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Debtor and Debtor in Possession

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**UNITED STATES BANKRUPTCY COURT
CENTRAL DISTRICT OF CALIFORNIA
SANTA ANA DIVISION**

In re:

WALLDESIGN, INC., a California corporation,

Debtor and Debtor-in-Possession.

| Case No. 8:12-bk-10105 CB

Chapter 11 Proceeding

**DISCLOSURE STATEMENT DESCRIBING
JOINT CHAPTER 11 PLAN OF
LIQUIDATION**

Disclosure Statement Approval Hearing:

Date: November 20, 2013
Time: 10:00 a.m.
Place: Courtroom 5D
411 W. Fourth Street
Santa Ana, CA 92701

Joint Plan Confirmation Hearing:

Date: [To Be Set]
Time: _____
Place: Courtroom 5D
411 W. Fourth Street
Santa Ana, CA 92701

TABLE OF CONTENTS

| | | <u>PAGE</u> |
|----|--|-------------|
| 1 | I. INTRODUCTION | 2 |
| 2 | A. Purpose of this Document..... | 2 |
| 3 | B. Deadlines for Voting and Objecting; Date of Joint Plan Confirmation | |
| 4 | Hearing..... | 3 |
| 5 | 1. Time and Place of the Confirmation Hearing | 4 |
| 6 | 2. Deadline for Voting for or Against the Joint Plan | 4 |
| 7 | 3. Deadline for Objecting to the Confirmation of the Joint Plan..... | 4 |
| 8 | 4. Identity of Person to Contact for More Information Regarding the Joint Plan | 4 |
| 9 | C. Disclaimer | 5 |
| 10 | II. DEFINITIONS AND RULES OF INTERPRETATION | 5 |
| 11 | III. BACKGROUND | 5 |
| 12 | A. Description and History of the Debtor's Business..... | 5 |
| 13 | B. Debtor's Financial Difficulties and Events Leading to Chapter 11 Filing | 6 |
| 14 | C. Secured Debt..... | 6 |
| 15 | D. Management of the Debtor Before and After the Bankruptcy..... | 7 |
| 16 | E. Members of the Committee | 7 |
| 17 | F. Significant Events During the Bankruptcy | 7 |
| 18 | 1. Bankruptcy Proceedings | 7 |
| 19 | a. Debtor's Emergency Motion for Approval of Stipulation for Use of Cash Collateral | 8 |
| 20 | b. Debtor's Emergency Motion for Order Authorizing Payment and Honoring of Prepetition Payroll Obligations | 9 |
| 21 | c. Debtor's Motion to Appoint a Chief Restructuring Officer | 9 |
| 22 | d. Motion to Sell Idle Assets..... | 10 |
| 23 | 2. Actual and Projected Recovery of Preferential or Fraudulent Transfers..... | 10 |
| 24 | 3. Procedures Implemented to Resolve Financial Problems..... | 11 |
| 25 | 4. Current and Historical Financial Conditions | 11 |
| 26 | 5. Preservation of Rights of Action Held by the Debtor's Estate..... | 11 |
| 27 | 6. The Committee's Investigation of Claims Against Bello | 12 |
| 28 | III. SUMMARY OF THE LIQUIDATING PLAN | 14 |
| 29 | A. Unclassified Claims | 15 |
| 30 | 1. Administrative Expenses | 15 |
| 31 | 2. Priority Tax Claims..... | 16 |
| 32 | B. Summary of Classifications of Claims and Interests | 18 |
| 33 | C. Treatment of Classes Under the Joint Plan | 19 |
| 34 | 1. Class 1 - Allowed Secured Claim of Comerica | 19 |
| 35 | 2. Class 2 - Allowed Secured Claim of VFS | 19 |

TABLE OF CONTENTS

(Continued)

| | | PAGE |
|----|--|-------------|
| 3 | 3. Class 3 - Allowed Secured Claim of Bello | 19 |
| 4 | 4. Class 4 – Allowed Other Secured Claims..... | 20 |
| 5 | 5. Class 5 - Any Allowed Priority Non-Tax Claim | 20 |
| 6 | 6. Class 6 - Allowed General Unsecured Claims..... | 21 |
| 7 | 7. Class 7 - Subordinated Claims..... | 21 |
| 8 | 8. Class 8 - Interests of the Debtor..... | 21 |
| 9 | D. Joint Plan Implementation | 21 |
| 10 | 1. Liquidation Trustee..... | 22 |
| 11 | 2. Establishment and Administration of Liquidation Trust Fund..... | 22 |
| 12 | 3. Distributions on Account of Allowed Claims..... | 23 |
| 13 | 4. Objections to Disputed Claims | 23 |
| 14 | 5. Prosecution of Causes of Action..... | 23 |
| 15 | 6. Enforcement of Rights, Claims and Remedies of the Debtor and the Estate | 23 |
| 16 | 7. Disposition of Liquidation Trust Assets | 23 |
| 17 | 8. Management of Liquidation Trust Assets..... | 23 |
| 18 | 9. Investigation of Debtor's Assets and Properties/ Prosecution of Causes of Action Against the Debtor and/or Insiders and Affiliates of the Debtor..... | 24 |
| 19 | 10. Liquidation Trust Assets | 25 |
| 20 | 11. Distributions from Liquidation Trust Fund..... | 25 |
| 21 | 12. Representative of the Estate | 25 |
| 22 | 13. Causes of Action | 25 |
| 23 | a. Liquidation Trustee's Right to Prosecute Causes of Action | 25 |
| 24 | b. LT Advisory Board's Right to Prosecute Causes of Action | 26 |
| 25 | E. Distributions..... | 27 |
| 26 | F. Litigation..... | 27 |
| 27 | 1. Authorization to Assert Causes of Action | 27 |
| 28 | 2. Evaluation of Causes of Action | 27 |
| 29 | 3. Bar Date for Filing Avoidance Action Payment Claims | 28 |
| 30 | G. Executory Contracts and Unexpired Leases | 28 |
| 31 | 1. Executory Contract and Unexpired Leases Being Rejected | 28 |
| 32 | 2. Retention of Property Rights | 29 |
| 33 | 3. Bar Date for Rejection Claims..... | 29 |
| 34 | H. Claim Objections | 29 |
| 35 | 1. Liquidation Trustee's Right to Object to Disputed Claims | 29 |
| 36 | 2. LT Advisory Board's Right to Make Demand for Filing Objection to Disputed Claims..... | 30 |
| 37 | 3. Deadline to Object to Claims..... | 31 |
| 38 | I. Risk Factors | 31 |

TABLE OF CONTENTS

(Continued)

| | | PAGE |
|----|--|-------------|
| 1 | | |
| 2 | | |
| 3 | | |
| 4 | J. Tax Consequences of Joint Plan | 31 |
| 5 | 1. Recognition of Gain or Loss Generally | 32 |
| 6 | 2. Distributions in Payment of Accrued But Unpaid Interest | 34 |
| 7 | 3. Tax Treatment of the Liquidation Trust and Holders of Beneficial Interests Therein | 35 |
| 8 | 4. Withholding | 38 |
| 9 | | |
| 10 | IV. CONFIRMATION REQUIREMENTS AND PROCEDURES | 39 |
| 11 | A. Who May Vote or Object..... | 39 |
| 12 | 1. Who May Object to Confirmation of the Joint Plan..... | 39 |
| 13 | 2. Who May Vote to Accept/Reject the Joint Plan | 39 |
| 14 | a. What Is an Allowed Claim/Interest..... | 40 |
| 15 | b. What Is an Impaired Claim/Interest..... | 40 |
| 16 | 3. Who Is <u>Not</u> Entitled to Vote | 41 |
| 17 | 4. Who Can Vote in More Than One Class | 41 |
| 18 | 5. Votes Necessary to Confirm the Joint Plan | 41 |
| 19 | 6. Votes Necessary for a Class to Accept the Joint Plan | 41 |
| 20 | 7. Treatment of Nonaccepting Classes..... | 42 |
| 21 | B. Liquidation Analysis..... | 42 |
| 22 | C. Feasibility..... | 45 |
| 23 | | |
| 24 | V. EFFECT OF CONFIRMATION OF PLAN..... | 45 |
| 25 | A. Discharge | 45 |
| 26 | B. Injunction | 46 |
| 27 | C. Release | 46 |
| 28 | D. Distribution of Property Free and Clear of Liens, Claims, and Interests | 47 |
| | E. Binding Effect of Joint Plan..... | 47 |
| | F. Transfer of Assets | 47 |
| | G. Reservation of Rights..... | 47 |
| | H. Final Decree | 48 |

I.

INTRODUCTION

The Debtor and Committee have prepared a Joint Plan after extensive review and analysis of all options available to the estate's creditors based on the rights and remedies available to the Debtor and its Creditors. Included with this Disclosure Statement is a computer disk that contains a copy of the Joint Plan. All Creditors should refer to Articles IV - V of the Joint Plan for the precise treatment of their claims. This Disclosure Statement is explanatory only; the language used in the Joint Plan is binding. **Your rights may be affected. You should read these papers carefully and discuss them with your attorney, if you have one.**

10 The Joint Plan provides for the liquidation of assets of the estate. The Debtor and
11 Committee are the parties proposing the Joint Plan sent to you in the same envelope as this
12 document. THE DOCUMENT YOU ARE READING IS THE DISCLOSURE STATEMENT
13 FOR THE ENCLOSED JOINT PLAN.

14 The Joint Plan is a liquidating plan. In other words, the Debtor and Committee seek to
15 make payments under the Joint Plan to holders of Allowed Administrative Claims and other
16 holders of Classes entitled to distributions of all cash on hand, together with net proceeds realized
17 from the litigation of claims held by the Estate and liquidation of any other assets.

A. Purpose of This Document.

19 This Disclosure Statement summarizes the Joint Plan and provides certain information
20 about the plan process that the Bankruptcy Court will follow in determining whether to confirm
21 the Joint Plan. The purpose of this Disclosure Statement is to provide information to enable a
22 typical creditor to make an informed judgment about the Joint Plan and to enable such creditor to
23 determine whether it is in its best interest to vote for (accept) or against (reject) the Joint Plan.

**READ THIS DISCLOSURE STATEMENT CAREFULLY IF YOU WANT TO
KNOW ABOUT:**

(1) WHO CAN VOTE OR OBJECT;

(2) WHAT THE TREATMENT OF YOUR CLAIM IS (i.e., what you will receive on account of your claim or interest if the Joint Plan is confirmed);

**(3) HOW THIS TREATMENT COMPARES TO WHAT YOU WOULD
RECEIVE ON ACCOUNT OF YOUR CLAIM IN A CHAPTER 7 LIQUIDATION;**

(4) THE HISTORY OF THE DEBTOR AND SIGNIFICANT EVENTS DURING THE BANKRUPTCY:

(5) WHAT FACTORS THE COURT WILL CONSIDER IN DECIDING WHETHER TO CONFIRM THE PLAN;

(6) WHAT IS THE EFFECT OF PLAN CONFIRMATION; AND

(7) WHETHER THE PLAN IS FEASIBLE.

9 This Disclosure Statement cannot tell you everything about your rights. You should
10 consider consulting your own lawyer to obtain more specific advice on how the Joint Plan will
11 affect you and what is the best course of action for you.

12 Be sure to read the Joint Plan as well as the Disclosure Statement. If there are any
13 inconsistencies between the Joint Plan and the Disclosure Statement, the Joint Plan provisions
14 will govern.

15 The Bankruptcy Code requires a Disclosure Statement to contain “adequate information”
16 concerning the Joint Plan. The Court has approved this document as an adequate Disclosure
17 Statement, containing enough information to enable parties affected by the Joint Plan to make an
18 informed judgment about the Joint Plan. Any party can now solicit votes for or against the Joint
19 Plan.

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

21 THE COURT HAS NOT YET CONFIRMED THE PLAN DESCRIBED IN THIS
22 DISCLOSURE STATEMENT. IN OTHER WORDS, THE TERMS OF THE PLAN ARE NOT
23 YET BINDING ON ANYONE. HOWEVER, IF THE COURT LATER CONFIRMS THE PLAN,
24 THEN THE PLAN WILL BE BINDING ON THE DEBTOR AND ON ALL CREDITORS AND
25 INTEREST HOLDERS IN THIS CASE.

26 | //

1 **1. Time and Place of the Confirmation Hearing.**

2 The hearing where the Bankruptcy Court will determine whether or not to confirm
3 the Joint Plan will take place on _____, at _____, in Courtroom 5D, 411 West
4 Fourth Street, Santa Ana, CA 92701.

5 **2. Deadline for Voting for or Against the Joint Plan.**

6 If you are entitled to vote, it is in your best interest to timely vote on the enclosed
7 ballot and return the ballot to:

8 Winthrop Couchot Professional Corporation
9 660 Newport Center Drive, Fourth Floor
10 Newport Beach, CA 92660
11 Facsimile: (949) 720-4121
12 Attn: PJ Marksbury

13 Your ballot must be received by 4:00 p.m., Pacific Time, on _____, or it
14 will not be counted. Ballots may be returned via facsimile to the above number.

15 **3. Deadline for Objecting to the Confirmation of the Joint Plan.**

16 Objections to the confirmation of the Joint Plan must be filed with the Bankruptcy
17 Court and served upon counsel for the Debtor, Garrick A. Hollander, Esq., at Winthrop
18 Couchot Professional Corporation, 660 Newport Center Drive, Fourth Floor, Newport
19 Beach, CA 92660, facsimile number (949) 720-4121; on counsel for the Official
20 Committee of Unsecured Creditors (the "Committee"), Sidney P. Levinson, Esq., at Jones,
21 Day, 555 South Flower Street, Fiftieth Floor, Los Angeles, CA 90071, facsimile number
22 (213) 243-2539; and on the Office of the United States Trustee, Attn: Nancy Goldberg,
23 Esq., 411 West Fourth Street, Ninth Floor, Santa Ana, CA 92701, by 4:00 p.m. on
24 _____.

25 **4. Identity of Person to Contact for More Information Regarding the Joint**
26 **Plan.**

27 Any interested party desiring further information about the Joint Plan should
28 contact the Debtor's counsel, Garrick A. Hollander, Esq., at Winthrop Couchot
Professional Corporation, 660 Newport Center Drive, Fourth Floor, Newport Beach,
California 92660, (949) 720-4100. Alternatively, any interested party may contact the

3 | C. Disclaimer.

