

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION**

IN RE:

S&K MACHINWORKS AND
FABRICATION, INC.
Debtor.

CASE NUMBER
18-00543-HAC-11

**DISCLOSURE STATEMENT
ACCOMPANYING PLAN OF REORGANIZATION**

I. **INTRODUCTION:** On February 12, 2018, a voluntary Petition for Relief under Chapter 11 of Title 11, United States Bankruptcy Code (hereinafter referred to as "Bankruptcy Code") was filed by S&K Machineworks and Fabrication, Inc. (hereinafter referred to as "Debtor"), with the United States Bankruptcy Court for the Southern District of Alabama. Debtor has filed a Plan of Reorganization (hereinafter referred to as "Plan") pursuant to Chapter 11 of the Bankruptcy Code. The Plan specifies the various classes of the Debtor's creditors and the proposed treatment of claims and interests of such creditors. Pursuant to Section 1125 of the Bankruptcy Code, Debtor is soliciting acceptance of the Plan by the classes of creditors entitled to vote on the Plan. The purpose of this Disclosure Statement is to provide the holders of claims against Debtor with adequate information about the Debtor and the Plan in order to enable the holders of such claims to arrive at a reasonable, informed decision in exercising their rights to vote for acceptance or rejection of the Plan. All references herein to "the Plan", "the proposed Plan" or words of like import, are to the Debtor's Plan of Reorganization filed by S&K Machineworks & Fabrication, Inc.

II. **DISCLAIMER:** This is a solicitation of S&K Machineworks & Fabrication, Inc. only and is not a solicitation of S&K Machineworks & Fabrication, Inc.'s attorneys, accountants, agents, or servants and the representations made herein are those of S&K Machineworks & Fabrication, Inc., and not of S&K Machineworks & Fabrication, Inc.'s attorneys, accountants, agents, or servants as otherwise stated. The Financial Information contained herein has not been subject to an audit.

III. **OWNERSHIP, MANAGEMENT, AND FINANCIAL DEALINGS OF INSIDERS WITH DEBTOR:** S&K Machineworks & Fabrication, Inc. is an Alabama corporation. On the Petition Filing Date, 50% of the stock was owned by William B. Kinggard and 50% was owned by Dan Scott. William B. Kinggard is the President of the Debtor and is employed by Debtor. Mr. Kinggard is paid a salary and receives certain fringe benefits consisting of the use of a vehicle, insurance, and a gas mileage allowance. Mr. Kinggard is a creditor of the estate due to monies loaned to the Debtor and his having guaranteed certain of the Debtor's liabilities. Mr. Scott is Vice-President of the corporation, but is not an employee. Mr. Scott is a creditor of the Debtor due to his having loaned monies to the Debtor and having guaranteed certain of the Debtor's liabilities.

S&K Machineworks & Fabrication, Inc. conducts its business operations from 40850 Pine Grove Road, Bay Minette, AL, 36507 and from 8517 Bellingrath Road, Theodore, Alabama 36582. The land and improvements are owned by S&K Machineworks & Fabrication, Inc.

William B. Kinggard and Dan Scott have guaranteed S&K Machineworks & Fabrication, Inc.'s debts to DCR Mortgage 7 Sub 1, LLC as assignee of Regions Equipment Finance Corporation and Regions Bank. Mr. Kinggard will be determined to be the "responsible party" for the Debtor's tax liabilities to the State of Alabama and the Internal Revenue Service. The individual guaranties are to remain in full force and effect under the proposed Plan.

The current President of the incorporation is William B. Kinggard. Mr. Kinggard receives compensation per year totals the amount of \$100,000.00 plus fringe benefits annually totaling the amount of \$15,000.00. Those fringe benefits consist of the use of a vehicle, insurance thereon, and a gas mileage allowance.

Under the terms of the proposed Plan, Messrs. Kinggard and Scott will have the option to retain their stock in S&K Machineworks & Fabrication, Inc., in exchange for a new capital payment of \$2,500.00 each to be paid on the Effective Date of the Plan to be used by the Reorganized Debtor to meet operating costs or, in the event this proposed payment is not accepted by the creditors and the Court. In the event the options are not exercised, all shares of stock in the Reorganized Debtor shall be auctioned at a public auction to be conducted at the offices of Irvin Grodsky, P.C., 454 Dauphin Street, Mobile, Alabama on the Effective Date of the Plan with written notice given to all creditors of the Debtor at least 7 days prior to the auction.

IV. **BANKRUPTCY PROCEEDING AND IMPACT THEREOF:** On February 12, 2018, S&K Machineworks & Fabrication, Inc. filed its Petition for Relief under Chapter 11 of the Bankruptcy Code. It has operated since that time based on revenues generated by its business operations.

