forth below, Debtor contends that a significant portion of the cash in the Debtor in
11 Possession Account is not subject to any liens, in particular those funds which were advanced to the
12 Debtor by certain shareholders (as opposed to funds received from rental income).

13 The Debtor is compliant in its reporting and other administrative requirements, and the 341
14 Meeting of Creditors has been concluded.

15 **2. Timely Filing of Chapter 11 Plan, Subsequent Amendment of Chapter 11**
16 **Plan, and Summary of the Material Amendments**

17 This is a single asset real estate case, and as such Debtor timely filed its Chapter 11 Plan of
18 Reorganization on March 20, 2010.

19 Following the filing of the initial Plan and Disclosure Statement, Debtor and Essex
20 negotiated the Loan Agreement, as defined in the Plan, and as described herein. As such, Debtor has
21 prepared and is filing the Amended Plan and this accompanying Disclosure Statement which reflect
22 the details of the Loan Agreement. The initial Plan authorized reorganization pursuant to loan
23 agreements and other related financing, and therefore the submission of an Amended Plan was not
24 procedurally necessary as the arrangement with Essex was authorized by the initial Plan. Further, the
25 Amended Plan contains substantially similar terms as the original plan both in terms of content and
26 the proposed reorganization strategy. However, Debtor is nonetheless submitting the Amended Plan

1 and this Disclosure Statement in order to provide further details regarding the Loan Agreement and
2 proposed development of the Property.

3 Debtor estimates that the hearing on this Disclosure Statement will take place in June or July,
4 2010, and the confirmation hearing will occur in August, 2010.

5 **3. Motion for Relief From Stay Filed by East West Bank**

6 East West Bank presented a Motion for Relief From Stay which was filed on March 19,
7 2010. The Motion alleged, *inter alia*, that the bank is not adequately protected because East West
8 Bank attributes the value of the Property to be \$13,100,000, which valuation, if correct, would be
9 less than the secured claim. Debtor opposed the Motion for Relief From Stay on multiple grounds,
10 including that the value of the Property is at least \$19,000,000, and that therefore East West Bank is
11 protected by the significant equity cushion.

12 The matter came on for preliminary hearing on April 2, 2010, and was resolved by
13 stipulation. The parties' stipulation was set forth on the record, approved by the Court, and provides
14 that Debtor will make adequate protection payments in the amount of \$51,854 on a monthly basis
15 through the date of confirmation. The amount of the adequate protection payment was calculated by
16 utilizing the prime rate (currently 3.25%) plus 1.5%, i.e., 4.75 %, on the alleged secured balance of
17 \$13,100,000. While Debtor disputed, and continues to dispute, this valuation, and is treating the
18 bank as fully secured due to the correct valuation of \$19,000,000, these figures were utilized due to
19 the fact that the bank's motion alleged that it was entitled to adequate protection based upon its own
20 valuation of \$13,100,000. As such, for purposes of calculating the adequate protection payments,
21 the parties utilized the bank's valuation.

22 **C. Description of the Property**

23 Debtor's primary asset consists of certain commercial real property, which is described in
24 more detail as follows.

25 **1. General Information**

26 Debtor currently owns certain commercial real property in Santa Clara, California. The

1 commercial property consists of 138,915 square feet of leasable space located on 12.59 acres of land
2 (the "Property"). The Property was acquired in 2004 for a purchase price of \$16,988,000. Debtor
3 currently estimates the Property value to be at least \$19,000,000, with that amount based, in part,
4 upon proposed offers for purchase of the Property. As stated above, the size, location, and design of
5 the Property is such that the maximum potential for the Property would be achieved with the
6 development of residential and commercial units.

7 2. Liens

8 As of the date of the filing of the bankruptcy case there existed an undisputed secured claim
9 held by the Santa Clara County Tax Collector in the amount of \$399,465.23, which claim pertains to
10 property taxes owing for the Property. A further installment came due on April 10, 2010, in the
11 approximate amount of \$200,000. Thus, the total amount of the secured claim for property taxes is
12 the approximate sum of \$600,000.

13 The Property was initially purchased with financing provided by Far East Bank. In
14 September, 2005, United Commercial Bank refinanced the loan with a principal amount of
15 \$13,500,000. Debtor and UCB entered into various modification agreements in January, 2007;
16 December, 2007; July, 2008; and December, 2008.

17 East West Bank has succeeded to UCB's interests in the loan with Debtor, by acquisition
18 from the FDIC Receivership of United Commercial Bank, and East West Bank holds a secured claim
19 scheduled as a disputed claim in the amount of \$14,494,109.57, which claim is secured by a Deed of
20 Trust. East West Bank has filed a Proof of Claim confirming that the principal balance is
21 \$14,494,109.57, with the bank alleging the full amount of the claim to be
22 \$15,130,422.80. The Plan provides a procedure for determining the amount of the arrears claimed
23 by East West Bank beyond the principal balance. In particular, if the parties cannot agree on the
24 amount of the arrears, then the Bank will file an application with the Court for determination of the
25 arrears, with the application to be heard concurrently with the confirmation of the Plan. The amount
26 of the allowed arrearages will then be paid on the Effective Date as provided in the Plan.

1 Debtor commenced adequate protection payments to East West Bank in April, 2010, pursuant
2 to the stipulation referenced above. These payments will continue through confirmation, after which
3 time the Plan will govern payment to the bank.

4 3. Occupancy

5 The Property is currently occupied by three tenants: Kohl's Department Stores, YUM!
6 Brands (Taco Bell), and Bharat Bazaar. The monthly rental income is \$54,559.51.

