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UNITED STATES BANKRUPTCY COURT
DISTRICT OF ARIZONA

In re:

PRECISE CORPORATE STAGING,
LLC, ■

DEDICATED STAGING, LLC, ■

DAVMAR INVESTMENTS, LLC, ■

Debtors.

Chapter 11 Proceedings

Case No. 2:16-bk-14281-PS
Case No. 2:16-bk-14283-PS
Case No. 2:16-bk-14284-PS

(Jointly Administered)

This filing applies to:

- All Debtors
 Precise Corporate Staging, LLC

**CHAPTER 11 DEBTORS' FIRST/SECOND AMENDED DISCLOSURE
STATEMENT FOR PLAN OF LIQUIDATION DATED APRIL 19, 2017**

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EXHIBITS

- EXHIBIT A Plan of Liquidation
- EXHIBIT B Disclosure Statement Order

1 Precise Corporate Staging, L.L.C. (“**Precise Staging**”), Dedicated Staging, L.L.C.
2 (“**Dedicated Staging**”), and DavMar Investments, LLC (“**DavMar**” and collectively, the
3 “**Debtors**”), hereby submit the following Chapter 11 Debtors’ Second Amended
4 Disclosure Statement For Plan of Liquidation Dated April 19, 2017 (the “**Disclosure**
5 **Statement**”) in connection with the Chapter 11 Debtors’ Plan of Liquidation dated April
6 19, 2017 (the “**Plan**”).
7

8
9 **I. Introduction**

10 A. Executive Summary

11 The Debtors collectively own and manage an audio/visual staging business that
12 coordinates and provides lighting, audio, and visual for conferences, concerts, and similar
13 events in Arizona and across the United States. The Debtors engaged Smith & Smith,
14 PLLC as chapter 11 counsel to facilitate a liquidation or reorganization. Towards this end,
15 the Debtors submit the Plan of Liquidation, a copy of which is attached to this Disclosure
16 Statement as **Exhibit A**. In brief, the Debtors propose that their assets be liquidated in an
17 orderly fashion in two primary steps. Video West, Inc. (“**Video West**”) will purchase all
18 of the Debtors’ assets for \$1,500,000, subject to Western State Bank’s (“**WSB**”) right to
19 credit bid. The Debtors will also market and sell the real property located at 1530 W. 10th
20 Place Tempe, AZ 85281 (the “**Property**”).
21
22

23 B. General Information

24 The Debtors hereby submit this Disclosure Statement to holders of Claims against
25 and Interests in the Debtors for the purpose of soliciting acceptance of the Plan.
26
27
28

1 The Debtors believe this Disclosure Statement contains the material, important, and
2 necessary information for creditors to arrive at an informed decision in exercising their
3 right to vote for acceptance or rejection of the Plan.
4

5 Most words or phrases in this Disclosure Statement have their usual and customary
6 meanings. Certain capitalized terms have the same meaning as defined in the Plan. If not
7 otherwise defined, certain terms in this Disclosure Statement have the meaning provided
8 in the Bankruptcy Code or Bankruptcy Rules.
9

10 Unless otherwise noted, those portions of the Plan and this Disclosure Statement
11 providing factual information concerning the Debtors, including assets and liabilities, have
12 been prepared from information submitted by the Debtors and professionals retained by
13 the Debtors. Debtors' counsel, and other professionals employed by the Debtors, have
14 used all relevant, non-privileged information in the possession of the Debtors in preparing
15 this Disclosure Statement and Plan.
16

17 The financial information contained in this Disclosure Statement has not been
18 subjected to an audit by an independent certified public accountant. For that reason, the
19 Debtors are not able to warrant or represent that the information contained in this
20 Disclosure Statement is without any inaccuracy. To the extent practicable, the information
21 has been prepared from the Debtors' financial books and records and effort has been made
22 to ensure that all such information is accurate.
23
24

25 The Disclosure Statement and the Plan will classify all creditors into Classes. The
26 treatment of each class of creditors will be set forth in this Disclosure Statement and in the
27
28

1 Plan. You should carefully examine the treatment of the Class to which your claim will be
2 assigned.

3
4 This Disclosure Statement requires approval by the Bankruptcy Court after notice
5 and a hearing pursuant to Section 1125(b). Once approved, the Disclosure Statement will
6 be distributed with the proposed Plan. Approval of the Disclosure Statement by the
7 Bankruptcy Court does not constitute either certification or approval of the Debtors' Plan
8 by the Bankruptcy Court or that the Disclosure Statement is without any inaccuracy.
9
10 Creditors may vote on the Plan once the Disclosure Statement is approved by the
11 Bankruptcy Court. An approved Disclosure Statement and Ballot will be mailed to
12 holders of claims and interests. The Disclosure Statement Order, attached to this
13 Disclosure Statement as **Exhibit B**, provides in detail the deadlines, procedures, and
14 instructions for voting to accept or reject the Plan of Reorganization, and to object to
15 confirmation.
16

17 Finally, no representations concerning the Debtors or the Plan are authorized other
18 than as set forth in this Disclosure Statement.