4 All assets of the Debtor have been or will be liquidated to cash. Further, the Debtor no
5 longer operates its business. Accordingly, the Disclosure Statement describes a liquidating plan
6 and therefore is not based upon financial data concerning the Debtor. The information contained
7 in this Disclosure Statement as well as the financial information upon which the Joint Plan is
8 formulated was provided by Brian Weiss, the Debtor's Chief Restructuring Officer. The Debtor
9 represents that everything stated in the Disclosure Statement is true to the Debtor's best
10 knowledge. The Court has not yet determined whether the Joint Plan is confirmable and makes no
11 recommendation as to whether or not you should support or oppose the Joint Plan.

12 The Debtor and its professionals have made a diligent effort to identify in this Disclosure
13 Statement all litigation claims, including claims for relief, counterclaims, and objections to claims.
14 However, no reliance should be placed on the fact that a particular litigation claim is or is not
15 identified in the Disclosure Statement. The Debtor, Committee, or other parties in interest may
16 seek to investigate, file and prosecute litigation claims after the confirmation or Effective Date of
17 the Joint Plan whether or not the litigation claims are identified in the Disclosure Statement.

II.

DEFINITIONS AND RULES OF INTERPRETATION

20 For definitions and rules of interpretation of capitalized terms used in this Disclosure
21 Statement, see the Joint Plan sent concurrently herewith.

III.

BACKGROUND

A. Description and History of the Debtor's Business.

25 Founded and incorporated in 1983, the Debtor had been in the business of installing
26 drywall, insulation, plaster and providing related services to single and multifamily construction
27 projects throughout California, Nevada and Arizona for almost thirty years. Customers included

1 some of the largest homebuilders in the United States, such as Pulte, DR Horton, K. Hovnanian,
2 Toll Brothers and KB Homes.

3 The Debtor's business had grown consistently throughout its history, with sales that
4 peaked at \$239.4 million in 2006. The Debtor's headquarters were located in Newport Beach,
5 California with satellite offices in eight (8) locations in California, Arizona and Nevada. Michael
6 Bello was the Chief Executive Officer and is the sole shareholder of the Debtor.

7 **B. Debtor's Financial Difficulties and Events Leading to Chapter 11 Filing.**

8 The global economic downturn and the resulting slowdown in the construction industry
9 that began in 2007 and intensified in 2008 had a severe negative impact upon the Debtor's
10 business: capital for construction projects dried up, buyers vacated the market for new homes
11 profit margins on new jobs eroded, significant increases in workers' compensation insurance rates
12 (due to high loss run rates) and there were several customers that went bankrupt. As a result, the
13 Debtor experienced significant year-over-year sales declines. Sales in 2007, 2008, 2009, 2010,
14 and 2011 declined to \$167.5 million, \$108.3 million, \$72.4 million, \$61.9 million, and \$43.5
15 million, respectively. During this period, the Debtor was not in compliance with the covenants on
16 its loan agreement with Comerica, and payments to vendors were slowed, which precipitated
17 multiple collection lawsuits. These events ultimately forced the Debtor to file for relief under
18 chapter 11 of title 11 of the United States Code (the "Bankruptcy Code") on January 4, 2012.

19 **C. Secured Debt.**

20 Comerica was the Debtor's primary secured creditor, holding blanket liens on the Debtor's
21 assets. As of the Petition Date, the Debtor owed Comerica approximately \$4.9 million pursuant to
22 a line of credit, plus corporate credit card debt, potential letter of credit liability, and fees and
23 expenses as permitted by the loan documents. During the course of this case, through the Debtor's
24 collections on account receivables and other payments from Debtor's insider guarantor (Bello
25 and/or one of his affiliates), the Debtor believes that substantially, if not all, of this debt has been
26 satisfied.

27

28

1 VFS holds a secured claim against a jet aircraft previously owned by the Debtor. Since the
2 Petition Date, VFS has obtained relief from the automatic stay and the Debtor is informed that
3 VFS is in the process of trying to liquidate the aircraft.

4 Bello and Bello Construction assert, against certain assets of the estate, secured claims in
5 the amounts of \$190,000 and \$142,000, respectively. The Debtor and the Committee dispute the
6 allowance, validity, and perfection of those claims, which are also subject to equitable
7 subordination.

8 **D. Management of the Debtor Before and After the Bankruptcy.**

9 The Debtor's corporate officer as of the Petition Date was Michael Bello, who served as
10 President and Chief Executive Officer. During the bankruptcy, after issues and concerns
11 regarding Mr. Bello were raised by the Committee and recognized by the Bankruptcy Court, the
12 Committee and the Debtor stipulated to having Brian Weiss of BSW & Associates serve as the
13 Debtor's Chief Restructuring Officer. BSW & Associates served as the financial advisor to the
14 Debtor prior to the appointment of Brian Weiss as Chief Restructuring Officer. On May 15, 2013,
15 Mr. Bello resigned as an officer and director of the Debtor.

16 **E. Members of the Committee.**

17 On January 26, 2012, the Office of the United States Trustee formed an Official
18 Committee of Creditors Holding Unsecured Claims ("Committee"). The current members of the
19 Committee are: (1) Foam Concepts, Inc.; (2) Foam Designs, LLC; (3) Frazee Paint; (4) National
20 Union Fire Insurance Company of Pittsburgh, Pa.,¹ and (5) Painters & Allied Trades, District
21 Council 15. The Committee acts as a fiduciary for all general unsecured creditors of the Debtor.

22 **F. Significant Events During the Bankruptcy.**

23 **1. Bankruptcy Proceedings.**

24 The following is a chronological description of some of the significant events
25 that have occurred during this case:

26
27
28 ¹ As a result of an internal reorganization, The Chartis Companies, which was originally appointed to the
Committee is now known as National Union Fire Insurance Company of Pittsburgh, Pa.

a. Debtor's Emergency Motion for Approval of Stipulation for Use of Cash Collateral.

In order to preserve its business operations, fulfill significant ongoing contractual obligations and to maximize the value of its assets, including cash collateral, the Debtor required the immediate use of cash collateral to pay labor costs, overhead expenses and to fund prospective material purchases. To that end, the Debtor entered into a stipulation with Comerica Bank, the Debtor's primary secured lender for the Debtor's use of cash collateral. After extensive negotiations with the Committee on the terms of the stipulation for use of cash collateral, and multiple hearings on same, on April 11, 2012, the Bankruptcy Court entered a Final Order Approving the Stipulation Authorizing the Debtor to Use Cash Collateral.

22 Pursuant to the terms of the stipulation, Comerica (i) waived and released
23 any liens or other interests in certain vehicles owned by the Debtor or the proceeds
24 from the sale of such vehicles and (ii) waived and released any (a) security interest
25 granted to Comerica from and after the January 4, 2008 on property of the Debtor
26 securing the indebtedness of any party other than the Debtor and (b) guarantee or
27 assumption of the debts of a third party by the Debtor issued after January 4, 2008.
28 However, Comerica did not waive or release any security interest, guarantee or

1 assumption of debt that was properly created and perfected prior to January 4,
2 notwithstanding any reaffirmation of such security interest after January 4,
3 2008. As a result of this settlement, the Committee was able to generate \$164,314
4 from the proceeds of the sale of the Debtor's vehicles. Those funds were
5 segregated and have been used to fund fees and expenses incurred in these cases in
6 connection with the Committee's investigation of potential claims against Bello
7 and other Insiders.

8 **b. Debtor's Emergency Motion for Order Authorizing Payment**
9 **and Honoring of Prepetition Payroll Obligations.**

10 As of the date of the filing of the Chapter 11 petition, the Debtor required
11 the services of its former employees to continue to perform services on the
12 Debtor's construction projects pursuant to a labor agreement with Imperial
13 Building Group, Inc.² in order to preserve and maintain its ongoing business
14 operations, and to meet the needs of its customers. In order to ensure that the
15 employees continued working on the Debtor's projects, the Debtor brought a
16 motion seeking authorization to pay the pre-petition wages owing. On January 17,
17 2012, the Bankruptcy Court entered its order authorizing the (i) payment of pre-
18 petition wage claims and honoring of benefits; (ii) reimbursement of ordinary
19 course pre-petition employment business expenses; and (iii) retention of
20 prepetition account(s).

21 **c. Debtor's Motion to Appoint a Chief Restructuring Officer.**

22 Based on Michael Bello's involvement and relationship with the Debtor,
23 the Committee had perceived and thus expressed concern over Michael Bello's
24 ability to independently and objectively manage the Debtor business and
25
26

27

² 28 Imperial was in the same business as Walldesign and was a company owned and operated by Steven Bello, who is Michael Bello's son. The Debtor entered into the Labor Agreement with Imperial, effective January 1, 2012, pursuant to which Imperial supplied employees to perform the work and services described in contracts to which the Debtor is a party.

bankruptcy as a fiduciary to creditors. At a hearing held on March 7, 2012, the Bankruptcy Court expressed similar concern.

In an effort to address the concerns expressed by the Committee and Court, the Debtor agreed to appoint a Chief Restructuring Officer (“CRO”) who was not burdened by the conflicts of interest faced by Mr. Bello. The Debtor proposed, and the Committee consented, to have Brian Weiss serve as the Debtor’s Chief Restructuring Officer. As Chief Restructuring Officer, Mr. Weiss was responsible for managing and operating the Debtor’s business and overseeing the administration of the bankruptcy case, including, without limitation, completing the Debtor’s construction projects, collecting accounts receivable, managing all of the Debtor’s assets and property, and developing an exit strategy for this bankruptcy case. The Debtor filed a motion to approve the appointment of the Brian Weiss as Chief Restructuring Officer. On May 7, 2012, the Bankruptcy Court entered an order approving such appointment.

d. Motion to Sell Idle Assets.

In an effort to dispose of certain unnecessary personal property to provide capital into the Debtor's business to fund the completion of projects, while maximizing the value of property that was declining, the Debtor filed a motion for approval of the sale of and sale procedures for the sale of certain idle personal property. On April 16, 2012, the court entered an order approving the motion. Thereafter, the Debtor generated approximately \$700,000 from the sale of the idle assets, of which approximately \$300,000 was actually unencumbered by any liens of secured creditors, thereby creating a fund available for to finance litigation for the benefit of general unsecured creditors.

2. Actual and Projected Recovery of Preferential or Fraudulent Transfers.

Based on the Debtor's and Committee's review and analysis of potential avoidance actions, the Committee has retained special counsel to file complaints for the

1 avoidance and recovery of preferential and/or fraudulent transfers, as identified in
2 Exhibit "1," which represents those actions that the Committee believes, in its business
3 judgment, after conducting a cost benefit analysis of pursuing such claims, are worth
4 pursuing.

5 **3. Procedures Implemented to Resolve Financial Problems.**

6 As stated above, the Joint Plan does not contemplate the ongoing operations of the
7 Debtor. Rather, the Joint Plan proposes to pay creditors from the cash proceeds from the
8 sale of the Debtor's assets and recoveries on any litigation. Accordingly, the
9 implementation of preventative procedures to solve operational financial problems of the
10 Debtor is inapplicable to this particular debtor.

11 **4. Current and Historical Financial Conditions.**

12 As previously noted, the Debtor is no longer an operating company. All of the
13 Debtor's assets have been sold. As a result, the Debtor therefore no longer generates
14 revenues. Based on the liquidation of the Debtor's business and current collections on its
15 receivables, the Debtor currently has approximately \$187,673³ of cash on hand. The
16 estate will incur additional administrative expenses directly related to the objection to
17 claims, litigation of avoidance and other actions and confirmation and implementation of
18 the Joint Plan, which will be paid before payment of unsecured claims.

19 **5. Preservation of Rights of Action Held by the Debtor's Estate.**

20 Except as provided in the Joint Plan and in any contract, instrument, release or
21 other agreement entered into or delivered in connection with the Joint Plan, including a
22 Liquidation Trust Agreement, in accordance with Section 1123(b) of the Bankruptcy Code,
23 the Liquidation Trustee, on behalf of the Debtor's estate, will retain and may enforce any
24 claims, demands, rights, objections to claims and any and all other causes of action that the
25 Debtor's estate may hold against any entity.

26
27 ³ The Debtor believes that Comerica may assert a secured claim against \$120,298 of this cash based on an
28 alleged secured guaranty made by the Debtor to secure a debt of an Affiliate of the Debtor's insider. The Debtor
believes that this secured claim is avoidable as a fraudulent transfer, but anticipates not needing to file an avoidance
action as the Debtor believes that this claim will be paid off by the Affiliate that is the primary obligor on this alleged
debt.

1 **6. The Committee's Investigation of Claims Against Bello**

2 Shortly after its appointment, the Committee began a comprehensive investigation
3 of potential claims against Bello and other Insiders. Initially, the Committee focused on
4 the Debtor's books and records, publicly available documents, and the documents
5 underlying the Debtor's various dealings with Comerica. With the assistance of a financial
6 advisor, the Committee was able to determine that, notwithstanding the Debtor's year-
7 over-year decaying financial condition and its inability to pay creditors on a timely basis,
8 Bello received substantial cash distributions from the Debtor in the years leading up to the
9 Petition Date, and also received what were characterized as loans from the Debtor on very
10 favorable terms. Bello also caused the Debtor to make payments for his personal
11 expenses, such as car payments for his Rolls-Royce and Ferrari. In addition, Bello caused
12 the Debtor to pledge its assets on various occasions to secure certain personal obligations
13 of Bello and other Insiders. Taken together, the direct and indirect distributions that Bello
14 received from the Debtor total in excess of \$20 million during the four years preceding the
15 Petition Date.

16 The Committee believes that at all times during the four years preceding the
17 Petition Date, the Debtor was insolvent, undercapitalized and/or unable to pay its debts as
18 they became due. Accordingly, the Committee is entitled to, and intends to, seek to
19 recover such distributions and benefits for the benefit of the Debtor's Estate. Based on its
20 investigation to date, the Committee has identified numerous causes of action, including
21 claims for fraudulent transfer, violation of California corporate law, breach of fiduciary
22 duty and alter ego.