7 The Property is being managed by the Debtor in Possession, with the assistance of Alpha
8 Investments and Property Management. The Plan contemplates assumption of the leases such that
9 the lessees will avoid elimination of their leases by rejection or by a foreclosure by East West Bank.

10 D. Detailed Disclosure Regarding Prior Marketing and Sale Efforts, and the 11 Origination of the Dispute With the Secured Creditor

12 Debtor has been engaged in efforts to sell the Property from 2007 through the petition date,
13 and has continued these efforts post-petition. Upon acquiring the Property, Debtor researched and
14 evaluated the potential development of the Property, and as is detailed below, has entered into a
15 Loan Agreement with Essex to develop the Property. In furtherance of its evaluation of development
16 prospects, Debtor has been involved in seeking entitlements either for its own benefit, and/or for
17 enhancement of value in the event of the sale of the Property.

18 Debtor obtained three pre-petition offers for purchase. However, for various reasons,
19 including those described below none of these transactions closed. Each of the purchases would
20 have resulted in full payment of all claims in this case, as well as the return of a substantial surplus to
21 Debtor.

22 An initial offer for purchase was signed in December, 2007, with Urban Dynamic.
23 Contingencies were removed, and the deposit released, however Urban Dynamic failed to close the
24 transaction, and the sale was not completed. Urban Dynamic subsequently filed suit against Debtor,
25 seeking return of its deposit, and recorded a lis pendens. Debtor engaged counsel and disputed any
26 claim to return of the deposit. Urban Dynamic subsequently rescinded the lis pendens, but has filed

1 a proof of claim based upon the claim regarding the deposit. Debtor will file an Objection to Claim,
2 and is evaluating counter-claims against Urban Dynamic. Debtor maintains that the purported claim
3 for return of the deposit is baseless, and that Urban Dynamic may itself be liable for damages
4 payable to Debtor.

5 After the first potential sale failed to close, the initial offer for sale of the Property was
6 modified, with the modified offer involving Urban Dynamic and an equity partner. This Sale also
7 failed to consummate. Shortly after the modified sale failed to close, Debtor obtained another offer
8 for purchase which also failed to close.

9 In October, 2009, Debtor obtained a new offer for purchase of the Property from Essex. This
10 offer for purchase was scheduled to remove contingencies on December 21, 2009, and close on
11 December 27, 2009. However, the bank refused to continue the foreclosure sale, thereby precluding
12 the final sale from closing.

13 At various times during the negotiations for the sale of the Property, the Bank interacted with
14 prospective purchasers regarding a sale of the note in a manner which frustrated the sale process.
15 The actions of the Bank in these respects will be the subject of review by counsel and prosecution of
16 such litigation as is appropriate.

17 Debtor has engaged special counsel, namely the firm of Rossi, Hamerslough, Reischl, and
18 Chuck, to evaluate the claim against East West Bank for interference with the prior sale transactions
19 and other wrongful acts and omissions in the administration of the loan. Debtor filed an Application
20 for Appointment of Special Counsel which has been approved by the Court. The firm of Rossi,
21 Hamerslough, Reischl, and Chuck specialize in real property transactions and litigation, and
22 therefore will be of assistance in evaluating and litigating the claims against United Commercial
23 Bank and East West Bank.

24 It is also noteworthy that one of the account representatives at UCB involved with the
25 Debtor's account is an officer named Emily Ong. Debtor is informed and believes that prior to UCB
26 being placed in receivership Ms. Ong obtained employment with East West Bank. As an employee

1 at East West Bank, Ms. Ong acted as the account representative with respect to Debtor's account
2 after East West Bank succeeded to UCB's interest in the loan. Thus, Ms. Ong was responsible for
3 Debtor's account both at UCB and East West Bank, and Debtor is informed and believes that Ms.
4 Ong continues to remain the decision maker with regard to Debtor's account. Debtor is informed
5 and believes that Ms. Ong ratified and continued the conduct on behalf of East West Bank.

6 **E. Post-Petition Offers for Purchase and Other Business Opportunities Related to**
7 **the Property**

8 During the post-petition period Debtor has continued to market and explore the sale and other
9 opportunities related to the Property. During this period Debtor has received multiple offers for the
10 purchase of the Property and related proposals. Several of these proposals have significant potential,
11 and Debtor has evaluated the purchase proposals, loan proposals, joint venture proposals, and related
12 opportunities. Debtor has also engaged special counsel to assist with the evaluation of these
13 proposals, namely the firm of Rossi, Hamerslough, Reischl, and Chuck (described above).

14 Debtor does not include the details of the proposals herein because (1) several prospective
15 purchasers require confidentiality during negotiations; and (2) Debtor believes that disclosure of the
16 terms of the various proposals would negatively impact negotiations with other prospective
17 purchasers and/or joint venturers. Debtor does disclose that each of the offers which it is considered
18 would result in payment of all claims which are provided for in the Amended Plan, with a surplus or
19 retention of assets by the Debtor.

20 **F. Loan Agreement Between Debtor and Essex**

21 Pursuant to the negotiation of the offers presented to Debtor during the post-petition period,
22 Debtor and Essex have agreed to a Loan Agreement whereby Essex will provide financing to Debtor
23 for the development of the property, and for the payment of claims pursuant to the Plan. The
24 financing will be secured by the member shares in Debtor, with an option for Essex to obtain full
25 ownership of the shares upon completion of the development in exchange for forgiveness of the debt.
26 To the extent necessary, the confirmation of the Plan will constitute authority for the post-petition

1 borrowing. A copy of the Loan Agreement will be submitted prior to the Confirmation Hearing.