19
20 C. Classification of Claims and Interests

21 The following table designates the Classes of Claims and Interests in the Debtors,
22 and specifies the Classes that are impaired by the Plan and entitled to vote to accept or
23 reject the Plan. A detailed description of the Classes of Claims and Interests is provided in
24 Section VI below.¹
25

26
27 ¹ South Pacific Financial Corp. filed a claim in this case relating to certain real property
28 located in Pinal County because it appears Debra Busbey, although with no relationship to

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Class	Designation	Impairment	Entitled to Vote
1	Western State Bank (WSB)	Yes	Yes
2	JPMorgan Chase	Yes	Yes
3	Toyota Motor Credit Corporation	Yes	Yes
4	Western Equipment Finance	Yes	Yes
5	Maricopa County Treasurer	Yes	Yes
6	General Unsecured Claimants	Yes	Yes
7	Ownership Interest	Yes	No

D. Voting

As a creditor, your vote is important. All holders of Claims are encouraged to vote. All creditors entitled to vote must cast their vote by completing, dating, and signing the ballot mailed to them with the Disclosure Statement once it is approved. The ballot will contain instructions concerning the deadline for submitting the ballot and the address where the ballot should be mailed.

The Court will confirm the Plan if the requirements of Section 1129 are met. The Court must determine whether the Plan has been accepted by each impaired class entitled to vote. Impaired classes entitled to vote are those classes of claims and interests whose legal, equitable or contractual rights are altered, as defined by Section 1124. In determining acceptance, only those votes submitted by a creditor with a claim listed as undisputed, non-contingent, and liquidated, or who has timely filed a proof of claim or proof of interest, will be counted.

the Debtors, and unbeknownst to the Debtors, transferred property to the Debtors to avoid collection by South Pacific Financial Corp. Among other things, South Pacific Financial Corp. has agreed to withdraw its claim and the Debtors have agreed to allow relief from the automatic stay to pursue its rights and remedies under state law. [See DE 200].

1 Pursuant to Section 1126(c), for a class of claims to accept the Plan, there must be
2 acceptance by holders of: (a) at least two-thirds of the dollar amount of the Allowed
3 Claims of such class that actually vote on the Plan; and (b) more than one-half in number
4 of the Allowed Claims of such class that actually vote on the Plan. An impaired class of
5 interests is deemed to have accepted the Plan if the Plan has been accepted by at least two-
6 thirds in amount of the allowed interests who vote on the Plan. Failure to vote does not
7 constitute either an acceptance or a rejection of the Plan.
8
9

10 The Plan may be confirmed under Section 1129(b) even if each class of creditors
11 does not accept the Plan, so long as one impaired class of creditors accepts the Plan. Only
12 the votes of creditors or interested parties whose ballots are timely received will be
13 counted in determining acceptance of the Plan. Ballots must be received by counsel for
14 the Chapter 11 Debtors no later than 5:00 p.m., Arizona time, on _____, 2017 at
15 the following address:
16

17 Gerald K. Smith and John C. Smith Law Offices, PLLC
18 6720 E. Camino Principal, Suite 203
19 Tucson, AZ 85715

20 E. Confirmation Hearing

21 In accordance with Section 1128 and Bankruptcy Rule 3017(c), a hearing will be
22 held before the Honorable Paul Sala, United States Bankruptcy Court, 230 N. First Ave.
23 #101, Phoenix, AZ 85003, at a time and date to be set by this Court and noticed out to all
24 interested parties, to consider whether the requirements for confirmation have been met
25 and whether the Plan has received the requisite acceptance, or whether the Plan can be
26
27
28

1 confirmed pursuant to Section 1129(b). At the Confirmation Hearing, the Debtors will
2 request confirmation of the Plan, as it may be modified.
3

4 **II. Overview of the Debtors**

5 Debtors are limited liability companies in good standing organized under the laws
6 of the State of Arizona. Dedicated Staging and Precise Staging were formed in 2000.
7 DavMar was formed in 2005. Mr. David Stern is the manager and president of Dedicated
8 Staging and Precise Corporate Staging and the members of Precise Corporate Staging and
9 Dedicated Staging are David Stern and Marla Stern. The members of DavMar are David
10 and Marla Stern.
11

12 The primary business of Precise Staging and Dedicated Staging is the logistics,
13 coordination, and provision of audio, lighting, and visual services for concerts, corporate
14 events and similar occasions. A second revenue stream for the Debtors is subleasing of
15 their equipment to private parties. The Debtors operate from the Property owned by
16 DavMar. Dedicated Staging owns the personal property the Debtors use in their business,
17 which consists primarily of audio, lighting, and visual equipment. Precise Staging is the
18 entity that interacts with clients and services their needs.
19

20 The principals of the Debtors, David and Marla Stern, have been the operators of
21 the Debtors since their formation. David Stern maintains client relationships and
22 connections with industry representatives and is the Debtors' sole salesperson. Marla
23 Stern is the bookkeeper of the Debtors and manages the logistics of Debtors, including
24 accounts payable/receivable, payroll, and HR issues. Further, Ms. Stern handles all of the
25 details relating to subleases, purchasing supplies, and trucking and shipping for events.
26
27
28

1 The Sterns have and will continue to serve the Debtors through the confirmation of the
2 plan.

3
4 In April 2017, the Sterns filed for chapter 7 bankruptcy protection, Case No. 17-
5 04424. A chapter 7 trustee was appointed in their individual bankruptcy case. [See DE
6 192]. Counsel for the Debtors has been in communication with counsel for the chapter 7
7 trustee on the liquidation plan for the Debtors in these cases. The Debtors hope to achieve
8 a quick liquidation and plan confirmation process.