In the years prior to the Petition Filing Date, Debtor experienced a decline in revenues due to the reduction of oil exploration and production in the Gulf of Mexico arising from the decline in oil production. Debtor had previously obtained loans from Regions Bank and Regions Equipment Finance Corporation. More than a year prior to the Petition Filing Date, Regions Bank and Regions Equipment Finance Corporation recognized the cash flow problems experienced by Debtor and authorized a temporary reduction in monthly payments required of Debtor. In February 2018, Debtor filed the instant Chapter 11.

During the pendency of this Chapter 11 proceeding, Debtor has negotiated and obtained Court approval of a cash collateral and adequate protection agreement with Regions Bank and Regions Equipment Finance Corporation on an interim basis. Debtor has paid the adequate protection payments to Regions Bank and Regions Equipment Finance Corporation and to its assignee, DCR. Debtor has maintained insurance on all equipment, has filed all tax returns, and

paid all post-petition operating expenses with the monies collected from the operation of its business.

V. **FINANCIAL INFORMATION:**

A. **Past Performance.** Payments under the proposed Plan will be made from S&K Machineworks & Fabrication, Inc.'s future income derived from the continued operation of its business, from the sale of certain items of Debtor's equipment, from the cash paid by William B. Kinggard and Dan Scott for the purchase of their stock in this Reorganized Debtor, from loans made to the Reorganized Debtor, and from sales by the equity security holders in the Reorganized Debtor to third parties. Information concerning past performance and projected future earnings from the business appear to be the kinds of information needed by the creditors to make an informed judgment about the Plan. The Financial Reports of S&K Machineworks & Fabrication, Inc. submitted to the Bankruptcy Administrator for the quarters since the filing are available for examination on the Bankruptcy Court's Electronic Central Filing System. A twelve (12) month statement of projected earnings and expenses including payments under the proposed plan will be filed prior to the hearing on approval of this Disclosure Statement.

B. **Liquidation Dividend vs. Plan Dividends.**

1. **Liquidation under Chapter 7.** Below is a listing of all assets of the Debtor's estate as of September 30, 2018, the market value, the liquidation value, the amount of any secured debt for which that asset serves as collateral, and the amount of equity retained by the Debtor in each. The Market Value and Liquidation Value of all assets were obtained from management based on their years of experience in the industry. The Fair Market Value of the Land and Building is based on a variety of factors.

ASSET	MARKET VALUE	LIQUIDATION VALUE	EST. DEBT OWING ON COLLATERAL	EQUITY
DIP Account	15,758.00	15,758.00	3,383,950.00	0
40850 Pine Grove Road, Bay Minette, Alabama 36507	350,000.00	300,000.00	3,383,950.00	0
8517 Bellingrath Road, Theodore, AL 36582	450,000.00	400,000.00	3,383,950.00	0
Accounts Receivable	158,000.00	130,000.00	3,383,950.00	0
Machinery & Equipment	575,000.00	300,000.00	3,353,950.00	0
5 Vehicles (Trucks)	60,000.00	45,000.00	3,383,950.00	0
1 Vehicle (Ford Fusion)	15,000.00	13,000.00	3,383,950.00	0

Net Deepwater Horizon Claim	430,000.00	215,000.00	0	215,000.00
Professional Fee Deposit at Irvin Grodsky, P.C.	11,500.00	11,500.00	20,000.00	0

To determine the percentage dividend unsecured creditors would receive if the Debtor converted to a Chapter 7 the amount of projected administrative claims and priority claims are to be subtracted from the liquidation value of the above assets which are free of liens and the difference divided by the amount of all unsecured claims. In the event the Debtor was to convert to a Chapter 7 proceeding, assets consisting of the possible recovery of the Net Deepwater Horizon Claim, estimated at \$215,000.00, would be available to the Ch. 7 Trustee. Out of that sum, the Trustee would be required to pay the Chapter 7 Trustee fees of approximately \$12,500.00, Chapter 7 Professional Fees of approximately \$1,000.00, Chapter 11 administrative professional fee balance of approximately \$9,000.00, Chapter 11 administrative expenses incurred in the postpetition operation of Debtor's business, including unpaid ad valorem taxes for Baldwin and Mobile Counties, totaling approximately \$35,000.00, and priority claims of approximately \$28,000.00. From the \$215,000.00 the Trustee may collect she would pay administrative and priority claims totaling \$85,500.00 leaving \$129,500.00 to be divided between unsecured creditors with claims totaling approximately \$3,796,000.00. (See Chart at Section V.B.2) Unsecured creditors would receive a dividend of approximately 3% in the event the Trustee successfully prosecutes the Deepwater Horizon Claim and that distribution would occur no earlier than 18 months after the conversion.