2 The particulars of the Loan Agreement are as follows:

- 3 (a) Essex will loan to the Debtor a sum up to the amount of \$6,100,000 (the “Essex
4 Loan”). The Essex Loan will be advanced to the Debtor from time-to-time from and
5 after the Effective Date in accordance with the terms of the Loan Agreement. The
6 Essex Loan will be used, together with other funds available to the Debtor to pay and
7 fund:
- 8 (i) all arrearages owing to East West Bank, payable on the Effective Date
9 estimated at \$700,000;
 - 10 (ii) an interest reserve of \$1,000,000 to be used solely to fund the payment of any
11 deficiency between Net Profits and the amount required to pay the monthly
12 interest payments due to East West Bank under the terms of this Plan;
 - 13 (iii) the amount of \$1,500,000, to be used solely to fund payment of costs and
14 expenses incurred in procuring entitlements for the development of the
15 Property; and
 - 16 (iv) such other amounts to be paid pursuant to the terms of this Plan and the Loan
17 Agreement, including without limitation funds to pay the Classes A, B, and C-
18 1 claims, without regard to the value of the Property, in an amount estimated
19 at \$750,000.
- 20 (b) The Essex Loan shall be secured by the membership interests in the Debtor. Essex's
21 note shall also be convertible; that is Essex shall have an option to acquire the
22 membership interests in the Debtor in exchange for forgiveness of the Essex Loan, as
23 set forth in the Loan Agreement.

24 In furtherance of this arrangement, one of Debtor’s principals, Emily Chen, who is the
25 responsible individual in this Chapter 11 case, and her investment group, will provide a new capital
26 contribution in the amount of \$500,000 (the “Capital Contribution”). In exchange for the Capital

1 Contribution, Emily Chen and her investment group will have the option to repurchase a portion of
2 the Property at the conclusion of the development. The option would be available in the event that
3 Essex converts the Essex Loan into Membership Interests in Debtor.

4 In sum, the Loan Agreement will provide for payment of all claims in the bankruptcy case,
5 and will also fund the development of the Property. The Loan Agreement will be produced prior to
6 the Confirmation Hearing. The specific terms of the Loan Agreement produced may vary slightly
7 from the description in this Disclosure Statement, however the general parameters will be as
8 described in this Disclosure Statement.

9 **G. Suit By East West Bank Against the Guarantors**

10 On March 24, 2010, East West Bank initiated a state court lawsuit against certain members,
11 or representative of members of Debtor, that are guarantors of the secured claim. The state court
12 action was filed in San Francisco Superior Court, is entitled *East West Bank v. Chen, et al*, and is
13 identified as Case No. CGC-10-498085 (the “ Guarantor Action”). The individuals have engaged
14 counsel, namely the Law Office of Dek Ketchum, to defend the suit. The individuals have also
15 removed the Guarantor Action to this Court as being related to the Plan, the proof of claim filed by
16 East West Bank (which resulted in a consent to jurisdiction for matters related to the secured claim),
17 the allowance of the claim of East West Bank, and such other reasons as are set forth in the Notice of
18 Removal.

19 The terms of the Plan provide that, so long as the Debtor is compliant with its performance of
20 the terms of the Plan, that the Plan shall be the sole basis for recovery of claims. As such, the
21 Guarantor Action will be stayed until either the Class C-2 Claim is paid in full (at which time the
22 action will be dismissed), or the Debtor fails to cure any breach under the Plan (at which time the
23 Guarantor Action will cease to be stayed). The statute of limitations period for the Guarantor Action
24 will be tolled as of the date of the order for relief.

1 **IV. DEBTOR'S CREDITORS AT PRESENT**

2 **A. Administrative Claims (Class A)**

3 Debtor anticipates that there will be three Class A administrative claims. Debtor estimates
4 that the claim of Cohen and Jacobson, LLP, as counsel for Debtor, will be approximately \$100,000;
5 that the claim of Rossi, Hamerslough, Reischl, and Chuck as special counsel will be approximately
6 \$25,000 (and perhaps higher if litigation with the bank is commenced); and the claim of Bicker &
7 Associates as accountants for Debtor will be approximately \$5,000.

8 The post-petition expenses of operation have been, and will continue to be, paid in the
9 ordinary course of business. As such, there are no current post-petition expenses of operation
10 outstanding.

11 **B. Priority Claims (Class B)**

12 Debtor is presently unaware of any priority claims.

13 **C. Lien Claimants (Class C)**

14 **1. Claim of Santa Clara County Tax Collector (Class C-1)**

15 Class C-1 consists of the Claim of the Santa Clara County Tax Collector. At the time that the
16 case was filed the Class C-1 Claim constituted the amount of \$399,465.23. A further installment in
17 the amount of \$200,000 came due on April 10, 2010, and therefore the full amount of the Class C-1
18 Claim is the approximate sum of \$600,000.

19 **2. Claim of East West Bank (Class C-2)**

20 The C-2 Claim consists of the secured claim of East West Bank. East West Bank has filed a
21 Proof of Claim in the amount of \$15,042,351. The principal balance is the amount of
22 \$14,494,109.57, and the Proof of Claim alleges the remainder of the claim to be outstanding
23 arrearages. Debtor does not contest the calculation of the principal balance, however, the allowed
24 amount of arrears will be subject to Court determination. The entire claim is secured due to the
25 value of the Property, and the bank's claim is treated as entirely secured in the Plan, and interest will
26 be paid on the full principal balance.