9 10 **III. Events Precipitating the Chapter 11 Petition**

11 Debtors filed their bankruptcy petitions in response to defaults on indebtedness
12 with WSB. Following the 2009 recession, in 2013, the Debtors refinanced two existing
13 loans with WSB, and a third loan in 2015.² Each loan is secured against the personal
14 property of the Debtors and each loan contains cross-collateralization and cross-default
15 provisions. The Sterns also personally guaranteed these loans. WSB filed UCC-1
16 Financing Statements in the Arizona Secretary of State's Office. The total amount loaned
17 by WSB is \$4,825,900 based on a valuation of the fair market value of equipment of the
18 Debtors at \$8,600,819. See [DE 139-2, at 8].

19
20
21 Through 2013 and 2014, Mr. Stern encountered health problems and was unable to
22 work for part of those years, causing a decrease in business. As a result, in June 2016, the
23 Debtors failed to make a debt service payment and failed to satisfy one loan on its maturity
24 date.

25
26 ² Loan No. 5250528 was extended to Debtors on April 30, 2013 in the principal amount
27 of \$830,700. Loan No. 6109435003 was extended on April 30, 2013 in the principal
28 amount of \$3,015,200. Loan No. 5250809 was extended to Debtors on October 7, 2015 in
the principal amount of \$980,000.00,

1 On December 1, 2016, WSB filed suit in Maricopa County Superior Court
2 CV2016-017587 naming as defendants Dedicated Staging, Precise Corporate Staging,
3 DavMar Investments, David Stern and Marla Stern. The complaint requested the
4 appointment of a receiver, foreclosure of security interest, replevin, and alleged breach of
5 contract and breach of guaranty. The Maricopa County Superior Court granted
6 provisional remedies to WSB in the form of pre-judgment garnishment on the bank
7 accounts of David Stern and Marla Stern.
8
9

10 Once negotiations relating to a possible forbearance agreement proved fruitless, the
11 Debtors filed for relief under Chapter 11 of the Bankruptcy Code.

12 **IV. Significant Events During the Chapter 11**

13 On December 20, 2016, Debtors filed three voluntary petitions commencing Case
14 Nos. 2:16-bk-14281-PS (Precise Corporate Staging), 2:16-bk-14284-PS (DavMar
15 Investments), and 2:16-bk-14283-PS (Dedicated Staging). On December 21, 2016, the
16 Court entered an order directing joint administration, transfer of assignment of cases to
17 one judge, and use of a consolidated caption. [2:16-bk-14281-PS DE 13]. The Debtors
18 also filed various first day motions. [See 2:16-bk-14281-PS DE 15, 17, 18]. The Debtors
19 filed their schedules and statement of financial affairs on January 17, 2017 [2:16-bk-
20 14281-PS DE 64, 65], [2:16-bk-14284-PS DE 17, 18], [2:16-bk-14283-PS DE 18, 19].
21 The Section 341 meeting of creditors was held on January 24, 2017, and Debtors were
22 examined by WSB and JP Morgan Chase (“Chase”).
23
24
25

26 Precise Staging, Dedicated Staging and WSB agreed to a stipulated cash collateral
27 order, which the Court entered on March 22, 2017. [2:16-bk-14281-PS DE 147]. DavMar
28

1 entered into a cash collateral stipulation with DavMar's mortgage lender, Chase, on March
2 6, 2017. [2:16-bk-14281-PS DE 134].

3
4 The Debtors currently have pending an adversary complaint and a motion
5 requesting that the Court enjoin action against the guarantors during the pendency of the
6 Debtors' cases. [2:16-bk-14281-PS DE 83], [2:17-ap-00120-PS DE 1]. Also still pending
7 is WSB's motion for relief from the automatic stay, which it filed on February 6, 2017.
8 [2:16-bk-14281-PS DE 97-98], and Chase's motion for relief from the automatic stay
9 [2:16-bk-14281-PS DE 168].
10

11 Debtors have filed operating reports for January, February, ~~and~~ March and April
12 2017.

13
14 **V. Description of Assets**

15 A. Real Property

16 DavMar owns the Property located in Maricopa County, Arizona commonly known
17 as 1530 W. 10th Place, Tempe, AZ 85281. The Property is legally described as follows:

18 Lots 7 and 8, Jack-Pack Industrial Park, according to Book 174 of Maps, page
19 17 records of Maricopa County Arizona; EXCEPT the West 2 feet of said Lot
20 7; and Except the East 185 feet of said Lot 8.