23 On October 3, 2012, the Bankruptcy Court held a hearing on an oral motion
24 requesting its approval of a stipulation between the Debtor and the Committee that granted
25 the Committee leave, standing, and authority to commence, prosecute and settle certain
26 claims of the Estate against Bello and other Insiders of the Debtor.⁴ Thereafter, in an effort
27

28 ⁴ A written order was entered on May 13, 2013 [docket no. 791] that memorialized the Bankruptcy Court's
oral approval of the stipulation.

1 to consensually resolve the claims identified by the Committee, the Committee and Bello
2 engaged in mediation in December 2012 and May 2013. However, the parties were not
3 able to reach a consensual resolution of these claims.

4 In connection with its ongoing investigation, the Committee became aware of an
5 action in the Orange County Superior Court against the Debtor and Bello in which the
6 plaintiff was represented by the law firm of Blakely & Blakeley LLP (“Blakeley”). Based
7 on its review of the docket in that action, the Committee learned that Blakeley uncovered
8 various transactions involving Bello’s misuse and diversion of Estate assets, including
9 Blakeley’s discovery of a bank account of the Debtor, maintained at Preferred Bank, that
10 was not disclosed in the Debtor’s Bankruptcy Schedules. The funds in this bank account
11 do not appear to have been recorded on the Debtor’s books and records, and that in excess
12 of \$5 million in this account may have been used primarily or exclusively to fund Bello’s
13 personal expenses and not for the benefit of the Debtor or its creditors.

14 In September 2013, the Committee filed an application with the Bankruptcy Court
15 seeking to retain the law firm of Landau Gottfried & Berger LLP as special litigation
16 attorneys to further investigate and, as appropriate, prosecute claims against Bello and
17 other Insiders on a contingent fee basis. Subject to and upon entry of an order by the
18 Bankruptcy Court approving the retention of Landau Gottfried & Berger LLP, the
19 Committee will file a complaint against Bello and other Insiders, as well as other third
20 parties.

21 Recoveries for unsecured creditors under the Joint Plan will be funded from the
22 proceeds of the Committee’s litigation against Bello and other Insiders. THE
23 COMMITTEE’S INVESTIGATION AND EVALUATION OF THESE CLAIMS IS
24 ONGOING AND THERE CAN BE NO ASSURANCE THAT (A) ALL SUCH CLAIMS
25 WILL BE ASSERTED AGAINST BELLO AND OTHER INSIDERS OR (B) THAT THE
26 COMMITTEE WILL PREVAIL IN LITIGATION.

27
28

IV.

SUMMARY OF THE LIQUIDATING PLAN

The following is a brief summary of the Joint Plan and is qualified in its entirety by the full text of the Joint Plan. The terms of the Joint Plan will be controlling on the Creditors and the Debtors in the event that the Joint Plan is confirmed. Therefore, the Debtors and all Creditors are urged to read the Joint Plan carefully in its entirety rather than relying on this summary.

The Joint Plan provides for the creation of a Liquidation Trust that will, among other things, prosecute the Causes of Action, including the Insider Causes of Action. The proceeds of the litigation or settlement of the Causes of Action will, along with any other proceeds, be used to pay Allowed Claims on the terms set forth in the Joint Plan.

Under the Joint Plan, the proceeds of any litigation or settlement of the Insider Causes of Action are subject to a separate waterfall designed for the benefit of unsecured creditors. Those proceeds will be first applied to payment of Contingent Fee Counsel Claims in full. (Only proceeds of the litigation or settlement of the Insider Causes of Action will be used to pay Contingent Fee Counsel Claims.) Next, the proceeds of the litigation or settlement of the Insider Causes of Action will be used, along with all other funds in the Liquidation Trust, to pay Post-Effective Date Joint Plan Expenses. Thereafter, the remaining proceeds of the litigation or settlement of the Insider Causes of Action will be divided into two pools. One pool, which will consist of 25% of the remaining proceeds (referred to in the Joint Plan and this Disclosure Statement as the GUC Trust Preference), will be distributed on a pro rata basis to holders of Allowed Priority Non-Tax Claims and Allowed General Unsecured Claims. The other pool, which will consist of 75% of the remaining proceeds will be used, along with all other funds remaining in the Liquidation Trust, to make payments in the following order: first, to pay Deferred Professional Fee Claims in full; second, on a pro rata basis to holders of Allowed Priority Non-Tax Claims; and, third, after all Allowed Priority Non-Tax Claims are paid in full, any remaining amount shall be distributed on a pro rata basis to holders of Allowed General Unsecured Claims until such claims are paid in full.

1 While holders of unsecured claims will receive Liquidation Trust Interests on the later of:
2 (a) the Effective Date; and (b) the fifteenth (15th) Business Day after such holder's claim becomes
3 an Allowed Claim (or as soon thereafter as practicable), it is unlikely that any cash or other
4 distributions will be made on account of such Liquidation Trust Interests prior to the litigation or
5 settlement of the Insider Causes of Action.

6 **A. Unclassified Claims.**

7 Pursuant to Section 1123 of the Bankruptcy Code, certain types of claims are not placed
8 into voting classes; instead they are unclassified. They are not considered impaired and they do not
9 vote on the Joint Plan, because they are automatically entitled to specific treatment provided for
10 them in the Bankruptcy Code. As such, the Debtor has not placed the following claims in a class.

11 **1. Administrative Expenses**

12 Administrative expenses are claims for the expenses of administering the Debtor's
13 Chapter 11 case that are allowed under Bankruptcy Code Section 507(a)(2). The
14 Bankruptcy Code requires that all administrative claims be paid on the Effective Date of
15 the Joint Plan, unless a particular claimant agrees to a different treatment. Certain of the
16 Pre-Effective Date Professionals have agreed to defer the payment of a portion of their Pre-
17 Effective Date Professional Fee Claims. The Deferred Professional Fee Claims shall be
18 paid from the Net Liquidation Trust Proceeds prior to the payment of any Allowed Priority
19 Non-Tax Claim, Allowed General Unsecured Claim, or Allowed Subordinated Claim.

20 The following chart lists all of the Debtor's Section 507(a)(2) administrative claims
21 (estimated through the Effective Date) and their treatment under the Joint Plan:

| | | |
|---|--|---|
| 22 Winthrop Couchot 23 Professional Corporation, 24 General Insolvency Counsel for 25 Debtor | 26 Estimated unpaid professional 27 fees and costs through plan 28 confirmation, of approximately 29 \$220,000 ⁵ | 30 Paid in full on the later of the 31 Effective Date or date of 32 allowance, subject to availability 33 of funds |
| 34 Jones Day | 35 Estimated unpaid professional 36 fees and costs through plan 37 confirmation of approximately 38 \$175,000 ⁶ | 39 Paid in full on the later of the 40 Effective Date or date of 41 allowance, subject to availability 42 of funds |

27
28 ⁵ This does not include the approximate \$475,000 of fees and costs previously paid by the Debtor pursuant to
the Bankruptcy Court's orders approving cash collateral and monthly payment procedures.

29 ⁶ This does not include the approximate \$197,500 of fees and costs previously paid by the Debtor pursuant to

| | | | |
|---|--|---|--|
| 1 | BSW & Associates in its capacity of Financial Advisor and in Mr. Weiss's capacity as Chief Restructuring Officer | Estimated unpaid professional fees and costs through plan confirmation of approximately \$90,000 ⁷ | Paid in full on the later of the Effective Date or date of allowance, subject to availability of funds |
| 2 | Various Administrative Creditors | Estimated non-professional administrative claims | Paid in full on the later of the Effective Date or date of allowance, subject to availability of funds |
| 3 | U.S. Trustee Fees | Estimated fees to be paid through plan confirmation of approximately \$0.00 | Paid in full on the later of the Effective Date or date of allowance, subject to availability of funds |
| 4 | Total | Approx. \$487,000 | |

8 The Court must approve all professional fees listed in this chart before the fees will
9 be paid. For all fees and expenses except U.S. Trustee's fees, the professional in question
10 must file and serve a properly noticed fee application and the Bankruptcy Court must rule
11 on the application. Only the amount of fees and expenses allowed by the Bankruptcy
12 Court will be required to be paid under the Joint Plan.

2. Priority Tax Claims.

14 Priority tax claims are certain unsecured income, employment related expenses and
15 other taxes described by Bankruptcy Code Section 507(a)(8). The Bankruptcy Code
16 requires that each holder of such a 507(a)(8) priority tax claim receive the present value of
17 such claim in deferred cash payments, over a period not exceeding five (5) years after the
18 date of the order for relief.

19 The total claims of this nature asserted are estimated to be approximately \$89,200.
20 The following chart lists all of the Debtor's Section 507(a)(8) priority tax claims, and their
21 proposed treatment under the Joint Plan:

27 the Bankruptcy Court's orders approving cash collateral and monthly payment procedures.

⁷ This does not include the approximate \$164,500 of fees and costs previously paid by the Debtor pursuant to the Bankruptcy Court's orders approving cash collateral and monthly payment procedures..

| 1 | DESCRIPTION | AMOUNT OWED ⁸ | TREATMENT |
|---|--|-----------------------------|---|
| 2 | Internal Revenue Service • Type of tax: income • Date tax assessed: unknown | \$29,833.86 | Except to the extent that a holder of an Allowed Priority Tax Claim agrees to a less favorable treatment of its Allowed Priority Tax Claim, each holder of an Allowed Priority Tax Claim shall receive cash payments of a total value, as of the Effective Date, equal to the Allowed Priority Tax Claim over a period ending not later than five years after the order for relief with simple interest thereon |
| 3 | Franchise Tax Board • Type of tax: income • Date tax assessed: unknown | \$315.56 | Except to the extent that a holder of an Allowed Priority Tax Claim agrees to a less favorable treatment of its Allowed Priority Tax Claim, each holder of an Allowed Priority Tax Claim shall receive cash payments of a total value, as of the Effective Date, equal to the Allowed Priority Tax Claim over a period ending not later than five years after the order for relief with simple interest thereon |
| 4 | Nevada Department of Taxation • Type of tax: income • Date tax assessed: unknown | \$3,657.04 | Except to the extent that a holder of an Allowed Priority Tax Claim agrees to a less favorable treatment of its Allowed Priority Tax Claim, each holder of an Allowed Priority Tax Claim shall receive cash payments of a total value, as of the Effective Date, equal to the Allowed Priority Tax Claim over a period ending not later than five years after the order for relief with simple interest thereon |
| 5 | Nevada Employment Security Division • Type of tax: • Date tax assessed: unknown | \$8,649.72 | Except to the extent that a holder of an Allowed Priority Tax Claim agrees to a less favorable treatment of its Allowed Priority Tax Claim, each holder of an Allowed Priority Tax Claim shall receive cash payments of a total value, as of the Effective Date, equal to the Allowed Priority Tax Claim over a period ending not later than five years after the order for relief with simple interest thereon |
| 6 | State Board of Equalization • Type of tax: Sales • Date tax assessed: unknown | \$3,973 | Except to the extent that a holder of an Allowed Priority Tax Claim agrees to a less favorable treatment of its Allowed Priority Tax Claim, each holder of an Allowed Priority Tax Claim shall receive cash payments of a total value, as of the Effective Date, equal to the Allowed Priority Tax Claim over a period ending not later than five years after the order for relief with simple interest thereon |
| 7 | Employment Development Dept. • Type of tax: employment • Date tax assessed: 10/1/11 – 12/31/11 | \$42,405.99 | Except to the extent that a holder of an Allowed Priority Tax Claim agrees to a less favorable treatment of its Allowed Priority Tax Claim, each holder of an Allowed Priority Tax Claim shall receive cash payments of a total value, as of the Effective Date, equal to the Allowed Priority Tax Claim over a period ending not later than five years after the order for relief with simple interest thereon |

28 ⁸ The Debtor believes that these Claims may be overstated. Nothing contained herein shall be deemed a waiver or release of any party's rights to object to the amount or classification of these priority Claims.

| 1 | DESCRIPTION | AMOUNT OWED ⁸ | TREATMENT | | |
|---|--|-----------------------------|--|--|--|
| 2 | Department of Industrial Relations ● Type of tax: ● Date tax assessed: | \$365.00 | Except to the extent that a holder of an Allowed Priority Tax Claim agrees to a less favorable treatment of its Allowed Priority Tax Claim, each holder of an Allowed Priority Tax Claim shall receive cash payments of a total value, as of the Effective Date, equal to the Allowed Priority Tax Claim over a period ending not later than five years after the order for relief with simple interest thereon | | |
| 6 | Total | \$89,200.17 | | | |

7 **B. Summary of Classification of Claims and Interests.**

8 As required by the Bankruptcy Code, the Joint Plan places Claims and Interests into
9 various classes according to their right to priority. The Joint Plan states whether each class of
10 Claims or Interests is impaired or unimpaired. The Joint Plan provides the treatment each class
11 will receive. The following table summarizes the Classes of Claims and the Interest established by
12 the Joint Plan:

| 13 | CLASS | DESCRIPTION | IMPAIRED/ UNIMPAIRED | VOTING STATUS |
|----|---------|---|-------------------------|-----------------------------------|
| 14 | Class 1 | Allowed Secured Claim of Comerica | Unimpaired | No (deemed to accept) |
| 15 | Class 2 | Allowed Secured Claim of VFS | Unimpaired | No (deemed to accept) |
| 16 | Class 3 | Allowed Unsubordinated Secured Claim of Bello Construction | Unimpaired | No (deemed to accept) |
| 17 | Class 4 | Allowed Other Secured Claims | Impaired | Entitled to Vote on Plan |
| 18 | Class 5 | Any Allowed Priority Non-Tax Claims | Impaired | Entitled to Vote on Joint Plan |
| 19 | Class 6 | Allowed General Unsecured Claims | Impaired | Entitled to Vote on Joint Plan |
| 20 | Class 7 | Subordinated Claims | Impaired | Entitled to Vote on Joint Plan |
| 21 | Class 8 | Interests | Impaired | No (deemed to reject) |

22 As set forth above, Classes 4 through 7 are impaired and receive property under the Joint
23 Plan; thus, any holders of Claims in these Classes are entitled to vote with respect to the Joint Plan.
24 The holders of Interests in Class 8 do not receive any property under the Joint Plan and thus Class
25 8 is deemed to reject the Joint Plan. Accordingly, the holders of Interests in Class 8 are not
26 entitled to vote with respect to the Joint Plan.