The Debtor cannot make any warranty as to the accuracy of the above figures, such computations being, at best, estimates because of the uncertainty of liquidation values. However, the above analysis represents Debtor's best estimate.

2. **Comparison of Plan.** Debtor is of the opinion that the proposed Plan provides more for each class of creditors. The specifics of these payments are discussed below. Secured Creditor will receive \$650,000.00 plus 5.5% interest for its Allowed Secured Claim. Unsecured creditors, exclusive of insider claims will receive seven (7%) of their Allowed Claims plus a pro rata share of 50% of the amount of the Net Deepwater Horizon Claim. The amount each class of creditors will receive and the length of time elapsing for each to receive those payments are as follows:

CLASS	AMOUNT OF CLAIMS	TOTAL AMOUNT TO BE PAID	PERIODIC PAYMENT	DURATION

Professional Administrative Debtor's Attorney	Estimate 20,000.00	20,000.00	Effective Date: \$11,500.00 + 1,000.00 per month	9 mos
Priority: United States Internal Revenue Service	13,958.75	12,282.00 + 4 ½ % interest; balance in Class2	270.00 monthly; balance in Class 2	50 mos.
Priority: Kim Hastie Mobile County Revenue Commissioner	7,612.56	7,612.56 + 4 ½ % interest;	167.00 monthly	50 mos.
Priority: Teddy J. Faust, Jr. Baldwin County Revenue Commissioner	\$8,144.10	8,144.10 + 4 ½% interest	179.00 monthly	50 mos.
Class 1 - Secured – DRC, as assignee for Regions Equipment Financial, Inc. and Regions Bank	3,402,747.48 (Claims 8, 9, and 16)	650,000.00 + 5.1/2% interest; deficiency balance in Class 2	65,000.00 on Eff. Date and 4,024.88 monthly; deficiency balance in Class 2	240 mos.
Class 2 - General Unsecured Claims of all Creditors Except Insiders	3,466,053.48	242,623.74 Pro Rata	4,044.00 monthly, Pro Rata	60 mos.
Class 3 – General Unsecured Claims of Insiders.	329,686.00	23,078.00 Pro Rata	385.00 monthly Pro Rata	60 mos.
Class 4 – Interest of Equity Security Holders	100%	Option to purchase for 2,500.00 for 50% of outstanding shares	Option for 2,500.00 to current stockholders	Eff. Date

C. **Performance of Plan.** S&K Machineworks and Fabrication, Inc. will continue to operate its business. Subsequent to the Effective Date of the Plan and subject to the limitation contained in the Plan, the Reorganized Debtor has reserved in the Plan the right to move its location, to close its location, to change its business operations, to sell its business, to settle its BP Claim, to sell some or all of its buildings and equipment, to borrow funds, to sell shares of stock in the Reorganized Debtor, and to allow owners of the shares of the

Reorganized Debtor to sell their shares of stock in the Reorganized Debtor, and to take any action it deems appropriate to enhance its chances to successfully complete this Plan.

Under the Plan, the Reorganized Debtor intends, at this time, to retain title to all furniture, machinery, fixtures, equipment, buildings, and accounts receivable. However, in the Plan, the Reorganized Debtor reserves the right to sell all or a portion of its assets in or out of the ordinary course of business after confirmation of its Plan without supervision by the Court.

Certain of the debts of the Debtor have been guaranteed by the President and the Vice-President. Under the proposed Plan, the guaranties of the President and the Vice-President shall remain in effect to the extent of guarantying payment of the distributions to be made to the guaranteed creditors. To the extent the Debtors' liability to said creditors is released or otherwise satisfied by the provisions of this Plan, said guarantors' liability to those creditors shall likewise be released and forgiven.

Under the Plan, the prepetition owners of the equity securities issued by the Debtor, i.e., William B. Kinggard and Dan Scott will each have the option to purchase 50% of the shares of the Reorganized Debtor for \$2,500.00 each.

The name of the Debtor may be changed after Confirmation under the proposed Plan.

Subsequent to confirmation of the Plan, the President and Board Member of the Debtor shall be William B. Kinggard, and the Vice President shall be Dan Scott.

D. **Retention of Claims and Causes of Action After Confirmation.** Debtor retains all prepetition and postpetition claims and causes of action which it may have against any and all persons, entities, companies, and banks, including its BP Claim involving the Deepwater Horizon incident.