21 The Property is approximately 34,000 square feet and contains the building where the
22 Debtors primarily operate from and where the Debtors' equipment is stored. DavMar has
23 granted Chase a first and second priority Deed of Trust in the Property, which provide that
24 Chase is entitled to any rents, issues, profits, and income derived from the Property. The
25 first Deed of Trust secures a promissory note executed by DavMar in September 2010 in
26 the original principal amount of \$2,000,000. As of the Petition Date, there remained
27
28

1 \$1,668,364.43 of principal outstanding, \$1,317.73 of unpaid accrued interest, and
2 \$1,500.00 of late charges relating to the first Deed of Trust. Also on September 10, 2010,
3 DavMar executed a second promissory note secured by the Deeds of Trust in the original
4 principal amount of \$900,000.00. As of the Petition Date, there was \$625,141.33 of
5 principal outstanding, \$ 971.28 of unpaid accrued interest, and a \$250 late charge relating
6 to the second Deed of Trust.
7

8
9 Though Debtors have not conducted an appraisal of the Property since the
10 JPMorgan Chase promissory notes were executed, the Debtors believe that there is value
11 above the current encumbrances relative to the Property.
12

13 Dedicated Staging and Precise Staging do not own real property. Both entities are
14 tenants of DavMar which collects rents from them, and in turn, pays Chase. Dedicated
15 Staging and Precise Staging have made one rental payment to DavMar, which in turn
16 made a mortgage payment to Chase, during the pendency of this Bankruptcy Case.
17

18 B. Personal Property

19 All personal property owned by the Debtors is described in detail in their
20 Schedules.

21 1. Cash in Bank Accounts: Debtors have three debtor-in-possession
22 bank accounts with BNC National Bank. As of April 19, 2017, Debtors had a combined
23 total of \$28,987.67.
24

25 2. Liquidated Debts: As of March 31, 2017, Debtors are owed
26 \$213,038.16 as accounts receivable from operation of its business. The Debtors will
27 continue to provide updated amounts of receivables in their Monthly Operating Reports
28

1 and will provide details of the receivables upon inquiry to counsel for the Debtors. The
2 Debtors and the Plan Trustee will work toward collecting outstanding receivables. Precise
3 Staging Services (“PSS”), in which the Sterns owned 30% of the equity interest, owes the
4 Debtors approximately \$147,985.00. The Debtors are evaluating how to handle collecting
5 that receivable in light of the Sterns’ individual bankruptcy filing. Robert Findley also
6 owes the Debtors approximately \$64,280.00 from a loan. The Debtors will communicate
7 with Mr. Findley on repayment of the loan amount, and provide a further update on the
8 repayment of that amount.
9

11 3. Lighting Audio and Visual Equipment: Debtors’ own approximately
12 33,000 pieces of lighting, audio, and visual equipment. While the Debtors do not know
13 the exact value of the equipment at this time, Video West has made an offer to purchase
14 the equipment for \$1.5 million, and the scheduled estimated book value of the collateral is
15 \$610,376.50. Western Equipment Finance has a lien on certain equipment identified as
16 grandma 2 full size 16 universe lighting control console, 2 flight case for grandma, 2 full
17 including wheels, 1 network processing unit 19 in rack mount. Western Equipment
18 Finance filed a claim in the amount of \$53,088.22.
19

21 4. Office equipment, furniture, fixtures, equipment, and automobile:
22 The total estimated value of Debtors’ equipment, furniture, and fixtures is not known at
23 this time, but is likely *de minimis*. The Debtors own a 2013 Lexus subject to a secured
24 claim of Toyota Motor Credit Corporation; in Toyota Motor Credit Corporation’s proof of
25 claim it scheduled the value of the vehicle as \$30,150.00 and its secured claim as
26
27
28

1 \$18,013.26. The Debtors also own a Shasta Oasis 30QB trailer purchased for \$18,400.00
2 in July 2015.

3
4 5. Other personal property: The Debtors also own intangibles including
5 its trade names, websites, and goodwill.

6 **VI. Summary of the Plan**

7 **THE FOLLOWING IS ONLY A SUMMARY OF THE PLAN OF**
8 **REORGANIZATION. IN THE EVENT OF ANY INCONSISTENCY, THE**
9 **EXPRESS TERMS OF THE PLAN ITSELF SHALL GOVERN.**

10
11 A. Overview

12 The goal of the Plan is to pay creditors to the fullest extent possible through a quick
13 and efficient liquidation of the assets of the Debtors.³ The Debtors will conduct a sale of
14 their lighting, audio, and visual equipment⁴ pursuant to Section 363⁵ and have identified a
15 stalking horse bidder in Video West. Video West is an attractive potential purchaser in
16 part because Video West is willing to buy the equipment in bulk⁶, reducing the cost to the
17 Debtors' estate because the sale will not require a broker or liquidator. A bulk purchase is

18
19
20 ³ Other than expenses discussed herein, the Debtors do not anticipate any liabilities
21 relating to the liquidation of the assets of the Debtors. Prior to the April 20, 2017
22 expiration of the cash collateral period with WSB, certain vendors provided services to the
23 Debtors, and did not invoice the Debtors until after the cash collateral period had expired.
24 The approximate total of amounts owed to outside vendors is \$4000. While the Debtors
25 have discussed making payments to these vendors with cash collateral of WSB, the parties
26 have not reached an agreement as of the date of this filing.