1 The treatment of Claims under the Joint Plan is in full and complete satisfaction of the
2 legal, contractual, and equitable rights that each Creditor has or may have against the Debtor or its
3 property. This treatment supersedes and replaces any agreements or rights which those entities
4 have against the Debtor or its property. **NO DISTRIBUTIONS SHALL BE MADE, AND NO**
5 **RIGHTS SHALL BE RETAINED UNDER THE PLAN, ON ACCOUNT OF ANY CLAIM**
6 **THAT IS NOT AN ALLOWED CLAIM.**

7 **C. Treatment of Classes Under the Joint Plan.**

8 The following is a summary of treatment of classes under the Joint Plan:

9 1. Class 1 – Allowed Secured Claim of Comerica. Comerica shall retain,
10 without alteration or modification hereunder, its Lien encumbering the Debtor Collateral in
11 which Comerica has a Lien, and shall be paid from the liquidation of the Debtor Collateral
12 in which Comerica has a Lien. In the event that Comerica has the right to assert against
13 the Debtor any Deficiency Claim, unless Comerica makes a valid election under
14 section 1111(b) of the Bankruptcy Code, any Allowed Deficiency Claim of Comerica shall
15 be treated as an Allowed Class 6 General Unsecured Claim.

16 2. Class 2 – Allowed Secured Claim of VFS. VFS shall retain, without
17 alteration or modification hereunder, its Lien encumbering the Debtor Collateral in which
18 VFS has a Lien, and shall be paid from the liquidation of the Debtor Collateral in which
19 VFS has a Lien. In the event that VFS has the right to assert against the Debtor any
20 Deficiency Claim, unless VFS makes a valid election under section 1111(b) of the
21 Bankruptcy Code, any Allowed Deficiency Claim of VFS shall be treated as an Allowed
22 Class 6 General Unsecured Claim.

23 3. Class 3 – Allowed Unsubordinated Secured Claim of Bello Construction.
24 The Committee will be seeking to avoid the lien and/or disallow or subordinate the claim
25 held by Bello Construction. In the unlikely event that there is no judgment or order
26 vacating its Lien and/or disallowing or subordinating its claim, Bello Construction shall
27 retain, without alteration or modification hereunder, its Lien encumbering the Debtor
28 Collateral in which Bello Construction has a Lien, and shall be paid from the liquidation of

1 the Debtor Collateral in which Bello Construction has a Lien. In the event that Bello
2 Construction has the right to assert against the Debtor any Deficiency Claim, unless Bello
3 Construction makes a valid election under section 1111(b) of the Bankruptcy Code, any
4 Allowed Deficiency Claim of Bello Construction shall be treated as an Allowed Class 6
5 General Unsecured Claim.

6 4. Class 4 – Allowed Other Secured Claims. The Debtor is not aware of any
7 secured capital lease claims or other secured claims. In the event that such claims are
8 asserted and allowed, each such Claim shall be classified as a separate subclass under
9 Section 5.4 of the Plan. Any holder of an Allowed Other Secured Claim shall be treated as
10 follows: (i) the Creditor's collateral shall be returned to the Creditor on the Effective Date
11 in full satisfaction of such Creditor's Allowed Other Secured Claim; and (ii) any Allowed
12 Deficiency Claim of the Creditor shall be treated as a Class 6 Allowed General Unsecured
13 Claim. The foregoing treatment shall be in full satisfaction of each Class 4 Creditor's
14 Allowed Other Secured Claim.

15 5. Class 5 – Any Allowed Priority Non-Tax Claim. Pursuant to the
16 Bankruptcy Court's order entered on January 17, 2012 [docket no. 34], the Debtor was
17 authorized to pay and honor all pre-petition payroll obligations. Accordingly, the Debtor
18 has paid all employee wage claims listed on Schedule E of the Bankruptcy Schedules, in
19 an aggregate total amount of \$117,322. As such, the Debtor does not believe that there are
20 any unsatisfied claims pursuant to Section 507(a)(4) held by individuals who were
21 employed by the Debtor, and no such claims will be entitled to any priority pursuant to
22 Section 507(a)(4). However, the Union has asserted that the Debtor violated a collective
23 bargaining agreement between the Union and the Union resulting in the prepetition
24 underpayment of employee wages. *See* Proof of Claim No. 1. Any allowed priority claims
25 arising under (i) Section 507(a)(4) upon a finding that the Debtor underpaid employee
26 wages or otherwise violated the collective bargaining agreement with the Union,
27 (ii) Section 507(a)(5), which shall be reduced by the \$117,322 of Section 507(a)(4) claims
28 paid, or (iii) Section 507(a)(7), shall be paid on the later of: (a) the Effective Date; and

1 (b) the fifteenth (15th) Business Day after such Priority Non-Tax Claim becomes an
2 Allowed Priority Non-Tax Claim, or, in either case, as soon thereafter as is practicable,
3 each holder of an Allowed Priority Non-Tax Claim shall receive in full satisfaction,
4 settlement, and release of and in exchange for such Allowed Priority Non-Tax Claim, a pro
5 rata share of the Class 5 Liquidation Trust Interests. All allowed claims arising under
6 Section 507(a)(4) shall be paid in full prior to claims arising under Section 507(a)(5),
7 which shall be paid in full prior to claims arising under Section 507(a)(7).

8 6. Class 6 – Allowed General Unsecured Claims. On the later of: (a) the
9 Effective Date; and (b) the fifteenth (15th) Business Day after such General Unsecured
10 Claim becomes an Allowed General Unsecured Claim, or, in either case, as soon thereafter
11 as is practicable, each holder of an Allowed General Unsecured Claim shall receive in full
12 satisfaction, settlement, and release of and in exchange for such Allowed General
13 Unsecured Claim, a pro rata share of the Class 6 Liquidation Trust Interests.

14 7. Class 7 – Subordinated Claims. If any Liquidation Trust Assets remain
15 after all Allowed Claims in Classes 5 and 6 have been satisfied in full pursuant to the Joint
16 Plan, each holder of an Allowed Subordinated Claim shall receive in full satisfaction,
17 settlement, and release of and in exchange for such Allowed Subordinated Claim, a pro
18 rata share of such remaining Liquidation Trust Assets.

19 8. Class 8 –Interests of the Debtor. On the Effective Date, all Interests in the
20 Debtor shall be extinguished and the holders of such Interests shall not receive or retain
21 any property under the Joint Plan on account of such Interests.

22 | D. Joint Plan Implementation.

23 On or soon as practicable after the Effective Date, the following shall occur with respect to
24 the implementation of the Joint Plan: (a) all acts, documents and agreements appropriate to
25 implement the Joint Plan shall be effected, executed and/or delivered; (b) the Liquidation Trust
26 Agreement shall become effective; and (c) the Liquidation Trustee shall make all Distributions
27 required to be made on or about the Effective Date of the Joint Plan.

1 **1. Liquidation Trustee.**

2 On the Effective Date, Brian Weiss shall resign as Chief Restructuring Officer of
3 the Debtor, and simultaneously become the Liquidation Trustee to effectuate the Joint Plan.
4 The LT Advisory Board shall have the right to replace the Liquidation Trustee, upon any
5 resignation of the Liquidation Trustee or for cause, and in accordance with the terms and
6 conditions of the Liquidation Trust Agreement. A notice identifying any such replacement
7 Liquidation Trustee shall be filed with the Bankruptcy Court and served upon the original
8 Liquidation Trustee, the United States Trustee and any Post-Effective Date Notice Parties.
9 Any objection that any party-in-interest may have to the identity of any such replacement
10 Liquidation Trustee shall be asserted, in writing, by any party-in-interest within seven (7)
11 days after the LT Advisory Board's filing and service of written notice of the proposed
12 appointment of such replacement Liquidation Trustee; if a party-in-interest fails to assert
13 timely any such objection, any such objection shall be deemed to have been waived. In the
14 event that an objection to any such replacement Liquidation Trustee is asserted timely, the
15 merits of such objection shall be determined by the Bankruptcy Court; the objecting party
16 shall have the burden of proof with respect to demonstrating the merits of any such
17 objection.

18 The Liquidation Trustee shall have the right to exercise on behalf of the holders of
19 Allowed Claims, *inter alia*, the following rights, powers, remedies and duties under the
20 Joint Plan and the Liquidation Trust Agreement (in addition to any and all rights, powers,
21 remedies and duties reasonably necessary or appropriate to carry out the purpose and intent
22 of the Joint Plan which are not inconsistent with the provisions of the Joint Plan or the
23 Liquidation Trust Agreement):

24 **2. Establishment and Administration of Liquidation Trust Fund.**

25 The Liquidation Trustee shall establish, and shall be responsible for administering,
26 the Liquidation Trust Fund. The Liquidation Trustee may invest Cash in the Liquidation
27 Trust Fund as permitted by the guidelines promulgated by the United States Trustee and in
28 effect on the Effective Date.

1 **3. Distributions on Account of Allowed Claims.**

2 The Liquidation Trustee shall be responsible for making all Distributions to the
3 holders of Allowed Claims under the Joint Plan in accordance with the provisions of the
4 Joint Plan.

5 **4. Objections to Disputed Claims.**

6 The Liquidation Trustee shall have the right to object to Disputed Claims in
7 accordance with the provisions of the Joint Plan.

8 **5. Prosecution of Causes of Action.**

9 The Liquidation Trustee shall have the right to file and to prosecute Causes of
10 Action in accordance with the provisions of the Joint Plan.

11 **6. Enforcement of Rights, Claims and Remedies of the Debtor and the
12 Estate.**

13 The Liquidation Trustee shall have the right to enforce, on behalf of the holders of
14 Allowed Claims, any and all rights, claims and remedies of the Debtor and the Estate.

15 **7. Disposition of Liquidation Trust Assets.**

16 From and after the Effective Date, the Liquidation Trustee shall be authorized and
17 directed to take any act and to execute any document appropriate to effectuate the transfer
18 of the Liquidation Trust Assets from the Debtor to the Liquidation Trustee, to be held by
19 the Liquidation Trustee in trust for the benefit of holders of Allowed Claims. The
20 Liquidation Trustee shall have the right to sell, grant, convey, assign, lease, encumber,
21 dispose of and otherwise transfer (as that term is defined in section 101(54) of the
22 Bankruptcy Code) any Liquidation Trust Assets, or any interest therein, in order to promote
23 the interests of holders of Allowed Claims, as the Liquidation Trustee deems advisable in
24 the exercise of its sole and absolute discretion subject only to the approval of the LT
25 Advisory Board with respect to any transaction in excess of \$50,000.00.

26 **8. Management of Liquidation Trust Assets.**

27 The Liquidation Trustee shall be entitled to manage, administer and to control
28 Liquidation Trust Assets in order to promote the interests of holders of Allowed Claims, as

1 the Liquidation Trustee deems advisable in the exercise of its sole and absolute discretion,
2 subject only to the approval of the LT Advisory Board.

3 **9. Investigation of Debtor's Assets and Properties/Prosecution of Causes**
4 **of Action Against the Debtor and/or Insiders and Affiliates of the**
5 **Debtor.**

6 The Liquidation Trustee shall have the right to investigate the Debtor's assets as of
7 the Effective Date, and, if appropriate, to assert any Cause of Action to recover for the
8 benefit of holders of Allowed Claims any asset or property of the Debtor transferred by the
9 Debtor, or not disclosed by the Debtor in the Bankruptcy Schedules or otherwise, and the
10 right to file, litigate, prosecute, settle, adjust, enforce, collect or abandon on behalf of the
11 Debtor and the Estate the Insider Causes of Action is deemed automatically transferred on
12 the Effective Date from the Debtor to the Liquidation Trust from and after the Effective
13 Date. The LT Advisory Board shall have the right to investigate the acts and conduct of
14 the Debtor, transactions between the Debtor and an Insider of the Debtor, and transactions
15 between the Debtor and an Affiliate, and, if appropriate, to assert, on behalf of holders of
16 Allowed Claims, any Cause of Action with respect thereto. Notwithstanding anything in
17 the Joint Plan to the contrary, the Insider Causes of Action shall be prosecuted in the name
18 of the Liquidation Trustee, but the LT Advisory Board shall have sole and exclusive
19 authority and shall make all decisions with respect to the commencement, termination, or
20 settlement of the Insider Causes of Action, or with respect to matters involving the
21 prosecution of the Insider Causes of Action. The Liquidation Trustee shall have day-to-
22 day oversight over the prosecution of the Insider Causes of Action and is delegated
23 authority to make decisions regarding the manner of prosecution of the Insider Causes of
24 Action, provided, however, that nothing contained in the Joint Plan shall deprive the LT
25 Advisory Board of authority to make any decisions regarding the manner of prosecution of
26 the Insider Causes of Action. Any Professionals employed by the Liquidation Trustee
27 shall provide a report to the Liquidation Trustee and the LT Advisory Board on a quarterly
28

1 basis or as otherwise frequently as requested by the Liquidation Trustee or the LT
2 Advisory Board.

3 **10. Liquidation Trust Assets.**

4 The Liquidation Trust shall hold title to the Liquidation Trust Assets and the
5 Liquidation Trust shall be administered solely by the Liquidation Trustee for the benefit of
6 the Beneficiaries.

7 **11. Distributions from Liquidation Trust Fund.**

8 Distributions to holders of Allowed Claims shall be solely from the Liquidation
9 Trust Fund, in accordance with the terms and conditions of the Joint Plan.

10 **12. Representative of the Estate.**

11 Effective as of the Effective Date, the Liquidation Trustee shall be appointed as the
12 representative of the Estate pursuant to section 1123(b)(3)(B) of the Bankruptcy Code.
13 The Liquidation Trustee shall be vested exclusively with the rights, authorities and powers
14 to carry out and to implement the Joint Plan, including, without limitation, by managing,
15 administering and disposing of the Liquidation Trust Assets for the benefit of holders of
16 Allowed Claims in accordance with the terms and conditions of the Joint Plan. On the
17 Effective Date, the Liquidation Trust Assets shall be transferred to and shall vest in the
18 Liquidation Trustee to be managed, administered, controlled, liquidated, adjusted, settled,
19 enforced, collected or abandoned by the Liquidation Trustee in accordance with the terms
20 and conditions of the Joint Plan.

