

**UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF ALABAMA  
WESTERN DIVISION**

**IN RE:**

**SPENCER TRANSPORTATION, LLC**

**DEBTOR.**

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**17-70012-JHH-11**

**BANKRUPTCY ADMINISTRATOR'S OBJECTION TO  
PLAN AND DISCLOSURE STATEMENT**

The Debtor filed a Disclosure Statement and Plan of Reorganization on August 30, 2017, ("Disclosure Statement" court document #162) ("Plan" court document #163). The Disclosure Statement contains information about the circumstances which led to the filing of the case and a brief description of the assets. 11 U.S.C. § 1125(a)(1) requires that the Disclosure Statement contain adequate information defined as "information of a kind, and in sufficient detail, as far as is reasonably practicable in light of the nature and history of the debtor and the condition of the debtor's books and records.... that would enable a hypothetical investor *of the relevant class [emphasis added]*. . . to make an informed judgment about the plan . . . ." The Bankruptcy Administrator for the Northern District of Alabama ("BA"), by and through the undersigned, avers that the Plan and Disclosure Statement would better meet the requirements of 11 U.S.C. § 1125(a)(1) if amended to specify, clarify, answer, and/or include the information set forth below, and, thus, objects to the Plan and Disclosure Statement unless the same is amended to include such information as follows:

1. Provide a description of the Debtor's assets and the values of the same, the basis of the values stated, and the source of the information included in the Disclosure Statement.
2. An accounting of the moneys collected during the pendency of the case, specifically the source of the Debtor's income and the terms collection of accounts receivables, including the collectability of the receivables.
3. The Disclosure Statement does not provide a statement as to whether the Debtor's business has competitive conditions, dependence on particular customers and their value to the business, seasonable nature of business, working capital, tax situation, income and profit figures.
4. Further, the Debtor should disclose if it intends to continue its business relationship with current contractors for goods and services or whether the Debtor is considering adding contractors to provide for additional cash flow during down times. Specifically, how does the Debtor intend to get the business operating in a positive cash flow position? The Debtor proposes being "entitled to keep a reserve of Available Funds up to \$10,000 if available". However, the Debtor does not appear to provide how any such reserve is to be accumulated.

5. The BA believes that additional information should be provided relating to directors, officers, managers including salaries, positions, length of employment and if any are related to directors, officers or management.
6. There is insufficient information concerning the employment of individuals. Specifically, how many employees does the Debtor have and including but not limited to the salaries for each employee and benefits provided to employees?
7. Provide a statement that discloses whether the Debtor has hired any new employees or professionals since the commencement of the case.
8. Provide language that the Debtor has insured all of its properties for loss caused by fire, theft, liability, collision and casualty, and, if required, workmens' compensation and the status of the policies.
9. Provide a statement as to whether there are any environmental concerns in connection with the location that trucks and equipment are kept.
10. Provide the source of the "Net Income" as the Operating Reports filed in the bankruptcy case appear to generally indicate that the Debtor was operating at a loss each month.
11. Disclose what equipment is lien free, including but not limited to the value, the basis for the value and the name on the title or certificate of ownership.
12. Provide a copy of the lease agreement between the Debtor and Mr. Haney. The BA was not provided with a copy of the lease agreement.
13. Based on the information provided regarding distributions it is unclear if or when distributions will be made.
14. Page 17 Paragraph 3 of the Disclosure Statement appears to be inconsistent with prior orders of the Court in this case. See court document #162.
15. As to creditor classes the Disclosure Statement should provide an estimate of the total amount owed to each class of creditors, the amount or percentage of claim amount that creditors in each class will receive, and a general time estimate of when members of each class can expect payment (e.g., six (6) months from Effective Date, one (1) year from Effective Date, five (5) years from Effective Date, and so forth).
16. The Disclosure Statement makes reference to the "Plan Trustee", the term "Plan Trustee" is not defined.
17. Specify who will pay the court costs and fees upon Confirmation and what is source of the payment.
18. Provide an estimate of the amount for Administrative Claimants.
19. Specify the amount owed to creditors, the classes into which its claims fall, and the amount owed to it in each class.

**RECOMMENDATION:** Allow the Debtor to amend the Plan and Disclosure Statement to include those items of information set forth above as per the direction of the Court during the hearing on the adequacy of the Disclosure Statement.