1 **D. Claims of Unsecured Creditors (Class D)**

2 The Class D claims consist of claims of Unsecured Creditors

3 **1. Unsecured Claims Based Upon Shareholder Loans (Class D-1)**

4 The Class D-1 claims consist of the unsecured claims of Albert Wang (\$60,000), Emily Chen
5 (\$135,000), and Hung Nguy (\$95,000) based upon their advance of the Shareholder Loans in
6 December, 2008, and January, 2009. The amounts specified in this paragraph represent the principal
7 balances of the Shareholder Loans. The Shareholder Loans are scheduled in higher amounts which
8 reflect the accrual of pre-petition interest. Such interest will be allowed in the event that claims with
9 superior priority are paid in full. No post-petition payments have been made on the Shareholder
10 Loans.

11 **2. General Unsecured Claims (Class D-2)**

12 The Class D-2 claims consist of general unsecured claims.

13 There exists one undisputed unsecured Proof of Claim which was filed by Mindigo & Assoc.
14 in the amount of \$63,061.39. Schedule F also contains certain undisputed unsecured claims, namely
15 Alpha Investments & Property Management² in the amount of \$32,545; F. Martinez Gardening in the
16 amount of \$600; and Starlite Sweepers in the amount of \$3,155. Thus, the undisputed unsecured
17 claims aggregate the amount of \$99,361.39.

18 There also exist two disputed unsecured claims as to which Proofs of Claim have been filed.
19 Initially, the Proof of Claim filed by Urban Dynamic in the amount of \$610,000 is disputed, will be
20 objected to, and Debtor contends that the claim has no basis. Similarly, Kohls Department Stores
21 has filed a Proof of Claim in the amount of \$80,790.96 which avers to be “secured in an amount to
22 be determined.” This claim will likewise will be objected to as having no basis for its alleged
23 “secured” status, nor for the underlying merits. Kohl’s alleges to be entitled to this amount for
24 maintenance of common areas. The claim has absolutely no merit, as Debtor engages professionals
25 that maintain the common areas and Debtor is not responsible for any of the purported charges.

26

 ² This entity is managed and owned by member Albert Wang.

1 Further, Kohl's previously sought to allege this same claim during 2009, but conceded the claim
2 following Debtor's challenge.

3 **E. Claims of Members (Class E)**

4 The Class E claims consist of the equity interests of members, namely E&H SC Family
5 Limited Partnership (51%), Santa Clara QVN, LLC (18%), Hung Nguy (8%), Albert Wang (6%),
6 Chia Van Dang (5%), Jenny Nguy (5%), Minh Nguy (5%), and Linh My Nguy (2%).

7 **V. THE ESTATE'S ASSETS AT PRESENT**

8 **A. Summary of Assets Available to Pay Priority and Unsecured
9 Claims**

10 Debtor's assets, as of April 30, 2010, are as follows:

ASSET	NAME OF LIENHOLDERS	Value
Bank Balances	None	\$457,194.23
Real Property	Santa Clara County Tax Collector and East West Bank	\$19,000,000.00
Cause of Action Against EWB	None	Unknown ³
Total		\$19,457,194.23

17 In the opinion of Debtor's management, the value of the Debtor's assets, if sold on a
18 liquidation basis by a trustee in a Chapter 7 case, would be the following:

25 _____
26 ³ The claims against the bank have as of yet undetermined value. Debtor's damages will be established through discovery, forensic accounting, and trial of the claims at issue

ASSET	NAME OF LIENHOLDERS	Value
Bank Balances	None	\$457,194.23
Real Property	Santa Clara County Tax Collector and East West Bank	\$14,500,000.00 ⁴
Cause of Action Against EWB	None	\$0.00 ⁵
Total		\$14,957,194.23

It is also noteworthy that in a liquidation analysis the estate and creditors would not realize the value of post-petition rental income in the amount of \$3,275,970.60⁶

B. Avoidance Actions and Litigations

Debtor reserves the right to file any potential avoidance or recovery actions pursuant to 11 USC §§ 541, 544, 547, 548, 549, 550, 551 or 553. Debtor’s recovery in such action will be paid to creditors according to their priorities. Other than the claims against East West Bank, Debtor does not presently anticipate any other litigations. However, it is possible that litigation may be necessary in the dispute regarding the Proof of Claims filed by Urban Dynamic and Kohl’s, and as such Debtor is expressly authorized to pursue those claims. Debtor is also authorized to initiate any actions to pursue claims which may accrue post-confirmation.

C. Exempt Assets

The Debtor is a limited liability company which has no exempt property.

⁴ Reflects distress forced sale valuation. This value is lower because in a liquidation analysis the property would either be sold at a depressed value, or the secured creditor would foreclose on the Property. Thus, the figure attributed in the liquidation analysis is the amount of the bank’s claim. Further, in this scenario neither the creditors nor the Debtor would benefit from the various outstanding business proposals.

⁵ This value is attributed a value of zero given the uncertainty that a liquidating trustee would pursue the claims

⁶ This figure is derived from calculating the rental income of \$54,559.51 for the 60 month term of the Amended Plan.

1 **VI. PLAN**

2 **A. Effective Date:**

3 The Effective Date is the day after the last date on which an appeal from this Court's order
4 confirming Plan would be timely or, if an appeal is filed, the day after an unsuccessful appeal
5 becomes final.

6 **B. Treatment of Unclassified Claims:**

7 Debtor will pay in full, in cash, any claims of governmental units entitled to priority under
8 Bankruptcy Code Section 507(a)(8) which are less than \$5,000. Any claims of governmental units
9 entitled to priority under Bankruptcy Code Section 507(a)(8) which are more than \$5,000 shall be
10 paid in twenty four equal monthly installments, together with interest at the rate of six percent
11 (6%) per annum.