21 **13. Causes of Action.**

22 **a. Liquidation Trustee's Right to Prosecute Causes of Action.**

23 Subject to the provisions of Section 6.14.2 of the Joint Plan, the right to file,
24 litigate, prosecute, settle, adjust, enforce, collect or abandon on behalf of the Debtor
25 and the Estate any and all Causes of Action, except the Insider Causes of Action, is
26 deemed automatically transferred on the Effective Date from the Debtor to the
27 Liquidation Trustee, and, from and after the Effective Date. Accordingly, the
28 Liquidation Trustee shall have the sole and exclusive right to file, litigate,

prosecute, settle, adjust, enforce, collect or abandon all Causes of Action other than the Insider Causes of Action, provided, however, that the Liquidation Trustee shall provide a report on the status of the Causes of Action to the LT Advisory Board on a quarterly basis or as frequently as otherwise requested by the LT Advisory Board and, with respect to any Cause of Action other than the Insider Causes of Action, the LT Advisory Board may elect to make any decisions regarding the manner of prosecution or settlement of such Cause of Action, which decisions shall be binding on the Liquidation Trustee.

b. **LT Advisory Board's Right to Make Demand for Prosecution of Cause of Action.**

Notwithstanding the rights of the Liquidation Trustee with respect to Causes of Action, nothing in the Joint Plan shall require the Liquidation Trustee to file or to prosecute any Cause of Action, both of which may be determined by the Liquidation Trustee in the exercise of his sole and absolute discretion; provided, however, that, in the event that the Liquidation Trustee fails to file an action or proceeding with respect to a Cause of Action within ninety (90) days after the Effective Date, the LT Advisory Board shall be entitled thereafter to serve upon the Liquidation Trustee written demand that the Liquidation Trustee file an action or proceeding with respect to such Cause of Action. In the event that the Liquidation Trustee fails to file an action or proceeding with respect to such Cause of Action within the earlier of (a) thirty (30) days after service of such written demand and (b) five (5) days before the expiration of an statute of limitations or similar deadline, and unless otherwise ordered by the Bankruptcy Court within such period, the right to file, litigate, prosecute, settle, adjust, enforce, collect or abandon such Cause of Action shall be deemed to be transferred irrevocably and unconditionally to the LT Advisory Board, with any Net Recoveries therefrom paid to the Liquidation Trustee.

**THE DEBTOR AND COMMITTEE HAVE NOT COMPLETED THEIR
INVESTIGATION REGARDING THE EXISTENCE AND SCOPE OF CAUSES OF**

1 ACTION. THE INVESTIGATION IN THIS REGARD IS ONGOING. AS A
2 RESULT, ALL PARTIES-IN-INTEREST ARE HEREBY ADVISED THAT,
3 NOTWITHSTANDING THE FACT THAT THE EXISTENCE OF ANY
4 PARTICULAR CAUSE OF ACTION MAY NOT BE LISTED, DISCLOSED OR
5 SET FORTH IN THE PLAN, A CAUSE OF ACTION MAY BE FILED AGAINST
6 ANY CREDITOR OR OTHER PARTY AS THE LIQUIDATION TRUSTEE MAY
7 DETERMINE, IN THE EXERCISE OF THEIR SOLE AND ABSOLUTE
8 DISCRETION

E. Distributions.

10 The Liquidation Trustee shall be responsible for making all Distributions to the holders of
11 Allowed Claims under the Joint Plan. The Liquidation Trustee shall not be required to be bonded
12 in connection with the performance of the Liquidation Trustee's duties pursuant to the Joint Plan.

F. Litigation.

1. Authorization to Assert Causes of Action.

From and after the Effective Date, the Liquidation Trust shall have the exclusive right to file, litigate, prosecute, settle, adjust, enforce, collect and abandon the Insider Causes of Action and all other Causes of Action, respectively, without the consent or approval of any third party, and without any further order of the Bankruptcy Court, in accordance with the provisions of Section 6 of the Joint Plan.

2. Evaluation of Causes of Action.

The decision of the LT Advisory Board and/or the Liquidation Trustee as the case may be to prosecute or to continue to prosecute the Insider Causes of Action and all other Causes of Action, respectively, shall be based, in part, upon their respective evaluation of the merits of the Insider Causes of Action and other Causes of Action, respectively, as well as the costs required to prosecute such causes of action taking into account the resources available to make Distributions to Creditors. Subject to the provisions of Section 6.14.2 of the Joint Plan, the LT Advisory Board and the Liquidation Trustee shall be entitled to determine, in the exercise of their respective sole and absolute discretion, not to prosecute.

1 or to abandon, any Insider Causes of Action or other Causes of Action, respectively, which
2 they are each entitled to prosecute pursuant to Section 6.14 of the Joint Plan.

3 **3. Bar Date for Filing Avoidance Action Payment Claims.**

4 Any Avoidance Action Payment Claim shall be forever barred, shall not be
5 enforceable against the Debtor, the Estate, the Liquidation Trustee or the Liquidation Trust
6 and shall not be entitled to any Distribution under the Joint Plan, unless a Proof of Claim
7 for such Avoidance Action Payment Claim is filed and served on the Liquidation Trustee
8 within thirty (30) days after the later of (a) the date of entry of the order of the Bankruptcy
9 Court adjudging the Creditor's liability to the Debtor or to the Liquidation Trust on
10 account of such Avoidance Action, or (b) the Effective Date.

11 **G. Executory Contracts and Unexpired Leases.**

12 **1. Executory Contracts and Unexpired Leases Being Rejected.**

13 Effective as of, and conditioned on, the occurrence of the Effective Date, all of the
14 executory contracts and unexpired leases of the Debtor listed on Exhibit 9.1 to the Joint Plan and
15 any and all other executory contracts that may be in existence shall be rejected. The Debtor
16 reserves the right to amend, through and including the Confirmation Hearing Date, Exhibit 9.1 to
17 add thereto any executory contract or unexpired lease, or to delete therefrom any executory
18 contract or unexpired lease. However, if any amendments are made to Exhibit 9.1, the affected
19 contract or lease parties and any other party-in-interest shall have fifteen (15) days from the date
20 of service of notice of such amendments within which to serve on the Debtor a written objection to
21 the same. Upon receipt of any such objection, the Debtor shall promptly set a hearing on the
22 same, and the rejection of the affected contract or unexpired lease shall be delayed until the
23 Bankruptcy Court makes a determination on such issue (such determination may be made after the
24 Confirmation Date, without delaying the confirmation of the Joint Plan). To the extent that an
25 executory contract or unexpired lease has been rejected by the Debtor prior to the Confirmation
26 Date pursuant to an order of the Bankruptcy Court, such rejection shall not be affected by this
27 Joint Plan. The rejection of any contract or lease pursuant to the provisions of Section 9.1 of the
28 Joint Plan shall be only to the extent that such rejected contract or lease constitutes an executory

1 contract or unexpired lease within the meaning of section 365 of the Bankruptcy Code. Inclusion
2 of an agreement in Exhibit 9.1 does not constitute an admission by the Debtor that (a) such
3 agreement is an executory contract or unexpired lease within the meaning of section 365 of the
4 Bankruptcy Code, or (b) such agreement is a valid contract or lease. Any contract or lease
5 rejected pursuant to the Joint Plan shall be rejected as previously amended or otherwise modified
6 by the parties thereto, whether before or after the Petition Date. Any executory contract or
7 unexpired lease not listed in Exhibit 9.1 shall be deemed to be rejected on the Effective Date.

8 **2. Retention of Property Rights.**

9 To the extent that the Estate has obtained property rights under the executed portion of an
10 executory contract or unexpired lease, rejection of such agreement shall not constitute any
11 abandonment of any such property rights.

12 **3. Bar Date for Rejection Claims.**

13 Any Rejection Claim shall be forever barred, shall not be enforceable against the Debtor,
14 the Estate, the Liquidation Trustee or the Liquidation Trust, and shall not be entitled to any
15 Distribution under the Joint Plan, unless a Proof of Claim for such Rejection Claim is filed and
16 served on the Debtor and Liquidation Trustee within thirty (30) days after the earlier of (a) the date
17 of entry of the order of the Bankruptcy Court approving the rejection of the executory contract or
18 unexpired lease, or (b) the Effective Date.

19 **H. Claim Objections.**

20 Based on the Debtor's initial review and analysis of claims, the Debtor has filed many
21 significant objections to claims. **While not necessarily an exhaustive list**, attached as Exhibit "2"
22 is a list of claims to which the Debtor intends to object and anticipates the Committee (pre-
23 confirmation) or Liquidation Trustee (post-confirmation) objecting.

24 **1. Liquidation Trustee's Right to Object to Disputed Claims.**

25 Subject to the provisions of Section 8.1.2 of the Joint Plan, the Liquidation Trustee
26 shall have the exclusive right to file, litigate, settle, adjust, enforce or abandon objections to
27 any and all Disputed Claims, including any objection seeking to subordinate a Disputed
28 Claim pursuant to Section 510 of the Bankruptcy Code.

1 2. **LT Advisory Board's Right to Make Demand for Filing Objection to**
2 **Disputed Claims.**

3 Notwithstanding the rights of the Liquidation Trustee with respect to objecting to
4 Disputed Claims as set forth above in Section 8.1.1 of the Joint Plan, nothing in the Joint
5 Plan shall require the Liquidation Trustee to file or to prosecute an objection to any
6 Disputed Claim, both of which may be determined by the Liquidation Trustee in the
7 exercise of his sole and absolute discretion; provided, however, in the event that the
8 Liquidation Trustee fails to file an objection with respect to a Disputed Claim within one
9 hundred twenty (120) days after the Effective Date, the LT Advisory Board shall be
10 entitled thereafter to serve upon the Liquidation Trustee written demand that the
11 Liquidation Trustee file an objection with respect to such Disputed Claim. In the event that
12 the Liquidation Trustee fails to file an objection with respect to such Disputed Claim within
13 thirty (30) days after service of such written demand, unless otherwise ordered by the
14 Bankruptcy Court for good cause shown, the rights to prosecute, control, withdraw and
15 resolve such Disputed Claim shall be deemed to be transferred irrevocably and
16 unconditionally to the LT Advisory Board and the LT Advisory Board, then shall be
17 entitled exclusively to file, litigate, prosecute, settle, adjust, enforce, collect or abandon
18 such objection to the Disputed Claim, with any Net Recoveries that may be obtained in
19 connection with such objection to the Disputed Claim paid to the Liquidation Trust and
20 applied in accordance with the terms and conditions of the Joint Plan.

21 **THE COMMITTEE AND DEBTOR HAVE NOT COMPLETED THEIR**
22 **INVESTIGATION REGARDING THE EXISTENCE OF DISPUTED CLAIMS.**
23 **THE INVESTIGATION IN THIS REGARD IS ONGOING. AS A RESULT, ALL**
24 **PARTIES-IN-INTEREST ARE HEREBY ADVISED THAT,**
25 **NOTWITHSTANDING THE FACT THAT THE EXISTENCE OF ANY**
26 **PARTICULAR DISPUTED CLAIM MAY NOT BE LISTED, DISCLOSED OR**
27 **SET FORTH IN THE PLAN, SUBJECT ONLY TO THE CLAIMS OBJECTION**
28 **DEADLINE, AN OBJECTION MAY BE FILED TO ANY DISPUTED CLAIM AS**

THE LIQUIDATION TRUSTEE MAY DETERMINE, IN THE EXERCISE OF HIS SOLE AND ABSOLUTE DISCRETION. THE LIQUIDATION TRUSTEE SHALL HAVE THE RIGHT TO OBJECT TO AMOUNTS THAT HAVE BEEN SCHEDULED BY THE DEBTOR AND THAT ARE FOUND TO BE OBJECTIONABLE IN ANY RESPECT.

3. Deadline to Object to Claims.

Unless another date is established by order of the Bankruptcy Court, an objection to a Claim must be filed with the Bankruptcy Court and served on the Creditor holding such Claim on or before the Claims Objection Deadline. The Court may extend the Claims Objection Deadline for cause shown.

I. Risk Factors

12 The projected percentage distribution to creditors is a function of the amount of cash
13 actually recovered and the amount of claims allowed against the Debtor. The Debtor's success
14 with respect to the claim objections will directly impact the amount paid out to holders of allowed
15 unsecured claims. However, the Debtor cannot yet determine the amount, if any, of cash available
16 to distribute, or the extent of claims to which it may object and the Court will sustain.

J. Tax Consequences of Joint Plan

18 CREDITORS AND INTEREST HOLDERS CONCERNED WITH HOW THE PLAN
19 MAY AFFECT THEIR TAX LIABILITY SHOULD CONSULT WITH THEIR OWN
20 ACCOUNTANTS, ATTORNEYS, AND/OR ADVISORS.

