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Counsel for the Official Committee of Unsecured Creditors

UNITED STATES BANKRUPTCY COURT
DISTRICT OF IDAHO

In re:

WALKER LAND & CATTLE, LLC,

Debtor.

Case No. **13-41437-JDP**
Chapter 11

**JOINDER IN WELLS FARGO'S OBJECTION TO
DEBTOR'S DISCLOSURE STATEMENT**

COMES NOW, the Official Committee of Unsecured Creditors (the "Committee"), by and through its counsel Davidson Backman Medeiros PLLC and Gray Law Offices PLLC, and joins in the Objection to Debtor's Disclosure Statement

filed herein by Wells Fargo Bank, National Association on July 23, 2014 [*Docket No. 422*] (the “Objection”), except as to the portion of the Objection that relates to Wells Fargo’s rebuttal of the language in the Debtor’s Disclosure Statement asserting or implying that Wells Fargo is to blame for the Debtor’s financial decline, which is set forth on page 11 of the Objection. The Committee has no information as to such statements in the Debtor’s Disclosure Statement or Wells Fargo’s rebuttal in the Objection and therefore does not join in that aspect of the Objection.

The Committee further objects to the Debtor’s Disclosure Statement filed herein on June 2, 2014 [*Docket No. 359*] (the “Disclosure Statement”) based upon the following:

- 1) Pursuant to the Final Order Authorizing Use of Cash Collateral and Granting Protection and Adequate Protection Liens entered on April 28, 2014 [*Docket No. 321*] (the “Final Cash Collateral Order”), the Debtor provided counsel for the Committee with a Position Report on the Debtor’s remaining 2013 crop as of June 30, 2014 (“Position Report”) and a revised Twelve Month Cash Flow Projection (“Revised Projection”). Both the Position Report and the Revised Projection should be attached as additional appendices to the Disclosure Statement along with the additional updated information referenced in paragraph 4 on page 8 of the Objection.

2) The Claims Summary on page 28 of the Disclosure Statement and Appendix D to the Disclosure Statement show that the Debtor has determined that the unsecured claims total \$12,659,325.73, not including the related party unsecured claims that are listed as undetermined on Appendix D to the Disclosure Statement. However, on page 29 of the Disclosure Statement, as part of the Liquidation Analysis, the Debtor indicates that the Debtor's Plan provides for a distribution of only \$9,091,305.00 to Class 51 General Unsecured Creditors. Class 52 of the Debtor's Proposed Plan filed herein on June 2, 2014 [*Docket No. 358*] (the "Proposed Plan") indicates that the unsecured claim of related entity Walker Produce Co. is not included in Class 51. Said claim is listed on Appendix D in the amount of \$2,220,438.04 and included in the unsecured claims totaling \$12,659,325.73. Therefore, it appears that part of the \$3,568,020.73 difference between the \$12,659,325.73 shown on Appendix D and the \$9,091,305.00 the Debtor proposed to pay to Class 51 General Unsecured Creditors is attributable to the exclusion of the Walker Produce Co. claim from Class 51. However, the Disclosure Statement does not adequately explain how the Debtor determined the \$9,091,305.00 amount, what claims listed on Appendix D other than the Walker Produce Co. claim will not be paid the full amount of their claims as listed on Appendix D and what the basis would be for not paying those claims in full. The Disclosure Statement should contain a detailed analysis of how the Debtor determined

that only \$9,091,305.00 of the total \$12,659,325.73 in General Unsecured Claims, not including related party unsecured claims will be paid, and why \$1,347,582.69 of the unsecured claims listed on Appendix D, other than the Walker Produce Co. claim, will not be fully paid under the Proposed Plan.

3) The Debtor's explanation of the process for valuing its real and personal property set forth on page 21 of the Disclosure Statement is inadequate. The statement that the Debtors valuation of its real and personal property was "obtained from various sources, primarily the opinions of managers, as well as appraisals provided by the secured lenders during the course of the administration of the case" does not provide creditors with sufficient information to determine whether the values used by the Debtor in its liquidation analysis are have any validity. The Debtors should provide additional detail as to such opinions, appraisals and other sources of information. If possible, specific information as to the Debtor's determination of value for individual items of real and personal property should be provided, and what, if any, assumptions were made with respect to the valuation of the Debtor's property. This is especially important since the Disclosure Statement For the Creditor's Liquidation Plan filed by Wells Fargo herein on June 25, 2014 [*Docket No. 390*] (the "Liquidation Plan") uses and relies upon the Debtor's values to determine how much will be received from the liquidation of the Debtor's property.