VI. **CONFIRMATION OF PLAN**

A. **Best interest of creditors test.** Since the filing, S&K Machineworks and Fabrication, Inc. has continued as Debtor-in-Possession for the purpose of operating. S&K Machineworks and Fabrication, Inc. is liquidated under Chapter 7 of the Bankruptcy Code, it believes that all general unsecured creditors will receive a smaller dividend because of liquidation values. S&K Machineworks and Fabrication, Inc. believes that if its Plan of Reorganization is confirmed, general unsecured creditors will receive, on account of their claims, payments in excess of the amount that these creditors would receive if S&K Machineworks and Fabrication, Inc. were liquidated in a Chapter 7 proceeding. This is commonly referred to as the "best interest of creditors" standard. S&K Machineworks and Fabrication, Inc. believes that its Plan satisfies the requirements of the best interest of creditors test.

B. **Fair and equitable test.** Section 1126(c) of the Bankruptcy Code provides that a class of creditors accepts the Plan if the Plan is acceptable by creditors holding at least

two-thirds in dollar amount and one-half in number of the allowed claims in each class held by creditors that have voted to accept or reject the Plan. All classes of creditors that are impaired under the Plan are entitled to vote.

If all other confirmation requirements of Section 1129(a) of the Code are met, the Court may confirm the Plan even though an impaired class has not accepted the Plan. The court may so confirm the Plan upon finding that the Plan is fair and equitable under the provisions of Section 1129(a) of the Code. S&K Machineworks and Fabrication, Inc. believes that the Plan proposed is fair and equitable and satisfies the requirements of Section 1129(b) of the Code.

C. **Voting procedures.** Holders of claims and interests should carefully read the instructions contained on the ballot and complete, date and sign the ballot, and transmit it to the address indicated on the ballot. In order for a vote to be tabulated, the ballot must be received at the address indicated on the ballot not later than a date to be set by the Court. A class of claims will have accepted the Plan if accepted by creditors holding at least two-thirds in amount and more than one-half in number of the allowed claims of such class voting on the Plan.

D. **Hearing on confirmation.** the hearing on confirmation of the Plan will be set by the Court and all creditors and interest holders will be given notice. The Bankruptcy Court will confirm the Plan at the hearing only if the relevant requirements set forth in Section 1129 of the Bankruptcy Code are satisfied.

Objections to confirmation of the Plan must be in writing and must be filed with the Clerk of the Bankruptcy Court and served on counsel for S&K Machineworks and Fabrication, Inc., on or before a date to be set by the Court. Counsel for S&K Machineworks and Fabrication, Inc., on whom objections must be served are: Irvin Grodsky, P.C., Attorney at Law, Post Office Box 3123, Mobile, Alabama 36652.

E. **Effect of confirmation of the Plan.** Confirmation of the Plan shall operate to discharge S&K Machineworks and Fabrication, Inc., of all claims and indebtedness that arose before the Plan was confirmed. All such claims and indebtedness shall be satisfied by the payments and other consideration to be distributed under the Plan. All property of S&K Machineworks and Fabrication, Inc., estate shall be free and clear of all claims and interest of creditors and interest holders, except as otherwise provided in the Plan, the terms of the confirmed Plan shall bind S&K Machineworks and Fabrication, Inc., and all other parties in interest, including any creditor or equity security holder whether or not impaired under the Plan and whether or not such creditor or interest holder has accepted the Plan.

F. **Consequences of failure to confirm the plan.** In the event the requirements for confirmation of the Plan are not satisfied, S&K Machineworks and Fabrication, Inc., believes that it will be necessary to attempt to formulate a new revised Plan under Chapter 11 or to convert this Chapter 11 proceeding to a liquidating case under Chapter 7 of the Code, or that the Chapter 11 case will be dismissed.

G. **Tax aspects of distributions under the Plan.** S&K Machineworks and Fabrication, Inc., believes that under present law and regulations, there should be no federal income tax consequences in connection with the distribution to creditors and interest holders pursuant to the Plan other than consequences normally related to payment or partial payment of an obligation by Debtor to a creditor or payment of wages by an employer to an employee, as the case may be.

THE FOREGOING DESCRIPTION OF FEDERAL INCOME TAX CONSEQUENCES IS INTENDED MERELY AS AN AID FOR CREDITORS AND INTEREST HOLDERS, AND NEITHER THE DEBTOR NOR ITS COUNSEL ASSUMES ANY RESPONSIBILITY IN CONNECTION THE TAX LIABILITY OF ANY SUCH CREDITOR OR INTEREST HOLDER. CREDITORS AND INTEREST HOLDERS ARE URGED TO OBTAIN ADVICE FROM THEIR COUNSEL OR ADVISORS REGARDING THE APPLICABILITY OF FEDERAL AND STATE TAX LAWS.

DATED this the 26th day of October, 2018.

S&K MACHINWORKS AND FABRICATION, INC.

BY: /s/William B. Kinggard

WILLIAM B. KINGGARD

As Its President

/s/Irvin Grodsky

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