21 **THE FOLLOWING SUMMARY IS FOR INFORMATIONAL PURPOSES ONLY**
22 **AND IS NOT A SUBSTITUTE FOR CAREFUL TAX PLANNING OR FOR ADVICE**
23 **BASED UPON THE PARTICULAR CIRCUMSTANCES PERTAINING TO A HOLDER**
24 **OF A CLAIM. EACH HOLDER OF A CLAIM OR INTEREST IS URGED TO CONSULT**
25 **ITS OWN TAX ADVISORS FOR THE U.S. FEDERAL, STATE, LOCAL AND FOREIGN**
26 **INCOME AND OTHER TAX CONSEQUENCES APPLICABLE TO IT UNDER THE**
27 **PLAN.**

1 ***IRS Circular 230 Notice: To ensure compliance with IRS Circular 230, Holders of***
2 ***Claims and Interests are hereby notified that: (a) any discussion of U.S. federal tax issues***
3 ***contained or referred to in this Disclosure Statement is not intended or written to be used, and***
4 ***cannot be used, by Holders of Claims and Interests for the purpose of avoiding penalties that***
5 ***may be imposed on them under the Internal Revenue Code; (b) such discussion is written in***
6 ***connection with the promotion or marketing by the Debtor of the transactions or matters***
7 ***addressed herein; and (c) Holders of Claims and Interests should seek advice based on their***
8 ***particular circumstances from an independent tax advisor. The following are consequences to***
9 ***holders of priority non-tax claims and general unsecured claims:***

10 1. **Recognition of Gain or Loss Generally.**

11 Pursuant to the Joint Plan, on the Effective Date, each Holder of an Allowed
12 Priority Non-Tax Claim or Allowed General Unsecured Claim against the Debtor will
13 receive an allocated Liquidation Trust Interest which is a beneficial interest in the
14 Liquidation Trust, entitling the Beneficiaries to distributions from the Liquidation Trust as
15 provided for in the Joint Plan and in the Liquidation Trust Agreement. Except to the extent
16 that the holder of any such Allowed Priority Non-Tax Claim or Allowed General
17 Unsecured Claim agrees to a different treatment, said Persons will receive on account of
18 their Allowed Priority Non-Tax Claim or Allowed General Unsecured Claim a Class 4
19 Liquidation Trust Interest or a Class 5 Liquidation Trust Interest, respectively, in full and
20 complete satisfaction thereof. Each Beneficiary of the Liquidation Trust will be entitled to
21 receive one or more Pro Rata Distributions of the Net Liquidation Trust Proceeds based
22 upon the amount of the respective Holder's Allowed Priority Non-Tax Claim or Allowed
23 General Unsecured Claim. In general, each holder of an Allowed Priority Non-Tax Claim
24 or Allowed General Unsecured Claim will recognize gain or loss in an amount equal to the
25 difference between (i) the sum of the amount of any Cash and the fair market value of any
26 other property that such holder receives in satisfaction of its Claim (other than in respect of
27 any Claim for accrued but unpaid interest, and excluding any portion required to be treated
28 as imputed interest due to the post- Effective Date Distribution of such consideration upon

1 the resolution of Disputed Claims), and (ii) such holder's adjusted tax basis in its Claim
2 (other than any Claim for accrued but unpaid interest).

3 As discussed below, the Liquidation Trust has been structured to qualify as a
4 "grantor trust" for U.S. federal income tax purposes. Accordingly, each holder of an
5 Allowed Claim receiving a beneficial interest in the Liquidation Trust will be treated for
6 U.S. federal income tax purposes as directly receiving and as a direct owner of its allocable
7 percentage of the Liquidation Trust Assets. As set forth in the Liquidation Trust
8 Agreement, as soon as practicable after the Effective Date, and thereafter as may be
9 required, the Liquidation Trustee will (if reasonably deemed necessary or desirable by the
10 Liquidation Trustee) make or have caused to be made a good faith valuation of the Trust
11 Assets, and all parties, including the recipients of Liquidation Trust Interests must
12 consistently use such valuation for all federal income tax purposes.

13 Due to the possibility that each Beneficiary may receive more than one Distribution
14 subsequent to the Effective Date (due to the subsequent disallowance of certain Disputed
15 Claims or unclaimed Distributions), the imputed interest provisions of the Internal
16 Revenue Code may apply to treat a portion of such later Distributions to such holders as
17 imputed interest. In addition, it is possible that any loss realized by any Beneficiary may
18 be deferred until all subsequent Distributions relating to Disputed Claims are determinable,
19 and that a portion of any gain realized may be deferred under the "installment method" of
20 reporting. Each Beneficiary is urged to consult its own tax advisors regarding the
21 possibility for deferral, and the potential ability to elect out of the installment method of
22 reporting any gain realized in respect of its Claim.

23 After the Effective Date, any amount a holder receives as a Distribution from the
24 Liquidation Trust in respect of its beneficial interest therein (other than as a result of the
25 subsequent disallowance of Disputed Claims) should not be included for federal income
26 tax purposes in the holder's amount realized in respect of its Allowed Claim, but should be
27 separately treated as a distribution received in respect of such holder's beneficial
28 (ownership) interest in the Liquidation Trust.

1 Where a holder recognizes gain or loss in respect of its Claim, the character of such
2 gain or loss as long-term or short-term capital gain or loss or as ordinary income or loss
3 will be determined by a number of factors, including the tax status of the holder, whether
4 the Claim constitutes a capital asset in the hands of the holder and how long it has been so
5 held, whether the holder had acquired the Claim at a market discount, and whether and to
6 what extent the holder had previously claimed a bad debt deduction. A holder that
7 purchased its Claim from a prior holder at a market discount may be subject to the market
8 discount rules of the Internal Revenue Code. Under those rules, assuming that the holder
9 has made no election to amortize the market discount into income on a current basis with
10 respect to any market discount instrument, any gain recognized on the exchange of such
11 Claim (subject to a *de minimis* rule) generally would be characterized as ordinary income
12 to the extent of the accrued market discount on such Claim as of the date of the exchange.

13 In general, a holder's tax basis in any beneficial interest received (and undivided
14 interest in Liquidation Trust Assets deemed owned) will equal the fair market value of its
15 proportionate share of the Liquidation Trust Assets on the Effective Date. The holding
16 period for such assets generally will begin the day following the Effective Date.

17 **2. Distributions in Payment of Accrued But Unpaid Interest.**

18 Distributions to any Holder of an Allowed Claim will be allocated first to the
19 original principal portion of such Claim as determined for federal income tax purposes,
20 and then, to the extent the consideration exceeds such amount, to the portion of such Claim
21 representing accrued but unpaid interest. However, there is no assurance that the IRS
22 would respect such allocation for federal income tax purposes.

23 To the extent a holder of debt receives an amount of Cash or property in
24 satisfaction of interest accrued during its holding period, such holder generally recognizes
25 taxable interest income in such amount (if not previously included in the holder's gross
26 income). Conversely, a holder generally recognizes a deductible loss to the extent any
27 accrued interest claimed was previously included in its gross income and is not paid in full.

28

1 Each holder is urged to consult its tax advisor regarding the allocation of consideration and
2 the deductibility of unpaid interest for U.S. federal income tax purposes.

3 **3. Tax Treatment of the Liquidation Trust and Holders of Beneficial**
4 **Interests Therein.**

5 On the Effective Date, the Liquidation Trust will be established for the benefit of
6 the Beneficiaries. The Liquidation Trust is intended to qualify as a liquidation trust for
7 federal income tax purposes. In general, such a trust is not a separate taxable entity but
8 rather is treated for federal income tax purposes as a “grantor” trust (*i.e.*, a pass-through
9 entity). However, merely establishing a trust as a liquidation trust does not ensure that it
10 will be treated as a grantor trust for U.S. federal income tax purposes. The IRS, in
11 Revenue Procedure 94-45, 1994-2 C.B. 684, set forth the general criteria for obtaining an
12 IRS ruling as to the grantor trust status of a Liquidation Trust under a chapter 11 plan. The
13 Liquidation Trust has been structured with the intention of complying with such general
14 criteria. Pursuant to the Joint Plan, and in conformity with Revenue Procedure 94-45, all
15 parties (including the Debtor, the Liquidation Trustee, and the Beneficiaries of the
16 Liquidation Trust) are required for federal income tax purposes to treat the Liquidation
17 Trust as a grantor trust of which the Persons receiving interests therein are the owners and
18 grantors. The following discussion assumes that the Liquidation Trust will be so respected
19 for U.S. federal income tax purposes. However, no ruling has been requested from the IRS
20 and no opinion of counsel has been requested concerning the tax status of the Liquidation
21 Trust as a grantor trust. Accordingly, there can be no assurance that the IRS would not
22 take a contrary position. If the IRS were to challenge successfully such classification, the
23 federal income tax consequences to the Liquidation Trust and the Beneficiaries could vary
24 from those discussed herein.

25 For all U.S. federal income tax purposes, all parties (including the Debtor, the
26 Liquidation Trustee, and the Beneficiaries) must treat the transfer of the Liquidation Trust
27 Assets to the Liquidation Trust, in accordance with the terms of the Joint Plan and the
28 Liquidation Trust Agreement, as a transfer of such Liquidation Trust Assets directly to the

1 Beneficiaries, followed by such Beneficiaries' transfer of the Liquidation Trust Assets to
2 the Liquidation Trust. Consistent therewith, all parties must treat the Liquidation Trust as
3 a grantor trust of which the Beneficiaries are the owners and grantors. Thus, such
4 Beneficiaries will be treated as the direct owners of their respective undivided interests in
5 the Liquidation Trust Assets for all U.S. federal income tax purposes. Each such Person
6 will have a tax basis in its proportionate share of the Liquidation Trust Assets deemed
7 owned equal to the fair market value thereof on the Effective Date. As set forth in the
8 Liquidation Trust Agreement, as soon as practicable after the Effective Date, and thereafter
9 as may be required, the Liquidation Trustee will (if reasonably deemed necessary or
10 desirable by the Liquidation Trustee) make or have caused to be made a good faith
11 valuation of the Liquidation Trust Assets, and all parties, including the Beneficiaries, must
12 consistently use such valuation for all federal income tax purposes.

25 Accordingly, except as discussed below (in connection with pending Disputed
26 Claims), each recipient of a Liquidation Trust Interest will be required to report on its U.S.
27 federal income tax return its allocable share of any income, gain, loss, deduction, or credit
28 recognized or incurred by the Liquidation Trust, in accordance with its relative beneficial

interest. The character of items of income, deduction, and credit to any holder and the ability of such holder to benefit from any deduction or losses may depend on the particular situation of such holder.

The U.S. federal income tax reporting obligations of a holder is not dependent upon the Liquidation Trust distributing any Cash or other proceeds. Therefore, a holder may incur a federal income tax liability with respect to its allocable share of the income of the Liquidation Trust regardless of the fact that holder has not received any prior or concurrent Distribution. Other than in respect of Cash retained on account of Disputed Claims and subsequently distributed, the Liquidation Trust's Distribution of Cash to Beneficiaries generally will not be taxable to said Beneficiaries because they already are regarded for federal income tax purposes as owning the underlying Liquidation Trust Assets.

Subject to the Liquidation Trust Agreement, absent definitive guidance from the IRS or a court of competent jurisdiction to the contrary (including the issuance of applicable Treasury Regulations, the receipt by the Liquidation Trustee of a private letter ruling if the Liquidation Trustee so requests one, or the receipt of an adverse determination by the IRS upon audit if not contested by the Liquidation Trustee), the Liquidation Trustee will:

a. treat all Liquidation Trust Assets allocable to, or retained on account of, Disputed Claims, as a discrete trust for federal income tax purposes, consisting of separate and independent shares to be established in respect of each Disputed Claim, in accordance with the trust provisions of the Internal Revenue Code (sections 641 *et seq.* of the Internal Revenue Code);

b. treat as taxable income or loss of this separate trust with respect to any given taxable year the portion of the taxable income or loss of the Liquidation Trust that would have been allocated to the holders of such Disputed Claims had such Claims been Allowed on the Effective Date (but only for the portion of the taxable year with respect to which such Claims are unresolved);

c. treat as a distribution from this separate trust any increased amounts distributed by the Liquidation Trust as a result of any Disputed Claim resolved earlier in the taxable year, to the extent such distribution relates to taxable income or loss of this separate trust determined in accordance with the provisions hereof, and

(iv) to the extent permitted by applicable law, report consistently for state and local income tax purposes.

8 In addition, pursuant to the Liquidation Trust Agreement, all Beneficiaries are
9 required to report consistently with such treatment. Accordingly, subject to issuance of
10 definitive guidance, the Liquidation Trustee will report on the basis that any amounts
11 earned by this separate trust and any taxable income of the Liquidation Trust allocable to it
12 are subject to a separate entity level tax, except to the extent such earnings are distributed
13 during the same taxable year. Any amounts earned by or attributable to the separate trust
14 and distributed to a Beneficiary during the same taxable year will be includable in such
15 Beneficiary's gross income.

4. Withholding.

1 Certain persons are exempt from backup withholding, including, in certain circumstances,
2 corporations and financial institutions.

3 THE FOREGOING SUMMARY HAS BEEN PROVIDED FOR INFORMATIONAL
4 PURPOSES ONLY. ALL HOLDERS OF CLAIMS ARE URGED TO CONSULT THEIR OWN
5 TAX ADVISORS CONCERNING THE FEDERAL, STATE, LOCAL AND OTHER TAX
6 CONSEQUENCES APPLICABLE UNDER THE PLAN.

IV.

CONFIRMATION REQUIREMENTS AND PROCEDURES

9 PERSONS OR ENTITIES CONCERNED WITH CONFIRMATION OF THE PLAN
10 SHOULD CONSULT WITH THEIR OWN ATTORNEYS BECAUSE THE LAW ON
11 CONFIRMING A PLAN CAN BE VERY COMPLEX. The following discussion is intended
12 solely for the purpose of alerting readers about basic confirmation issues, which they may wish to
13 consider, as well as certain deadlines for filing claims. The Debtor and the Committee CANNOT
14 and DO NOT represent that the discussion contained below is a complete summary of the law on
15 this topic.

16 Many requirements must be met before the Bankruptcy Court can confirm a Joint Plan.
17 Some of the requirements include that the Joint Plan must be proposed in good faith, acceptance of
18 the Joint Plan, whether the Joint Plan pays creditors at least as much as creditors would receive in
19 a Chapter 7 liquidation, and whether the Joint Plan is feasible. These requirements are not the
20 only requirements for confirmation.

A. Who May Vote or Object

1. Who May Object to Confirmation of the Joint Plan

23 Any party in interest may object to the confirmation of the Joint Plan, but as
24 explained below, not everyone is entitled to vote to accept or reject the Joint Plan.

2. Who May Vote to Accept/Reject the Joint Plan

26 A creditor or interest holder has a right to vote for or against the Joint Plan if that
27 creditor or interest holder has a claim which is both (1) allowed or allowed for voting
28 purposes and (2) classified in an impaired class.

1 a. What Is an Allowed Claim/Interest

2 As noted above, a creditor or interest holder must first have an allowed
3 claim or interest to have the right to vote. Generally, any proof of claim or interest
4 will be allowed, unless a party in interest brings a motion objecting to the claim.
5 When an objection to a claim or interest is filed, the creditor or interest holder
6 holding the claim or interest cannot vote unless the Bankruptcy Court, after notice
7 and hearing, either overrules the objection or allows the claim or interest for voting
8 purposes.