27 ⁴ The Debtors, WSB, and Video West are in discussions regarding whether the trailer will
28 be transferred to Video West as part of a potential transaction

⁵ Unless the Debtors, WSB and Video West enter into an agreement for the sale of the
equipment to Video West prior to the disclosure statement hearing, the Debtors will
abandon the equipment, or the Debtors and WSB agree on transferring the equipment to
WSB per a stipulation. The Debtors will soon file a bid procedures motion.

⁶ Upon information and belief, the Debtors are not aware of a recognized market for bulk
sale of specialized equipment, such as the equipment owned by the Debtors here.

1 also advantageous because it can be done quickly, as opposed to over time. A sale of the
2 equipment over time involves high transaction costs because of the cost in maintaining and
3 storing the equipment prior to a sale. Because the value of the equipment likely will not
4 generate any return to any creditor outside of WSB, the Debtors have permitted WSB to
5 market the equipment to the extent it deems fit. Should WSB believe there is value in the
6 equipment above the stalking horse bid of Video West, it can use its right to credit bid for
7 the equipment and post-acquisition market and sell it as it considers appropriate. If the
8 sale of the equipment concludes with Video West purchasing the equipment, WSB will
9 receive the proceeds from the sale of the equipment. If the sale of the equipment
10 concludes without Video West acquiring the equipment and no auction takes place in all
11 likelihood due to a lack of qualified bidders, the Debtors will abandon the equipment to
12 WSB, or transfer the equipment to WSB through an agreement entered into between the
13 Debtors and WSB. The Debtors may (1) sell, (2) abandon, or (3) transfer the equipment
14 following the disclosure statement hearing and prior to the confirmation hearing in
15 compliance with the Bankruptcy Rules and Local Rules to expedite the liquidation process
16 in these bankruptcy cases.

17
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19
20
21 The Debtors have sought the employment of a commercial real estate broker, J & J
22 Commercial Properties, Inc. (“**J&J**”) to market and sell the Property. [DE 193]. The
23 Property has been listed and marketed for sale in the amount of \$2,950,000.00. A listing
24 agreement was attached to the application to employ J&J. J&J determined through a
25 market analysis that the price per square foot is approximately \$86.55, resulting in a value
26 of \$2,950,000.00. J&J compared buildings that have been sold, and are available for sale
27
28

1 now, and although no two buildings are the same, they used the comparison numbers
2 combined with their commercial real property experience to obtain the listing value. The
3 commission fee for the sale of the Property is 6%. In light of the strong interest the
4 Property has generated with potential buyers thus far, and although the future cannot be
5 predicted, the Debtors hope and anticipate being able to sell the Property within the next
6 three-to-six months. Once the Debtors enter into a purchase agreement with a buyer, the
7 Debtors expect to file a Section 363 motion to sell the Property prior to plan confirmation.
8 The Debtors intend to use their best efforts to keep the cost of maintaining the Property to
9 a minimum prior to finalizing a sale, and will work with WSB on a cash collateral budget
10 consistent with same. The proceeds from the sale of the Property will be distributed to the
11 Creditors of the Debtors in accordance with the priority scheme under the Bankruptcy
12 Code.
13
14
15

16 **B. Classification and Treatment of Claims and Interests**

17 All claims and interests, except administrative expense and priority tax claims, are
18 placed into classes as set forth below. A claim or interest is placed in a particular class,
19 only to the extent that the claim or interest falls within the description of that class, and is
20 classified in all other classes to the extent that any portion of the claim or interest falls
21 within the description of such other class.
22

23 A claim or interest is placed into a particular class for all purposes, including voting
24 on this Plan, confirmation, and receiving distributions pursuant to this Plan, only to the
25 extent that such claim or interest is an Allowed Claim in that class, and such claim has not
26 been paid, released, or otherwise settled prior to the Effective Date. The establishment of
27
28

1 particular Classes or categories of Unclassified Priority Claims does not mean or imply
2 that there are any Allowed Claims that fall into each such Class or category, and the Plan
3 Trustee, as the successor to the Debtors, may later contend there are no such Allowed
4 Claims in any given Class or category.
5

6 Although the following is not a substitute for a careful reading of the Plan, it is a
7 general discussion of the treatment of Allowed Claims and Interests under the Plan.
8 Through the Plan, the Debtors intend to allow for payments to allowed prepetition claims
9 based on the value received for the liquidation of Debtors' assets.
10

11 1. Unclassified Claims

12 Pursuant to Section 1123(a)(1), Administrative Expenses pursuant to Section
13 507(a)(2) and Priority Tax Claims pursuant to Section 507(a)(8) are not classified under
14 the Plan. These Claims are not considered impaired and holders of such Claims do not
15 vote on the Plan. They may, however, object if, in their view, their treatment under the
16 Plan does not comply with that required by the Code.
17

18 **Administrative Expenses**

19 Administrative Expenses are costs or expenses of administering the Chapter 11 case
20 that are allowed under Section 507(a)(2). The holders of Administrative Expenses shall
21 receive cash on account and in the amount of such Administrative Expenses. At the option
22 of the Debtors, payment of Administrative Expenses shall be made in cash: (a) on the
23 Effective Date; or (b) when due in accordance with the terms of any agreement between
24 the Debtors and the holder of the administrative claim. Professionals employed at the
25 expense of the Estate and entities who may be entitled to reimbursement or the allowance
26
27
28