12 **C. Treatment of Unimpaired Claims**

13 Classes A, B, C-1, and E are unimpaired. Class A and C-1 claims will be paid in full on
14 the Effective Date, in cash from the Essex Loan and/or Shareholder Funds, unless other treatment
15 is agreed upon. If a claim is disputed, Debtor will set aside and reserve sufficient funds to satisfy
16 the claim if subsequently allowed. Class B claims will be in full on or before the due date for
17 payment of such claims, in cash from the Essex Loan and/or Shareholder funds. In the event that
18 all claims are paid in full, Class E members, currently comprised of eight members of Debtor, shall
19 retain their interests without impairment.

20 **D. Treatment of Priority Claims:**

21 There are no current priority claims.

22 **E. Treatment of the Class C-2 Claim**

23 Initially, the Class C-2 claim of East West Bank will be satisfied, in whole or in part, from
24 the offset or payment due on account of the Interference Claims. In the event that Debtor
25 successfully pursues its Interference Claims against the Class C-2 Claimant, the damages awarded
26 to Debtor will offset the claim, or part of it, such that the Class C-2 Claim will be barred or

1 reduced to the extent of the offset.

2 The Plan will provide for interim treatment of the Class C-2 Claim pending resolution of
3 the Interference Claims. The Loan Agreement provides for several cumulative methods for paying
4 the Class C-2 claim.

5 Initially, all allowed arrearages owing to East West Bank will be paid in full on the
6 Effective Date, in cash from the Essex Loan and/or Shareholder Funds. The Plan provides that, in
7 the event that the parties do not agree as to the amount of the arrearages claimed by East West
8 Bank, the amount of allowable arrearages shall be subject to determination by the Court. East
9 West Bank shall file a Statement of Claimed Arrearages which sets forth the exact amount of
10 arrearages being claimed as of the date of confirmation, including any outstanding interest,
11 attorneys' fees, or other alleged costs. The Statement of Claimed Arrearages shall set forth the
12 factual and legal basis for entitlement of such arrearages, and shall be filed with the Court, and
13 served upon Counsel for the Debtor either personally or by electronic mail, no later than 21
14 calendar days prior to the confirmation hearing. Debtor shall have the opportunity to present any
15 opposition to the claimed arrearages by filing an opposition brief no later than 7 calendar days
16 prior to the confirmation hearing. East West Bank may file a Reply Brief no later than 2 calendar
17 days prior to the Confirmation Hearing. The Court shall then make its ruling on the amount of
18 allowed arrearages, including reasonable attorneys fees.

19 In addition, the Plan provides for the payment of monthly interest payments to East West
20 Bank for the duration of the Term of the Plan. These payments will be made from Net Profits, the
21 interest reserve account, the Shareholder Funds, the Essex Loan (to the extent funds are available
22 under the Loan Agreement), and/or funds provided by members of Debtor. The interest reserve
23 account will specifically be created in order to fund the difference between the monthly payment
24 and Debtor's monthly net income. The monthly adequate protection payments will be interest-
25 only, with the payments calculated on the principal balance of \$14,494,109.57 (which will be the
26 full amount of the Class C-2 Claim after payment of the arrearages). The monthly payments will

1 be made at the rate of 1.5% above the Prime Rate (the “Class C-2 Interest Rate”). The Class C-2
2 Interest Rate will be set as of the date of confirmation of the Plan, and shall remain the same for
3 the duration of the Term of the Plan. The current prime rate is 3.25%, and therefore the current
4 interest rate as of the date of the filing of this Disclosure Statement would be 4.75%. Based upon
5 the principal balance of \$14,494,109.57, the interest payments would be \$57,372 per month.

6 Further, Debtor will develop the Property during the Term of the Plan. The development
7 will be a mixed used residential and commercial project conducted in coordination with Essex.
8 The Class C-2 Claimant will retain its existing lien rights during the development. Upon
9 completion of the development of the Property, Essex shall have the right to convert the Essex
10 Loan into membership interests in Debtor and thereby become the 100% owner of Debtor. If
11 Essex does not so convert the Essex Loan, Debtor shall market the commercial and residential
12 units for sale and/or rental. For those units of the Property which are leased following
13 development, the Debtor’s interest in Net Profits from the rental of those units shall be used to pay
14 the Class C-2 Claim. The distribution of Net Profits from the new rentals shall be paid on a semi-
15 annual basis, with the first payment to be made within six (6) months after the development is
16 complete. For those units which are sold after development, the Debtor will pay to the Class C-2
17 Claimant eighty percent (80%) of the Debtor’s interest in the net proceeds from the sale of units,
18 and subject to Essex's rights under the Loan Agreement shall retain or pay the remaining twenty
19 percent (20%) paid to Essex. Any amounts retained by Debtor shall be used for the purpose of
20 paying costs associated with development. At the conclusion of the Term of the Plan the Class C-2
21 claim shall be paid in full by any of the means specified in the Plan.

22 The Plan also provides that the Class C-2 claim may be satisfied from the sale of the
23 Property at any time, subject to any rights of Essex under the Loan Agreement. The Property is
24 valued at \$19,000,000, and therefore the sale of the Property will satisfy the entire Class C-2
25 Claim. In connection with the sale of the Property Debtor is authorized, but not required, to pursue
26 entitlements for the development of the Property in order to maximize the value of the Property.