9 THE BAR DATE FOR FILING A PROOF OF CLAIM in this case was
10 May 1, 2012. A creditor or interest holder may have an allowed claim or interest
11 even if a proof of claim or interest was not timely filed. A claim is deemed allowed
12 if (1) it is scheduled on the Debtor's schedules and such claim is not scheduled as
13 disputed, contingent, or unliquidated, and (2) no party in interest has objected to the
14 claim. An interest is deemed allowed if it is scheduled and no party in interest has
15 objected to the interest.

16 b. What Is an Impaired Claim/Interest

17 As noted above, an allowed claim or interest only has the right to vote if it
18 is in a class that is impaired under the Joint Plan. A class is impaired if the Joint
19 Plan alters the legal, equitable, or contractual rights of the members of that class.
20 For example, a class comprised of general unsecured claims is impaired if the Joint
21 Plan fails to pay the members of that class 100% of what they are owed.

22 In this case, the Debtor believes that Classes 4-7 are impaired and receive
23 property under the Joint Plan and thus holders of Claims in these classes are
24 therefore entitled to vote to accept or reject the Joint Plan. Parties who dispute the
25 Debtor's characterization of their Claim or Interest as being impaired or unimpaired
26 may file an objection to the Joint Plan contending that the Debtor has incorrectly
27 characterized the class.

1 **3. Who Is Not Entitled to Vote**

2 The following four types of claims are not entitled to vote: (1) Claims that have
3 been disallowed; (2) Claims in unimpaired classes; (3) Claims entitled to priority pursuant
4 to Bankruptcy Code section 507(a) claims; and (4) classes that do not receive or retain any
5 value under the Joint Plan. Claims in unimpaired classes are not entitled to vote because
6 such classes are deemed to have accepted the Joint Plan. Claims entitled to priority
7 pursuant to Bankruptcy Code section 507(a) are not entitled to vote because such claims
8 are not placed in classes and they are required to receive certain treatment specified by the
9 Bankruptcy Code. Claims in classes that do not receive or retain any value under the Joint
10 Plan do not vote because such classes are deemed to have rejected the Joint Plan. The
11 Debtor believes that holders of Allowed Class 8 Interests are impaired but not entitled to
12 vote because that class of interests will not receive nor retain any value under the Joint
13 Plan. EVEN IF YOUR CLAIM IS OF THE TYPE DESCRIBED ABOVE, YOU MAY
14 STILL HAVE A RIGHT TO OBJECT TO THE CONFIRMATION OF THE PLAN.

15 **4. Who Can Vote in More Than One Class**

16 A creditor whose Claim has been allowed in part as a secured Claim and in part as
17 an unsecured Claim is entitled to accept or reject the Joint Plan in both capacities by
18 casting one ballot for the secured part of the Claim and another ballot for the unsecured
19 Claim.

20 **5. Votes Necessary to Confirm the Joint Plan**

21 If impaired classes exist, the Bankruptcy Court cannot confirm the Joint Plan unless
22 (1) all impaired classes have voted to accept the Joint Plan, or (2) at least one impaired
23 class has accepted the Joint Plan without counting the votes of any insiders within that
24 class and the Joint Plan is eligible to be confirmed by “cramdown” on non-accepting
25 classes, as discussed hereinbelow.

26 **6. Votes Necessary for a Class to Accept the Joint Plan**

27 A class of claims is considered to have accepted the Joint Plan when more than
28 one-half (1/2) in number and at least two-thirds (2/3) in dollar amount of the claims which

1 actually voted, voted in favor of the Joint Plan. A Class of Interests is considered to have
2 accepted the Joint Plan when at least two-thirds (2/3) in amount of the Interest-holders of
3 such Class which actually voted, voted to accept the Joint Plan.

4 **7. Treatment of Nonaccepting Classes**

5 As noted above, even if all impaired Classes do not accept the proposed Joint Plan,
6 the Bankruptcy Court may nonetheless confirm the Joint Plan if the nonaccepting Classes
7 are treated in the manner required by the Bankruptcy Code and there is at least one
8 impaired class that accepts the Joint Plan. The process by which non-accepting classes are
9 forced to be bound by the terms of the Joint Plan is commonly referred to as “cramdown.”
10 The Bankruptcy Code allows the Joint Plan to be “crammed down” on nonaccepting
11 classes of claims or interests if it meets all consensual requirements except the voting
12 requirements of 1129(a)(8) and if the Joint Plan does not “discriminate unfairly” and is
13 “fair and equitable” toward each impaired class that has not voted to accept the Joint Plan
14 as referred to in 11 U.S.C. § 1129(b) and applicable case law.

15 **B. Liquidation Analysis**

16 Another confirmation requirement is the “Best Interest Test,” which requires a liquidation
17 analysis. Under the Best Interest Test, if a claimant or interest holder is in an impaired class and
18 that claimant or interest holder does not vote to accept the Joint Plan, then that claimant or
19 interest holder must receive or retain under the Joint Plan property of a value not less than the
20 amount that such holder would receive or retain if the Debtor were liquidated under Chapter 7 of
21 the Bankruptcy Code.

22 In a Chapter 7 case, the Debtor’s assets are usually sold by a Chapter 7 trustee. Secured
23 creditors are paid first from the sales proceeds of assets on which the secured creditor has a lien.
24 Administrative claims are paid next. Then, unsecured creditors are paid from any remaining sales
25 proceeds according to their rights to priority. Unsecured creditors with the same priority share in
26 proportion to the amount of their allowed claim in relationship to the amount of total allowed
27 unsecured claims. Finally, interest holders receive the balance that remains, if any, after all
28 creditors are paid.

1 For the Bankruptcy Court to be able to confirm the Joint Plan, the Bankruptcy Court must
2 find that all creditors and interest holders who do not accept the Joint Plan will receive at least as
3 much under the Joint Plan as such holders would receive under a Chapter 7 liquidation. The
4 Debtor and the Committee maintain that this requirement is met.

5 If the Debtor were to liquidate under Chapter 7 of the Bankruptcy Code, a Chapter 7
6 trustee would be appointed to oversee the liquidation of the Debtor's assets. The Chapter 7
7 trustee would make an independent evaluation of the merits of the Estate's claims against Bello
8 and other Insiders, as well as claims against third parties, and there can be no assurance that a
9 chapter 7 trustee would prosecute any of the Estate's claims. Any recovery to unsecured
10 creditors will be funded from monies recovered from the prosecution of the Estate's claims.
11 Accordingly, if a Chapter 7 trustee elects to not prosecute the Estate's claims, unsecured
12 creditors will not recover on account of their claims.

13 Even if a Chapter 7 trustee were to elect to prosecute the Estate's claims, there can be no
14 assurance that the Chapter 7 trustee would retain the same law firm that the Committee is seeking
15 to retain, which firm has devoted significant time to investigating and evaluating the merits of the
16 Estate's claims. If the Chapter 7 trustee were to retain other legal counsel, the change could be
17 disruptive and could lead to delay while new counsel undertook its own investigation and
18 analysis of the Estate's claims, and thus potentially lead to delay in payment to unsecured
19 creditors. Such additional investigation would result in the Chapter 7 trustee's legal counsel and,
20 perhaps, other professionals incurring fees, which would need to be paid prior to unsecured
21 creditors recovering on account of their claims. Moreover, there can be no assurance that a
22 Chapter 7 trustee would not settle Estate claims on terms less favorable to unsecured creditors
23 than if the LT Advisory Board were to consider the settlement of such claims.

24 In addition, a Chapter 7 Trustee is entitled to compensation from the bankruptcy estate in
25 an amount not to exceed 25% of the first \$5,000 of all moneys disbursed, 10% of any amount
26 over \$5,000 but less than \$50,000, 5% of any amount over \$50,000 but less than \$1 million, and
27 3% of all amounts over \$1 million, and such compensation would be paid prior to any
28 distribution to unsecured creditors. As any recovery to unsecured creditors will be funded from

1 recovery on the Estate's claims against third parties and litigation is inherently uncertain, the
2 Debtor and the Committee are unable to estimate the likely range of compensation that a Chapter
3 7 trustee would receive.

4 The Joint Plan is premised upon holders of priority claims (including Deferred
5 Professional Fee Claims) consenting to holders of general unsecured claims sharing pro rata in
6 25% of any recovery from claims asserted against Bello or other Insiders prior to the payment in
7 full of priority claims. In a Chapter 7 liquidation, no such agreement would exist, and holders of
8 general unsecured claims would not be entitled to recover on account of their claims until holders
9 of priority claims are paid in full (and holders of priority claims would not be paid until all
10 administrative expense claims, including those of existing professionals, are paid in full).
11 Significantly, the Debtor's current professionals have agreed under the Joint Plan to defer
12 payment of their outstanding professional fees, which are entitled to administrative expense
13 claim priority, until sufficient cash is available to pay such fees. No such agreement exists in the
14 context of a liquidation under Chapter 7, and such fees, which total approximately \$487,000 plus
15 additional fees to be incurred in connection with the confirmation of the Joint Plan, would
16 otherwise need to be paid in full before unsecured creditors would be entitled to recover on
17 account of their claims.

18 Furthermore, the Debtor and the Committee believe that in a Chapter 7 liquidation,
19 distributions to creditors (if any) would be delayed due to, among other things: (a) the setting of a
20 new bar date for the filing of proofs of claim, which could also result in the filing of additional
21 claims and thus reduce the pro rata distribution to each of the Debtor's creditors; (b) the
22 preparation of the Debtor's final report to the U.S. Trustee; and (c) the administrative activities of
23 the U.S. Trustee and the Bankruptcy Court's clerk's office in connection with, among other
24 activities, converting and closing the case. Thus, the Debtor and the Committee have concluded
25 that the Joint Plan provides fair and equitable treatment of all classes of creditors and the greatest
26 feasible recovery to all creditors.

27
28

1 Exhibit "3" demonstrates, in balance sheet format, that all Creditors and Interest holders
2 will receive at least as much under the Joint Plan as such Creditor or Interest holder would
3 receive under a Chapter 7 liquidation. This information is provided by the Debtor.

4 As set forth above and shown on Exhibit "3", conversion of the Debtor's Chapter 11 case
5 to Chapter 7 would result in additional costs to be borne by the Estate. These include costs
6 associated with Chapter 7 and potential costs for new professionals to undertake the same
7 investigation and evaluation of Estate claims that current professionals have already undertaken.
8 Moreover, the payment of fees incurred by current professionals would not be deferred under
9 Chapter 7, and unsecured creditors would not be entitled to share pro rata in 25% of any recovery
10 from Insider Causes of Action prior to the payment in full of priority claims. Accordingly, the
11 Debtor and the Committee submit that all creditors and interest holders will receive at least as
12 much under the Joint Plan as such creditor or interest holder would receive under a Chapter 7
13 liquidation and, as such, the Joint Plan satisfies the "Best Interest Test."

14 **C. Feasibility**

15 Another requirement for confirmation involves the feasibility of the Joint Plan, which
16 means that confirmation of the Joint Plan is not likely to be followed by the liquidation, or the
17 need for further financial reorganization, of the Debtor or any successor to the Debtor under the
18 Joint Plan, unless such liquidation or reorganization is proposed in the Joint Plan. This plan will
19 not be followed by a liquidation and there will be no need for a financial reorganization because
20 this is a plan of liquidation (*i.e.*, all assets have been liquidated and remaining claims are being
21 litigated).

22 **V.**

23 **EFFECT OF CONFIRMATION OF PLAN**

24 **A. Discharge.**

25 Confirmation of the Joint Plan will not discharge Creditors' Claims. *See* 11 U.S.C.
26 § 1141(d)(3).

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1 **B. Injunction.**

2 Except as provided expressly to the contrary in the Joint Plan or in the Confirmation Order,
3 on and after the Effective Date, all Creditors (including, but not limited to, states and other
4 governmental units, and any state official, employee, or other entity acting in an individual or
5 official capacity on behalf of any state or other governmental unit), and Interest Holders shall be
6 permanently enjoined from the following: (a) taking any of the following actions on account of
7 any such Claim: (i) commencing or continuing in any manner any action or other proceeding
8 against the Liquidation Trustee, its Representatives, the Liquidation Trust or the Liquidation Trust
9 Assets; (ii) enforcing, attaching, executing, collecting, or recovering in any manner any judgment,
10 award, decree, or order against the Liquidation Trustee, its Representatives, the Liquidation Trust
11 or the Liquidation Trust Assets; (iii) creating, perfecting, or enforcing any Lien against the
12 Liquidation Trustee, its Representatives, the Liquidation Trust or the Liquidation Trust Assets; and
13 (iv) commencing or continuing any action, in any manner, in any place that does not comply with
14 or is inconsistent with the provisions of the Joint Plan; and (b) taking any acts on account of the
15 Insider Causes of Action and all other Causes of Action that are vested in, or transferred to, the LT
16 Advisory Board or the Liquidation Trustee, respectively, as of the Effective Date, including,
17 without limitation, commencing or continuing in any manner any Avoidance Action (i.e., no party
18 may pursue any Causes of Action except as provided by the Joint Plan). Any person or entity
19 injured by any willful violation of such injunction shall recover its actual damages, including costs
20 and attorneys' fees, and, in appropriate circumstances, may recover punitive damages from the
21 willful violator of such injunction.

22 **C. Release.**

23 Except as otherwise provided in the Joint Plan or in the Confirmation Order, all Creditors
24 shall be precluded from asserting any Claims against the Liquidation Trustee, the Committee, the
25 LT Advisory Board, each of their respective Representatives, the Liquidation Trust, and the
26 Liquidation Trust Assets. Notwithstanding anything herein to the contrary, no Causes of Action
27 that is the property of the Debtor and/or the Estate shall in any way be released, modified, altered
28 or compromised by virtue of the confirmation of the Joint Plan and the Insider Causes of Action

1 and all other Causes of Action shall automatically be transferred, as of the Effective Date, to the
2 LT Advisory Board and the Liquidation Trustee, respectively, in accordance with the provisions of
3 Section 6 of the Joint Plan.

4 **D. Distribution of Property Free and Clear of Liens, Claims, and Interests.**

5 Except as otherwise provided in the Joint Plan or in the Confirmation Order, all property
6 distributed under the Joint Plan shall be distributed free and clear of all Liens and other Claims of
7 Creditors and the Interest of the Debtor.