1 of fees and expenses from the Estate pursuant to Section 503(b)(2)-(6) shall receive cash
2 in the amount awarded to such professionals and entities at such times and only in
3 accordance with a Final Order entered pursuant to Sections 330 or 503(b)(2)-(6). Any
4 Administrative Expenses unpaid on the Effective Date will accrue interest at a rate of 5%
5 until paid in full.
6

7 Any application for payment of an Administrative Expense shall be filed within 60
8 days of the Effective Date (the “**Administrative Expenses Bar Date**”), or shall be forever
9 barred.
10

11 The anticipated Administrative Expenses on the Effective Date include the Debtors’
12 counsel’s outstanding fees in the approximate amount of \$~~131,245~~161,800.00 and costs in
13 the approximate amount \$2,487.50. The anticipated Administrative Expenses are an
14 estimate and the Debtors reserve all rights to submit additional Administrative Expenses to
15 the Court for approval for, among other reasons, work that will be done between the filing
16 of ~~the Plan and this~~ Disclosure Statement and the Confirmation Hearing. Counsel for the
17 Debtors also hold a retainer since the Petition Date in the approximate amount of
18 \$36,349.00. WSB has contested the right of the Debtors to apply the retainer to satisfy its
19 fee and costs awards in these cases. The Debtors hope to resolve the issues relating to the
20 retainer with WSB during the liquidation of the assets of the Debtors. The Debtors also
21 believe that the sale of the Property should generate proceeds sufficient to satisfy fee
22 awards for Debtors’ counsel. If the Debtors are unable to come to an agreement with
23 WSB on the retainer and the proceeds from the sale of the Property are not sufficient to
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1 satisfy the fees of counsel for the Debtors, then the Debtors will be compelled to litigate
2 the retainer issues.

3
4 Post-confirmation, the Plan Trustee and its counsel will continue to incur fees, and
5 it is anticipated an accountant will be employed and will incur fees related to tax
6 accounting.

7
8 Notwithstanding any provision in the Plan to the contrary, all fees and charges
9 assessed against the Estate pursuant to 28 U.S.C. § 1930 shall be paid on or before the
10 Effective Date.

11 **Priority Tax Claims**

12 As provided by Section 1129(a)(9)(C), priority tax claims under Section 507(a)(8)
13 shall be paid in accordance with the negotiations of the parties, in cash with interest at the
14 statutory rate from the Petition Date. After the Debtors have liquidated their assets, both
15 real and personal, Debtors will pay all claimants holding a priority tax claim from any
16 surplus. Following a sale of the Property, the Debtors shall tender payment to any holder
17 of a priority tax claim within 60 days of closing.
18

19
20 The Maricopa County Treasurer has filed a Proof of Claim for real property taxes in
21 the amount of \$85,431.97 [2:16-bk-14284-PS Claim 3], but does not assert its claim is
22 entitled to priority. The Maricopa County Treasurer has a valid tax lien perfected pursuant
23 to A.R.S. § 42-17153. In the Maricopa County Treasurer's Claim, it states that it is not
24 entitled to priority. Any real property taxes determined to be owed will be paid in
25 accordance with the priority tax claim treatment described above.
26

27 2. Classified Claims

28

1 **Class 1 – Secured Claim of WSB**

2 The Allowed Claim of WSB, secured by certain personal property, namely
3
4 Debtors’ lighting, audio, and visual equipment, shall remain secured after the Effective
5 Date in the same priority as it was on the Petition Date. The Allowed Class 1 Claim shall
6 be secured to the extent of the funds received in a sale of the collateral. The scheduled
7 estimated book value of the collateral is \$610,376.50. Video West has made an offer to
8 purchase the equipment for \$1.5 million. According to the filed Proof of Claim by WSB,
9 excluding late charges, the amount of the claim is “at least \$3,598,960,”⁷ leaving an
10 unsecured balance of the difference between the purchase price of the equipment and
11 \$3,598,960, the amount of the claim.
12

13 WSB’s collateral will be sold pursuant to Section 363 under the Plan. The holder
14 of an Allowed Class 1 Claim may not elect to have its claim treated pursuant to Section
15 1111 because such property will be sold pursuant to Section 363 and the Plan. Within 60
16 days of the sale of WSB’s collateral, the Debtors will release the proceeds to WSB. Any
17 outstanding amounts owed by Debtors to WSB will be treated as a Class 5 general
18 unsecured claim. Class 1 will retain its lien and payments will be made until the collateral
19 securing the Claim is sold or the Claim is paid off.
20

21 - Class 1 is impaired.
22

23 **Class 2 - JPMorgan Chase**
24
25
26

27 ⁷ WSB filed claims in each case based on the same debt. *Compare* [2:16-bk-14284-PS
28 Claim 1], *with* [2:16-bk-14283-PS Claim 1], *and with* [2:16-bk-14281-PS Claim 3].