Respectfully submitted September 25, 2017.

J. THOMAS CORBETT  
BANKRUPTCY ADMINISTRATOR FOR THE  
NORTHERN DISTRICT OF ALABAMA

BY: /s/ Rachel L. Webber  
Rachel L. Webber  
Assistant U.S. Bankruptcy Administrator

OF COUNSEL:  
United States Bankruptcy Administrator  
Northern District of Alabama  
2005 University Boulevard, Suite 1300  
Tuscaloosa, Alabama 35401  
(205) 561-1690

## CERTIFICATE OF SERVICE

This is to certify that on September 25, 2017 I have served a copy of the Bankruptcy Administrator's Objection on the parties listed below by depositing the same in the United States Mail, postage prepaid and properly addressed, or if the party being served is a registered participant in the CM/ECF System for the United States Bankruptcy Court for the Northern District of Alabama, service has been made by a "Notice of Electronic Filing" pursuant to FRBP 9036 in accordance with subparagraph II.B.4 of the Court's Administrative Procedures.

Mr. Lee R. Benton  
Mr. Samuel Stephens  
Benton & Centeno  
Attorneys for Debtor  
2019 Third Avenue North  
Birmingham, AL 35203  
**Service provided via e-mail / CM/ECF to:**  
[sstephens@bcattys.com](mailto:sstephens@bcattys.com)  
[lbenton@bcattys.com](mailto:lbenton@bcattys.com)

Mr. Kristofor D. Sodergren  
Rosen Harwood  
Attorney for The Citizens Bank of Winfield  
2200 Jack Warner Parkway, Suite 200  
Tuscaloosa, AL 35403  
**Service provided via e-mail / CM/ECF to:**  
[ksodergren@rosenharwood.com](mailto:ksodergren@rosenharwood.com)

Mr. Alto Lee Teague, IV  
Engel, Hairston and Johanson, P.C.  
Attorney for JB&B Investments, LLC  
PO Box 11405  
Birmingham, AL 35202  
**Service provided via e-mail / CM/ECF to:**  
[lteague@ehjlaw.com](mailto:lteague@ehjlaw.com)

Mr. W. Marcus Brakefield  
Hubbard, McIlwaine & Brakefield, P.C.  
Attorney for BMO Harris Bank, N.A.  
808 Lurleen Wallace Blvd., N.  
Post Office Box 2427  
Tuscaloosa, AL 35403  
**Service provided via e-mail / CM/ECF to:**  
[bankruptcy@hubbardfirm.com](mailto:bankruptcy@hubbardfirm.com)

All parties listed on the List of 20 Largest Unsecured Creditors a copy of which is attached hereto

Mr. Jesse S. Vogtle, Jr.  
BALCH & BINGHAM LLP  
Attorney for Commercial Credit Group, Inc.  
1901 Sixth Avenue North, Suite 1500  
Birmingham, AL 35203  
**Service provided via e-mail / CM/ECF to:**  
[jvogtle@balch.com](mailto:jvogtle@balch.com)

Mr. Alto Lee Teague, IV  
Engel, Hairston and Johanson, P.C.  
Attorney for Central Credit Capital, LLC  
PO Box 11405  
Birmingham, AL 35202  
**Service provided via e-mail / CM/ECF to:**  
[lteague@ehjlaw.com](mailto:lteague@ehjlaw.com)

Mr. Clyde Ellis Brazeal, III  
Jones Walker, LLP  
Attorney for ENGS Commercial Finance Co.  
1819 5<sup>th</sup> Avenue North  
Suite 1100  
Birmingham, AL 35203  
**Service provided via e-mail / CM/ECF to:**  
[ebrazeal@joneswalker.com](mailto:ebrazeal@joneswalker.com)

Mr. Matthew M. Cahill  
Baker Donelson Bearman Caldwell &  
Berkowitz, P.C.  
Attorney for VFS US, LLC  
420 20<sup>th</sup> Street North  
1400 Wells Fargo Tower  
Birmingham, AL 35203  
**Service provided via e-mail / CM/ECF to:**  
[mcahill@bakerdonelson.com](mailto:mcahill@bakerdonelson.com)