1 Alternatively, the Plan provides that the Debtor may to elect to retain the Property and pay
2 the Class C-2 Claim by obtaining financing through a refinance of the Property; by making
3 payments from Net Profits from the continued rental of the Property; by refinancing the Property;
4 and/or obtaining contribution from new members and/or third parties.

5 The Plan also provides that, provided that Debtor remains compliant with the terms of the
6 Plan, including the above treatment of the Class C-2 Claim, the Guarantor Action will be stayed
7 until the bank is paid in full. The statute of limitations shall be tolled during this period, and the
8 action may resume upon this Court's order following an uncured default by Debtor of a material
9 breach of the Plan.

10 The Plan also provides that, in the event that East West Bank accepts the Plan by timely
11 delivery of a Ballot by which East West Bank votes in favor of confirmation of the Plan, Debtor
12 shall waive any and all claims against East West Bank, including the Interference Claims, and
13 confirmation of the Plan shall operate as a release of all such claims. In the event that East West
14 Bank does not so accept the Plan, Debtor reserves all claims against East West Bank and its rights
15 to prosecute such claims under this Plan.

16 In sum, the Plan provides for multiple methods for payment of the Class C-2 claim. The
17 arrearages will be paid upon the Effective Date in cash. The bank will then receive monthly
18 adequate protection payments for the duration of the Term of the Plan. Debtor will then develop
19 the Property and pay the bank from the rental or sale of the newly developed units. At the
20 conclusion of the Term of the Plan the bank will be paid the balance of the remaining claim from
21 the sale, refinance, or pursuant to one of the other means specified in the Plan.

22 **F. Treatment of Class D-2 Claims**

23 Class D-2 Claims will be paid within two years of the Effective Date, provided that by such
24 date there has been a final determination of all objections to claims and litigation. In the event that
25 litigation remains pending two years after the Effective Date, payment to the allowed Class D-2
26 claims will be made 30 days after the final determination of any litigations (but no later than the

1 end of the Term of the Plan).

2 The Class D-2 claimants shall be made from the Essex Loan, from the surplus remaining
3 from Litigation Proceeds, from Net Profits, from Shareholder Funds, and from cash balances, after
4 payment of other claims according to their priorities.

5 The Plan provides that the Class D-2 Claimants may also be paid from the remaining
6 proceeds from the sale of the Property (after payment of costs of sale, taxes, secured claims, and
7 related costs), the refinance of the Property, contribution from new or existing members, and/or
8 third party financing.

9 Debtor anticipates that Class D-2 Claims will be paid in full, with such claimants receiving
10 a 100% dividend. If Class D-2 Claims are paid in full, claims within this category will be entitled
11 to interest accrued at the Federal Rate in effect as of the Effective Date. However, if the means for
12 providing payment to Class D-2 Claims are not sufficient for a 100% dividend, the payment to
13 Class D-2 Claimants will be made on a pro-rata basis from available assets. If Class D-2 Claims
14 are not paid in full, the portion of the unpaid balance of each Class D-2 Claim shall be discharged.
15 Under such circumstances, the Shareholder Funds shall be deemed to be contributions of capital
16 utilized to fund the payments required to be paid from such funds under this Plan.

17 **G. Treatment of Class D-1 Claims**

18 The Plan provides that Class D-1 Claims, namely the shareholder loan claims, will be
19 subordinated. Provided that claims in Classes A, B, C-1, C-2, and D-2 are paid in full, Class D-1
20 Claims shall be repaid, with interest at the rate of 10%, from the Essex Loan, or alternatively from
21 any remaining assets upon conclusion of the term of the Plan. If there are insufficient remaining
22 assets to pay all Class D-1 Claims in full, the claims shall be paid on a pro-rata basis.

23 **H. Treatment of Class E Claims**

24 In exchange for the Capital Contribution, Emily Chen and her investor group shall receive a
25 buy-back option from Essex which can be executed if Essex elects to convert the Essex Loan into
26 Membership Interests in Debtor upon completion of the Property, for the commercial parcel, of

1 approximately 5.0 acres at a price equal to its percentage of the capitalized costs of the
2 development. By example, if the total capitalized cost of the development is \$22.1 million, the buy
3 back option price payable to Essex would be $5/12.6 \times \$22.1$ million or, \$8,769,841.

4 The Plan also provides that Class E members shall provide, without charge to the
5 Reorganized Debtor, and with a waiver of all fees and commissions to which a provider of such
6 services would otherwise reasonably expect to receive, all the services required for the
7 consummation of this Plan, exclusive of the daily management functions performed by Alpha
8 Investments and Property Management, but otherwise including without limitation the leasing and
9 management services for the Property; engaging professionals for the design and construction of
10 the development; engaging contractors and subcontractors to perform the development;
11 supervising the construction and completion of the development; the procurement of permits
12 necessary for sales or leasing; assistance in the prosecution of all litigations contemplated by this
13 Plan, and the marketing and sale/rental of the developed units (other than providing or paying the
14 fees and costs of sales or leasing agents) pursuant to the terms of this Plan. The obligations to be
15 performed by the Class E members include all of the obligations to be performed by the Debtor
16 under the terms of this Plan, and as otherwise required by the Bankruptcy Code, the Rules of
17 Bankruptcy Procedure, the Local Rules of the above entitled Court, the Guidelines of the Office of
18 the United States Trustee. The Class E equity security holders shall pledge their membership
19 interests as security for the Essex Loan and Essex shall have the right to acquire their membership
20 interests upon completion of the development project in exchange for forgiveness of the Essex
21 Loan.