4) The Disclosure Statement fails to provide an adequate analysis of the potential tax implications of the liquidation of the Debtor's property. Pages 29 and 30 of the Disclosure Statement appear to indicate that the Debtor believes that its tax basis in all of its assets exceeds the liquidation value of all of its assets and therefore there would be no taxable gain upon liquidation of all of the Debtor's assets. However, there is no analysis to support the statements on pages 29 and 30 of the Disclosure Statement. The Debtor should provide a detailed analysis to support the statements on pages 29 and 30 of the Disclosure Statement.

5) The Disclosure Statement should provide an explanation of how the Debtor will confirm its Proposed Plan if the creditors whose claims are secured by the real property the Debtor proposes to sell pursuant to Article 5.2.2 of the Proposed Plan do not consent to the sale of their collateral as proposed, and the Court sustains objections by such secured creditors to that aspect of the Debtor's Proposed Plan. If that is the case and the Debtor is not allowed to sell the real property it proposes to sell for \$10,007,456.00 in February of 2015 and therefore cannot use the proceeds of such a sale for some purpose other than to pay the creditors secured by the property to be sold, the Disclosure Statement should also explain how the Debtor will have sufficient funds to make the required payments under its Proposed Plan.

6) The Disclosure Statement should clearly state that pursuant to 11 U.S.C. § 1129(a)(7), the holder of an impaired unsecured claim must “receive or retain under the plan on account of such claim or interest property of a value, as of the effective date of the plan, that is not less than the amount that such holder would so receive or retain if the debtor were liquidated under chapter 7 of this title on such date” unless the unsecured creditors in Class 51 vote to accept the Plan. The Disclosure Statement should state that the Proposed Plan does not provide for payment to the holders of impaired unsecured claims that is equal to the amount that the holders of those claims would receive in a chapter 7. In a Chapter 7, the holders of unsecured claims would receive interest on their claims based on the fact that the Debtor is solvent as shown in the Liquidation Analysis on page 28 of the Disclosure Statement. Therefore, unsecured creditors are entitled to the payment of post-filing and post-confirmation interest on their claims unless they vote to accept a plan that does not provide for the payment of such interest. *In re Cardelucci*, 285 Fed 3rd 1231 (9th Cir. 2002). The Disclosure Statement should provide sufficient information for unsecured creditors to understand that by voting for the Proposed Plan, they are essentially waiving their right to be paid post-filing and post-confirmation interest on their claims, as is proposed in the Liquidation Plan. The Disclosure Statement fails to clearly inform

unsecured creditors of their right to receive interest on their claims and their waiver of that right by casting a ballot in favor of the Proposed Plan.

7) Appendix L of the Disclosure Statement shows potential equity in the Debtor's real property that is subject to the secured claims of Rabo Agrifinance, Inc., Wells Fargo and the Bank of Commerce of \$4,295,068.17, and the value of unencumbered real property of \$2,156,778.00, assuming the debtor in possession crop loan from CHS Capital, LLC is paid from crop proceeds. That would be total equity in real property owned by the Debtor of \$6,451,846.17. The Liquidation Analysis Summary on page 28 of the Disclosure Statement (the "Liquidation Analysis Summary") shows an estimated liquidation cost of \$5,917,892.75 for the real property owned by the Debtor. If that amount is deducted from the equity shown on Appendix L, the remaining net equity would be \$533,953.42, not \$3,440,967.94 as is shown on the Liquidation Analysis Summary. This discrepancy should be corrected or explained prior to approval of the Disclosure Statement.

Based on the foregoing, the Committee requests that the Disclosure Statement not be approved unless it is amended to address the deficiencies set forth herein.

Counsel for the Committee requests service of all pleadings filed in response to the Objection.

DATED this 23rd day of July 2014.

DAVIDSON BACKMAN MEDEIROS PLLC

/s/ Bruce K. Medeiros

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CERTIFICATE OF SERVICE

I, Stephanie A. Abrahamson, a legal assistant with the law firm of Davidson Backman Medeiros PLLC, hereby certify that on the 23rd day of July 2014, I filed the foregoing electronically through the CM/ECF system, which caused the following parties or counsel to be served by electronic means, as more fully reflected on the Notice of Electronic Filing:

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