1 The Allowed Claim of Chase, secured by the Property, shall remain secured after
2 the Effective Date in the same priority as it was on the Petition Date. The Allowed Class 2
3 Claim shall be secured to the extent of the funds received in a sale of the collateral. The
4 outstanding indebtedness owed to Chase is \$2,296,544.77. The scheduled net book value
5 of the Property is \$3,150,318.01. Debtors estimate that there is equity above the total
6 outstanding indebtedness owed to Chase.
7

8
9 The Property will be sold under the Plan. The holder of an Allowed Class 2 Claim
10 will be paid interest on the principal balance of its allowed Secured Claim in the amount of
11 6%, which will start accruing on the Effective Date until the Property is sold under the
12 Plan through the employment of a qualified real estate broker. The holder of an Allowed
13 Class 2 Claim may not elect to have its claim treated pursuant to Section 1111 because
14 such property will be sold pursuant to Section 363 and the Plan. Within 60 days of the
15 sale of the Property, unless otherwise agreed by the parties, the Debtors will release the
16 proceeds to Chase. Any surplus amount will be paid in accordance with the priority
17 scheme under the Bankruptcy Code, first to administrative claims, then to any priority
18 claims, and last to general unsecured claims. Class 2 will retain its lien and payments will
19 be made until the Property securing the Claim is sold or the Claim is paid off.
20
21

22 - Class 2 is impaired.
23

24 **Class 3 – Toyota Motor Credit Corporation**

25 The Allowed Claim of Toyota Motor Credit Corporation, secured by Debtors' 2013
26 Lexus, shall remain secured after the Effective Date in the same priority as it was on the
27 Petition Date. The Allowed Class 2 Claim shall be secured to the extent of the funds
28

1 received in a sale of the collateral. Toyota Motor Credit Corporation scheduled its claim
2 as \$18,013.26 and listed the value of the vehicle as \$30,150.00. The Debtors estimate that
3 the vehicle is valued at approximately \$27,581 per Kelly Blue Book, assuming a private
4 party sale, 36,000 miles, and vehicle is in good condition.
5

6 The vehicle will be sold under the Plan through an online auction service, *e.g.*, E-
7 Bay. The holder of an Allowed Class 3 Claim will be paid interest on the principal
8 balance of its allowed Secured Claim in the amount of 6%, which will start accruing on
9 the Effective Date until Toyota Motor Credit Corporation's collateral is sold. The holder
10 of an Allowed Class 3 Claim may not elect to have its claim treated pursuant Section 1111
11 because such property will be sold under the Plan. Within 60 days of the sale of Toyota
12 Motor Credit Corporation's collateral, the Debtors will release the proceeds to Toyota
13 Motor Credit Corporation. Any outstanding amounts owed by Debtors to Toyota Motor
14 Credit Corporation will be treated as a Class 5 deficiency claim. Any surplus amount will
15 first be paid to administrative claims, then to any priority claims, and last to general
16 unsecured claims. Class 3 will retain its lien and payments will be made until the
17 collateral securing the Claim is sold or the Claim is paid off.
18
19
20

21 - Class 3 is impaired.

22 **Class 4 – Western Equipment Finance⁸**
23
24

25 ⁸ The Debtors understand that Western Equipment Finance and Video West have agreed
26 to a transaction involving the sale of the indebtedness by Western Equipment Finance to
27 Video West relating to the collateral of Western Equipment Finance held by the Debtors.
28 The Debtors also understand that there is not value in the collateral above the indebtedness
of Western Equipment Finance. The Debtors intend therefore to abandon the collateral to
Video West pending consummation of the transaction between Video West and Western

1 The Allowed Claim of Western Equipment Finance against Dedicated Staging is
2 secured by certain equipment, including equipment identified as grandma 2 full size 16
3 universe lighting control console, 2 flight case for grandma, 2 full including wheels, 1
4 network processing unit 19 in rack mount. The Allowed Class 3 Claim shall be secured to
5 the extent of the funds received in a sale of the equipment as contemplated in the Section
6 363 sale in this Plan. Western Equipment Finance scheduled its claim as \$53,088.22, and
7 during this case the Debtors have made payments to Western Equipment Finance in total
8 of \$12,054.84. Western Equipment Finance also filed an unsecured claim against Precise
9 Staging. For purposes of the Plan, because Western Equipment Finance will be paid off
10 through the sale of the equipment, and it is being considered a separate secured claim in
11 Class 4.
12

13
14
15 Western Equipment Finances' collateral will be sold under the Plan. The holder of
16 the Allowed Class 4 Claim will be paid interest on the principal balance of its allowed
17 Secured Claim in the amount of 6%, which will start accruing on the Effective Date until
18 Western Equipment Finance's equipment is sold. It is contemplated that the secured
19 equipment will be sold at the sale at the Confirmation Hearing. The holder of an Allowed
20 Class 4 Claim may not elect to have its claim treated pursuant Section 1111 because such
21 property will be sold pursuant to Section 363 or the Plan. Within 60 days of the sale of
22 Western Equipment Finance's collateral, the Debtors will release the proceeds to Western
23 Equipment Finance. While the Debtors do not anticipate it, any outstanding amounts
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Equipment Finance. In any event, The Debtors reserve their rights with respect to this collateral.