22 The individuals and entities who presently hold their membership interests shall retain
23 those interests.

24 **I. Manner of Funding of Plan:**

25 The manner of funding the plan is described above. In sum, the Plan being proposed by the
26 Debtor involves payment of claims through multiple alternative and supplemental methods

1 including (a) proceeds of the Essex Loan; (b) Shareholder Funds; (c) development of the Property,
2 as described in the Loan Agreement, followed by the sale and/or rental of the commercial and
3 residential units to be developed; (d) continued rental of the Property and collection of rents from
4 Tenants; (e) the sale of the Property; (f) funding pursuant to a refinance; and (g) disbursement of
5 Litigation Proceeds.

6 **J. Specific Terms Related to the Sale or Refinance of the Property**

7 The Plan provides that Debtor is authorized to sell the Property at any time during the term
8 of the Plan, subject to the rights of Essex under the Loan Agreement. In connection with the sale
9 of the Property Debtor is also authorized to employ any qualified real estate broker to assist with
10 the sale of the Property, subject to submission and approval of the appropriate application for
11 appointment of professionals. The real estate broker may receive a reasonable commission from
12 the sale of the Property, so long as the commission conforms with the industry standard.

13 The Plan dictates that the sale of the Property requires Court approval following a motion
14 noticed to all creditors. The sale, and payment of costs of sale as customary in the industry, shall
15 be approved if the terms of sale are fair and reasonable. Class C-1 Claims (if any) and Class C-2
16 Claims will be paid directly from escrow from the net profits after costs of sale. Any surplus funds
17 are to be returned for the Debtor for distribution pursuant to this Plan pursuant to the priorities set
18 forth herein.

19 With respect to the refinance of the Property, Debtor is also authorized to refinance the
20 Property at any time during the term of the Plan, subject to the rights of Essex under the Loan
21 Agreement, provided that (a) the refinance generates funds sufficient to pay all outstanding claims;
22 and (b) Debtor notifies East West Bank and the Office of the United States Trustee prior to
23 consummating any refinance. Provided that the refinance will result in full payment of all claims,
24 the refinance of the Property does not require court authority, and the refinance may be effectuated
25 at any time during the term of the Plan without the necessity of further order of the Court.
26 However, if the proposed refinance of the Property will not generate funds sufficient to pay all

1 claims, then Court approval is required.

2 In the event that a Final Decree is issued and the case closed prior to the sale of the
3 Property, no order reopening the case will be required in order for the Court to hear any motion
4 related to the sale or refinance of the Property.

5 **K. Term of the Plan:**

6 The Term of the Plan is five years, and the term shall commence on the Effective Date.
7 The Plan also provides that Debtor may extend the term of the Plan. At the conclusion of the five
8 year term, if Debtor is current in its interest payments on the C-2 Claim of East West Bank, and is
9 otherwise in compliance with the terms of this Plan, Debtor has the option to automatically extend
10 the term of the Plan for two additional years. The Plan requires that Debtor make such an election
11 in writing and file a Notice of Election to Extend Term of Plan with the Court. In the event that
12 the term of the Plan is extended by Debtor's election, the term of the Plan will be seven years.

13 If the Debtor elects to extend the term of the Plan to seven years, after conclusion of the
14 seven year term, Debtor can seek a further extension of the term of the Plan. However, a request
15 for a further extension requires a showing that the interest payments on the Class C-2 Claim are
16 current and that there exists a legitimate business purpose for the extension. The business purpose
17 may include, but is not limited to, the need to complete the development of the Property, efforts to
18 sell or refinance the Property, or an increase in rental income such that Debtor is capable of
19 commencing payments to creditors without the need for sale or refinance.

20 The time for payment of all claims provided for under the Plan shall be extended upon the
21 extension of the term of the Plan.

22 **VII. COMPARISON WITH CHAPTER 7**

23 **A. Chapter 11 Reorganization and Chapter 7 Liquidation**
24 **Alternatives**

25 If Debtor's proposed Chapter 11 Plan is not confirmed, the potential alternatives would
26 include proposal of a different plan, dismissal of the case, or conversion of the case to Chapter 7.

1 If this case is converted to Chapter 7, a trustee will be appointed to liquidate and distribute the
 2 Debtor's assets.

3 **B. Chapter 11 Distribution Scheme**

4 In the event that Debtor's Chapter 11 Plan is confirmed, Debtor anticipates the following
 5 distribution to creditors (the analysis accounts for the full value of the assets being distributed by
 6 the end of the Plan):

7 Classes of Claims	8 Claim Amounts	9 Diminishing Balances of Estate Funds	10 % Dividend
11 Beginning Balance		\$22,733,164 ⁷	
12 Class A	\$150,000* ⁸	\$22,733,164	100%
13 Class C-1	\$600,000*	\$22,733,164	100%
14 Class C-2 Arrears	\$700,000* (estimated)	\$22,733,164	100%
15 Class C-2 Principal	\$14,494,109	\$8,239,055	100%
16 Classes D ⁹	\$389,631	\$7,849,424	100%
17 Residual Balance to Debtor		\$7,849,424	

18 This analysis does not account for the additional benefit of the \$1,000,000 interest reserve
 19 pursuant to which the interest on the Class C-2 Claim will be paid during the term of the Plan.
 20

21 ⁷ This figure includes the \$3,275,970 of rental income which will be generated during the Term
 22 of the Plan provided that the case remains in Chapter 11.