8 **E. Binding Effect of Joint Plan.**

9 Upon the Effective Date, the provisions of the Joint Plan shall be binding upon the Debtor,
10 the Liquidation Trustee, and each Creditor.

11 **F. Transfer of Assets.**

12 Except only for the Abandoned Assets, which shall be vested in the Debtor, on the
13 Effective Date, all assets, properties and interests of the Estate shall vest in, and shall be property
14 of, the Liquidation Trustee, to be held in trust by the Liquidation Trustee for the benefit of holders
15 of Allowed Claims in accordance with the provisions of the Joint Plan.

16 **G. Reservation of Rights.**

17 Nothing contained herein shall impair or affect in any manner any, claims, actions or
18 proceedings which have been or which may be asserted or filed to bar the dischargeability of the
19 Debtor's debt to a Creditor pursuant to section 523 of the Bankruptcy Code or to deny the Debtor
20 a discharge pursuant to section 727 of the Bankruptcy Code.

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1 **H. Final Decree.**

2 Once the estate has been fully administered as referred to in Bankruptcy Rule 3022, the
3 Joint Plan Debtor, or other party as the Bankruptcy Court shall designate in the Joint Plan
4 confirmation order, shall file a motion with the Bankruptcy Court to obtain a final decree to close
5 the case.

6 DATED: October 18, 2013

WALLDESIGN, INC.

7
8 By: 

Brian Weiss, Chief Restructuring Officer

9
10 DATED: October 18, 2013

OFFICIAL COMMITTEE OF UNSECURED
CREDITORS OF WALLDESIGN, INC.

11
12 DATED: October 18, 2013

WINTHROP COUCHOT
PROFESSIONAL CORPORATION

13
14 By: /s/ Garrick A. Hollander

15 Marc J. Winthrop

16 Garrick A. Hollander

17 General Insolvency Counsel for Debtor and
18 Debtor in Possession

19
20 DATED: October 18, 2013

JONES DAY

21
22 By: /s/ Sidney Levinson

23 Sidney P. Levinson

24 Jason R. Wolf

25 Counsel for Official Committee of Unsecured
26 Creditors of Walldesign, Inc.

1 **H. Final Decree.**

2 Once the estate has been fully administered as referred to in Bankruptcy Rule 3022, the
3 Joint Plan Debtor, or other party as the Bankruptcy Court shall designate in the Joint Plan
4 confirmation order, shall file a motion with the Bankruptcy Court to obtain a final decree to close
5 the case.

6 DATED: October 18, 2013 **WALLDESIGN, INC.**

7 By: _____

8 Brian Weiss, Chief Restructuring Officer

9 DATED: October 18, 2013 **OFFICIAL COMMITTEE OF UNSECURED
10 CREDITORS OF WALLDESIGN, INC.**

11 By: _____

12 
13 Michelle Levitt, Authorized Representative
14 of National Union Fire Insurance Company
15 of Pittsburgh, PA,
16 Chair of the Official Committee of
17 Unsecured Creditors of Walldesign, Inc.

18 DATED: October 18, 2013

19 **WINTHROP COUCHOT
20 PROFESSIONAL CORPORATION**

21 By: _____

22 /s/ *Garrick A. Hollander*

23 Marc J. Winthrop

24 Garrick A. Hollander

25 General Insolvency Counsel for Debtor and
26 Debtor in Possession

27 DATED: October 18, 2013

28 **JONES DAY**

29 By: _____

30 /s/ *Sidney Levinson*

31 Sidney P. Levinson

32 Jason R. Wolf

33 Counsel for Official Committee of Unsecured
34 Creditors of Walldesign, Inc.

DECLARATION OF BRIAN WEISS

I, Brian Weiss, declare:

1. I am the Chief Restructuring Officer of Walldesign, Inc., the debtor and debtor-in-possession herein (the “Debtor”). All of the matters to which I will testify in this declaration are based upon my own personal knowledge, are true and correct and, if called upon to testify, I could and would competently testify to the facts set forth herein.

2. As the Debtor's Chief Restructuring Officer, I have personal knowledge of the Debtor's operations and the Debtor's current financial condition. Further, I have a basic understanding of the Debtor's historical condition based on my review of the Debtor's books and records.

3. I have assisted the Debtor's counsel in the preparation of the Disclosure Statement and Joint Plan filed herewith. To the best of my knowledge, the information contained in the Disclosure Statement and the Joint Plan is truthful and accurate.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

DATED: October 18 , 2013

BW -

Brian Weiss

EXHIBIT “1”

WallDesign, Inc.
Potential Defendants in Potential Avoidance Actions

| | |
|------------------------------|---------------------------|
| 68 Canyon Staging Contractor | Henry-West Designs |
| Aaron Patt | Josephine Bello |
| Acoustical Material Service | Kelly-Moore Paint Company |
| AIG | Kiki-B Trucking |
| Allegiance Premium | Knupp Brothers |
| Alvarez | MB Landscapes, Inc. |
| American Express | MGM Grand |
| Ames Tape System | Michael Bello |
| BAC Home Loans | Michael Bello LLC |
| Bella Casa | Napascapes |
| Bello Family Trust | Nextel Communications |
| Bello Family Vineyard | Oceanfront HOA |
| Ben Franklin Press | Preferred Bank |
| Bighorn Golf/HOA | Renix Corporation |
| BMW Financial | Rew L.V. Rew Materials |
| Churchill Downs | Rise Above Trucking, Inc. |
| CJ Constuction | Ru Investments |
| Comerica Bank | Scully Vineards |
| Dan Buresh & Sharon Phillips | Seabright Ins. Co |
| David Abreu Vineard | Shady Canyon GC |
| De Latorre Construction Inc | Sherwin Williams |
| Del Mar Thoroughbred Club | Southwest Gas |
| Downs Commercial Fueling | Southwest Materials |
| Ehren Jordan | Star Vineyards |
| Failla Vineyards | State Farm Insurance |
| Ferrari Financial | Stephen Bello |
| Fidelity National Title | Taransaud North America |
| Foam Concepts | The Montgomery Group |
| Frazee Paint | The Ranch Winery |
| Geronimo | Wells Fargo |
| Great | Wynn |
| Hago LLC | XIV Karats, Ltd. |
| Healthnet | Young Ideas |

EXHIBIT “2”

Walldesign, Inc.

Anticipated Claim Objections

Claim

no. Claimant

71 CALIFORNIA SELF-INSURERS' SECURITY FUND
68 COMERICA BANK
65 LIBERTY MUTUAL INSURANCE COMPANY
72 VFS FINANCING, INC. (GE Capital)
73 CHARTIS INC.
72 VFS FINANCING, INC. (GE Capital)
100 WELLS FARGO BANK, NATIONAL ASSOCIATION
6 AMERICAN HOME ASSURANCE CO
1 PAINTERS & ALLIED TRADES
2 PAINTERS & ALLIED TRADES
ACOUSTICAL MATL SRVC
77 STATE COMP INS FUND
9 INTERNAL REVENUE SERVICE
79 KCG, INC.
55 ACOUSTICAL MATERIAL SERVICES
76 CONTRACTORS ACCESSS PROGRAM OF CALIFORNIA BY BICKMORE
59 FOAM CONCEPTS INC
24 ORANGE COUNTY TREASURER
86 BELLO CONSTRUCTION COMPANY
44 CERTAINTEED CORP, INSULATION
109 PAINTERS JOIN TRUSTS C/O DARYL MARTIN
27 PULTE HOME CORPORATION
91 RONALD PINEDA
87 RU INVESTMENTS LLC
WAGES, SALARIES, AND COMMISSIONS
90 RONAEL GARCIA
9 INTERNAL REVENUE SERVICE
74 RISE ABOVE TRUCKING, INC.
94 A-Z CELLULARWORLD, INC.
109 PAINTERS JOIN TRUSTS C/O DARYL MARTIN
75 SOUTH COAST FOAM SHAPES
80 D.R. HORTON, INC.
78 RYLAND HOMES NEVADA, LLC, THE RYLAND GROUP, INC.
47 AMES TAPING TOOL
COMERICA BANK
28 DOWNS ENERGY
58 KIKI-B TRUCKING
59 FOAM CONCEPTS INC
34 FLATIRON CAPITAL/WELLS FARGO BANK
HEALTH NET
81 WESTERN EQMT MANUFACTURING
99 PLACER COUNTY TAX COLLECTOR
37 DE LATORRE CONSTRUCTION INC.
39 NEVADA DEPARTMENT OF TAXATION
25 ATIS GROUP, LLC
3 COURIER PRINTING INC
107 CIT FINANCING SERVICES

Walldesign, Inc.

Anticipated Claim Objections

Claim

no. Claimant

| | |
|-----|---------------------------------------|
| 110 | SAN DIEGO COUNTY TREASURER J BELLO |
| 53 | ST OF NV DEPT MOTOR VEHICLE |
| 104 | CIT FINANCING SERVICES |
| 40 | FRANCHISE TAX BOARD |
| 102 | CIT FINANCING SERVICES |
| 101 | CIT FINANCING SERVICES |
| 108 | CIT FINANCING SERVICES |
| 106 | CIT FINANCING SERVICES |
| 105 | CIT FINANCING SERVICES |
| 103 | CIT FINANCING SERVICES |

EXHIBIT “3”

Walldesign Incorporated
Chapter 7 Liquidation Analysis

General Assumptions

In chapter 7 bankruptcy, a trustee (the “Chapter 7 Trustee”) is appointed to manage a debtor’s affairs and conduct a liquidation. Accordingly, the Liquidation Analysis assumes Chapter 7 Trustee would be required to liquidate and would do so on an expedited, but orderly basis. The Debtor would be forced to cease substantially all operations immediately and the Chapter 7 Trustee would use the Debtor’s cash position to liquidate all assets and pay priority claims. In Walldesign’s case, the operations have already ceased and all projects have been completed.

The following table summarizes the estimated proceeds that would be available for distribution to the Debtor’s creditors in a hypothetical liquidation of the Debtor’s estate under chapter 7 of the Bankruptcy Code.

| | Notes | Book Value as of 8/31/13 | Estimated Recovery % | Estimated Liquidation Value |
|---|-------|-----------------------------|-------------------------|--------------------------------|
| Cash - Encumbered | [1] | 120,298 | 100% | 120,298 |
| Cash - Unencumbered | | 67,375 | 100% | 67,375 |
| Accounts Receivable, net | [2] | 30,000 | 65% | 19,500 |
| Recoveries Under Avoidance Actions | [3] | - | 0% | - |
| Gross Proceeds Available for Distribution | | 217,673 | 95% | 207,173 |
| Less: | | | | |
| Trustee Fees | | | | (13,609) |
| Professional Fees | | | | (75,000) |
| Total Chapter 7 Administrative Costs | | | | (88,609) |
| Net Proceeds Available for Distribution to Creditors | | | | 118,564 |
| Secured Claims: | | | | |
| Comerica Bank | [4] | 936,281 | 20% | (185,940) |
| Michael R. Bello | [5] | 272,000 | 0% | - |
| | | 1,208,281 | | (67,375) |
| Administrative Claims | [11] | 450,288 | 15% | (67,375) |
| Proceeds Available for Unsecured Claims | | | | - |

Notes & Significant Assumption to Liquidation Analysis

[1] Subject to security interest held by Comerica Bank.

[2] Amounts are stated at the estimated recovery amount less a 35% contingency based collection fee.

[3] Amounts are not known at this time. Represents the pursuit of avoidance actions against Michael Bello for prepetition transfers. The Debtor has granted the Committee standing to pursue these actions. The estimated recovery is unknown at this time.

[4] Includes paydown of \$3,007,840 resulting from a restricted cash account of the guarantor, Michael Bello. Includes approximately \$145k in outstanding credit card balances Comerica purports is secured.

[5] Represents scheduled claim amount pursuant to a filed UCC statement. The claims of Mr. Bello are to be adjudicated. For purposes of this analysis, it is assumed the claim will not be subordinated for purposes of classification of the claim in this analysis.

PROOF OF SERVICE OF DOCUMENT

I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding. My business address is:
660 Newport Center Drive, 4th Floor, Newport Beach, CA 92660.

A true and correct copy of the foregoing document entitled: **DISCLOSURE STATEMENT
DESCRIBING JOINT CHAPTER 11 PLAN OF LIQUIDATION** will be served or was served (a) on the judge in chambers in the form and manner required by LBR 5005-2(d); and (b) in the manner stated below:

1. **TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF)**: Pursuant to controlling General Orders and LBR, the foregoing document will be served by the court via NEF and hyperlink to the document. On October 18, 2013, I checked the CM/ECF docket for this bankruptcy case or adversary proceeding and determined that the following persons are on the Electronic Mail Notice List to receive NEF transmission at the email addresses stated below:

Service information continued on attached page

2. **SERVED BY UNITED STATES MAIL:** On _____, I served the following persons and/or entities at the last known addresses in this bankruptcy case or adversary proceeding by placing a true and correct copy thereof in a sealed envelope in the United States mail, first class, postage prepaid, and addressed as follows. Listing the judge here constitutes a declaration that mailing to the judge will be completed no later than 24 hours after the document is filed.

Service information continued on attached page

3. SERVED BY PERSONAL DELIVERY, OVERNIGHT MAIL, FACSIMILE TRANSMISSION OR EMAIL (state method for each person or entity served): Pursuant to F.R.Civ.P. 5 and/or controlling LBR, on October 18, 2013, I served the following persons and/or entities by personal delivery, overnight mail service, or (for those who consented in writing to such service method), by facsimile transmission and/or email as follows. Listing the judge here constitutes a declaration that personal delivery on, or overnight mail to, the judge will be completed no later than 24 hours after the document is filed.

| | |
|---|---|
| Via Attorney Service - Bin outside of Room 5097 Honorable Catherine E. Bauer Ronald Reagan Federal Bldg. 411 W. Fourth St. Santa Ana, CA 92701 | Via Attorney Service U.S. Trustee's Office Attn: Nancy Goldenberg, Esq. 411 West Fourth Street, Suite 9041 Santa Ana, CA 92701 |
|---|---|

Debtor: BWeiss@bswassociates.com

Service information continued on attached page

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

October 18, 2013

Jessica Stuhlmiller

/s/ Jessica Stuhlmiller

Date

Printed Name

Signature

1 NEF SERVICE LIST
2

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