By: /s/ Rachel L. Webber  
Rachel L. Webber

Fill in this information to identify the case:

Debtor name **Spencer Transportation, LLC**

United States Bankruptcy Court for the: **NORTHERN DISTRICT OF ALABAMA**

Case number (if known): **17-70012**

☐ Check if this is an amended filing

## Official Form 204

### Chapter 11 or Chapter 9 Cases: List of Creditors Who Have the 20 Largest Unsecured Claims and Are Not Insiders

12/15

A list of creditors holding the 20 largest unsecured claims must be filed in a Chapter 11 or Chapter 9 case. Include claims which the debtor disputes. Do not include claims by any person or entity who is an insider, as defined in 11 U.S.C. § 101(31). Also, do not include claims by secured creditors, unless the unsecured claim resulting from inadequate collateral value places the creditor among the holders of the 20 largest unsecured claims.

Name of creditor and complete mailing address, including zip code	Name, telephone number and email address of creditor contact	Nature of claim (for example, trade debts, bank loans, professional services, and government contracts)	Indicate if claim is contingent, unliquidated, or disputed	Amount of claim If the claim is fully unsecured, fill in only unsecured claim amount. If claim is partially secured, fill in total claim amount and deduction for value of collateral or setoff to calculate unsecured claim		
				Total claim, if partially secured	Deduction for value of collateral or setoff	Unsecured claim
Birmingham Freightliner aka Peach State Truck Center P.O. Box 808 Norcross, GA 30091		Trade debt				\$10,562.29
Citizens Bank of Winfield P.O. Box 550 Winfield, AL 35594		2014 Manac Flatbed 5MC124817E3139 048		\$41,228.00	\$30,000.00	\$11,228.00
Citizens Bank of Winfield P.O. Box 550 Winfield, AL 35594		2014 Manac Flatbed 5MC124815E3139 047		Unknown	\$30,000.00	Unknown
Fleetpride 601 W Mockingbird Lane Dallas, TX 75247		Trade debt				\$3,777.47
GE/BMO P.O. Box 71951 Chicago, IL 60694		2013 Manac Flatbed Wrecked - total loss 5MC120216D3136 674		Unknown	\$0.00	Unknown
GE/BMO P.O. Box 71951 Chicago, IL 60694		2013 Manac Flatbed 5MC12011XD3136 676		\$37,520.33	\$28,500.00	\$9,020.33
LG Funding, LLC 1218 Union Street Ste. 2 Brooklyn, NY 11225		Trade debt				\$20,690.00
Nextran Volvo P.O. Box 820 Fultondale, AL 35068		Trade debt				\$6,497.73

Debtor **Spencer Transportation, LLC**  
Name

Case number (if known) **17-70012**

Name of creditor and complete mailing address, including zip code	Name, telephone number and email address of creditor contact	Nature of claim (for example, trade debts, bank loans, professional services,	Indicate if claim is contingent, unliquidated, or disputed	Amount of claim If the claim is fully unsecured, fill in only unsecured claim amount. If claim is partially secured, fill in total claim amount and deduction for value of collateral or setoff to calculate unsecured claim		
				Total claim, if partially secured	Deduction for value of collateral or setoff	Unsecured claim
Octagon Tire 3947 Excelsior Blvd. LL Minneapolis, MN 55416		Trade debt				\$7,975.20
R&T Price Oil Co., Inc. P.O. Box 727 Winfield, AL 35594		Trade debt				\$1,559.56
R. Price P.O. Box 399 Winfield, AL 35594		Trade debt				\$800.00
Roger's Auto Parts 512 Columbus Street E. Fayette, AL 35555		Trade debt				\$3,293.29
The Business Backer 10101 Alliance Road Cincinnati, OH 45242		Trade debt				\$30,000.00
Volvo P.O. Box 26131 Greensboro, NC 27402		2016 Volvo/VNL630 Mileage: 168,000 4V4NC9EH3GN96 1869		\$124,304.40	\$101,000.00	\$23,304.40
Waters Truck & Trailer P.O. Box 831 Columbus, MS 39703		Trade debt				\$10,239.54
WG Financing 141 N. East 3rd Avenue Miami, FL 33132		Trade debt				\$33,562.50