23 ⁸ The amounts with an asterisk do not result in a reduction of the balance of the diminishing
 24 funds, because, provided that the Chapter 11 Plan is confirmed, these amounts will be paid by Essex.
 The Essex Loan, in the maximum amount of \$6,100,000 is not contained in the diminishing balance, but
 the asterisked amounts will be paid from the Essex Loan.

25 ⁹ The class D-1 claims aggregate the amount of \$290,000 and the allowable amount of Class D-2
 26 claims aggregate the amount of \$99,631.39. The renegade claims of Urban Dynamic and Kohls are not
 included in this figure, as the claims are baseless and Debtor will be filing an objections to claim,
 thereby disallowing such claims.

1 **C. Chapter 7 Distribution Scheme**

2 In the event that the case is converted to a Chapter 7 case, Debtor anticipates the following
3 distribution:

4 Classes of	5 Claim	6 Diminishing Balances of Estate	7 % Dividend
8 Claims	9 Amounts	10 Funds	
11 Beginning		\$14,957,194	
12 Balance			
13 Class C-1	\$600,000	\$14,357,194	100%
14 Class C-2	\$15,130,422 ¹⁰	<\$773,228>	95%
15 Expenses of	\$200,000	\$0	0%
16 Administration ¹¹			
17 Class D	\$389,631	\$0	0%

18 **VIII. FEASIBILITY**

19 The Plan is undeniably feasible given that the financing that will be provided by Essex.
20 The Loan Agreement provides that Essex will pay the costs for development of the Property, and
21 for the payment of claims in this case. As such, the Plan is feasible given that payments will be
22 made by a third party, namely Essex. Further, the Shareholder Funds will provide additional sums
23 in the approximate amount of \$800,000 to be used to pay claims and expenses. In sum, the third
24 party financing assures that the Plan is feasible, and will result in full payment of all claims.

25 Additionally, regardless of the third party financing, the Plan is feasible based upon the
26 value of the Property alone. Debtor estimates the value of the Property to be \$19,000,000, and
based upon this valuation the assets of the estate exceed existing claims such that the Plan is
undeniably feasible. Further, the estate holds approximately \$457,194.23 in cash, and the rental
income generates \$54,599.51 in monthly income. Thus, the rental income will generate

¹⁰ In the event of liquidation the bank's claim will be the full amount alleged in the Proof of Claim because arrearages will not be paid from the Essex Loan.

¹¹ This amount includes administrative claims for Debtor's counsel, as well as the Chapter 7 Trustee's fees, professional fees, and real estate broker fees.

1 \$3,275,970.60 during the term of the Plan and will be available as funds with which to make
2 certain of the payments required by this Plan.

3 Additionally, the alternate options of refinancing, obtaining equity contributions, and
4 related options, will provide for new capital sufficient to pay all claims. These options will also
5 provide for the development of the Property such that the income and sale of new residential and
6 commercial units will generate income for payment of claims.

7 **IX. PROPOSED MANAGEMENT AND SALARIES AFTER CONFIRMATION**

8 Alpha Investments and Property Management will remain the property manager, with the
9 assistance of the members as discussed above. The current agreement provides for payment of
10 \$2,500 per month to Alpha Investments & Property Management for property management
11 services. This amount may be subject to change in the event that Alpha Investments & Property
12 Management remains the property manager after completion of the development.

13 **X. EXECUTORY CONTRACTS**

14 The Plan provides for the assumption of the leases of the three current tenants of the
15 Property, namely Kohl's Department Stores, YUM! Brands, and Bharat Bazaar. The property
16 management contract with Alpha Investments & Property Management will also to be assumed.
17 Any executory contracts which are not assumed pursuant to the terms of this Chapter 11 Plan are
18 rejected.

19 **XI. LITIGATION**

20 The Plan provides that Debtor is authorized to commence actions which it deems necessary
21 without the necessity of Court approval, including but not limited to actions to the action against
22 East West Bank, Urban Dynamic, Kohl's or otherwise. Objections to claims shall be filed within
23 120 days after the Effective Date.

24 **XII. OTHER**

25 To the extent that rental income constitutes cash collateral subject to any lien of the Class
26 C-2 Claimant, Debtor is authorized to utilize constitute cash collateral to make payments

1 contemplated by the Plan and to pay monthly operating expenses. The monthly budget for
2 operating expenses is the maximum of \$12,000 (which budget does not include interest payments
3 or any taxes). Debtor is also authorized to pay post-petition property taxes as the come due from
4 cash collateral.

5 In the event of any material failure of the Reorganized Debtor to perform the terms of this
6 Plan, any party in interest may serve upon the Reorganized Debtor a Notice of Default demanding
7 cure within sixty (60) days from date of service thereof. Unless otherwise provided in the Plan, if
8 the Reorganized Debtor fails to timely cure the alleged default, any party in interest may pursue
9 any remedy available under the Bankruptcy Code or other applicable law, including conversion of
10 the case to a Chapter 7 case.

11 **XIII. CONCLUSION**

12 Debtor urges that the Plan will provide a means for payment to creditors, will likely result
13 in the fullest potential dividend to creditors, and will permit the reorganized debtor to continue as
14 an ongoing entity after completion of the bankruptcy case.

15 **IX. CERTIFICATION**

16 The undersigned hereby certifies that the information herein is true and correct, to the best
17 of my knowledge and belief, formed after reasonable inquiry.

18 Dated: April 30, 2010

SANTA CLARA SQUARE, LLC

19
20 By: /s/ Emily Chen
Emily Chen
Responsible Individual

21
22 Dated: April 30, 2010

COHEN AND JACOBSON, LLP

23
24 By: /s/ Lawrence A. Jacobson
Lawrence A. Jacobson

25
26