1 owed by Debtors to Western Equipment Finance will be treated as a Class 4 deficiency
2 claim. Any surplus amount will first be paid to administrative claims, then to any priority
3 claims, and last to general unsecured claims. Class 4 will retain its lien and payments will
4 be made until the collateral securing the Claim is sold or the Claim is paid off.
5

6 - Class 4 is impaired.

7 **Class 5 – Maricopa County Treasurer**

8
9 Class 5 consists of all Allowed Claims of the Maricopa County Treasurer that are
10 secured to the Property. The Maricopa County Treasurer has filed a secured proof of
11 claim in the amount of \$85,431.97 based on statutory tax liens for 2015 and 2016.
12 Allowed Class 5 claims shall be paid from the proceeds of the sale of the Property. Within
13 sixty (60) days of the sale of the Property, the Debtors will release the proceeds to the
14 Maricopa County Treasurer in satisfaction of its claim. Class 5 will retain its lien and
15 payment will be made until the Property is sold or the Claim is paid off.
16

17 - Class 5 is impaired.

18 **Class 6 – General Unsecured Claims**

19
20 Class 6 consists of all Allowed Claims that are not secured and do not have
21 statutory priority, including any unsecured portion of an otherwise secured claim. The
22 following is a table of the estimated unsecured claims and their amounts.
23

Creditor	Claim Amount	Debtors' Estimate of Claim Amount
SRP (Precise - Claim 1)	\$912.73	\$912.73
American Express (Precise - Claim 2)	\$12,451.13	\$12,451.13
Scheduled Unsecured Claims (less American Express, Claim 2, and claim of Toyota Motor Credit Company)	\$92,826.86	\$92,826.86
Unsecured Balance of Class 1 Creditor	-	-

Unsecured Balance of Class 2 Creditor	-	-
Unsecured Balance of Class 3 Creditor	-	-
Unsecured Balance of Class 4 Creditor	-	-
Total:	\$106,190.72	\$106,190.72

Holders of Allowed Class 6 Claims shall be paid ratably together with Class 5 Claims from any surplus from the sale of the Property and the Debtors' vehicle. Although impossible to predict until a sale of the Property is completed, the Debtors expect a distribution to be made to unsecured creditors from the proceeds of the sale of the Property as follows. If the Debtors assume Chase is owed approximately \$2,296,544.77, Maricopa County Treasurer is owed approximately \$85,431.97, the broker's fee relating to the sale of the Property is approximately 6% of the sale proceeds, which amount is approximately \$177,000 if the Property sells for its asking price, and the administrative expense claims of Debtors' counsel is approximately \$160,000, as long as the sale of the Property is above \$2,718,976.00, the unsecured creditors will receive a distribution from the sale. These amounts are entirely used as an example and should not be relied upon. The Debtors will not know the precise amount of recovery to unsecured creditors until the Property is sold and outstanding receivables are received.

- Class 6 is impaired.

Class 7 – Ownership Interests

This Class consists of all Allowed Interests in Debtors. No holder of an Allowed Interest will receive payment or retain their ownership interest in Debtors unless all other classes have been paid in full.

- Class 7 is impaired.

VII. Executory Contracts and Unexpired Leases

1 All executory contracts and unexpired leases shall be rejected.

2 However, any individual or entity that is a party to an executory contract or
3 unexpired lease assumed pursuant to the Plan who objects to such assumption must file
4 with the Court a written statement stating the basis for the objection. This statement must
5 be filed and served within the deadline for objecting to the confirmation of the Plan, unless
6 the Court has set an earlier time. Any individual or entity that fails to file timely and serve
7 such a statement will be deemed to have waived any objection to the proposed assumption.
8
9

10 **VIII. Means for Executing and Implementing the Plan**

11 A. Means of Funding the Plan

12 The Debtors will conduct three sales to generate proceeds to fund the Plan. The
13 Debtors will (1) sell the Debtors' lighting, audio, and visual equipment currently subject to
14 WSB's lien pursuant to Section 363; (2) the Debtors will sell the Debtors' vehicle subject
15 to Toyota Motor Credit Corporation's lien, and (3) Debtors will employ a broker to sell the
16 Property subject to the liens of Chase and the Maricopa County Treasurer.
17

18 Video West, a third-party, will provide a "stalking horse" bid ensuring that there is
19 a bidder for the Debtors' lighting, audio, and visual equipment. As a result, Video West
20 will provide a floor price. Video West will provide an initial bid of \$1,500,000 for the
21 Debtors' lighting, audio, and visual equipment. WSB will retain its right to credit-bid
22 pursuant to Section 363(k). As discussed below, any interested party may contact by
23 email Grant L. Cartwright (grant@smithandsmithpllc.com) or John C. Smith
24 (john@smithandsmithpllc.com) for detailed information on the equipment for sale. The
25 bidding procedures shall be:
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- Sale Hearing: The Sale Hearing will be held at the same date and time as the Confirmation Hearing.
- Qualified Bidder: To participate in the bidding process, to obtain access to the due diligence materials, and to have a bid considered by the Debtors, a potential bidder must deliver, unless otherwise set by the Court, within one (1) week following the date of the approval by the Bankruptcy Court of the Disclosure Statement to counsel for the Debtors: (1) an executed confidentiality agreement in form and substance acceptable to the Debtors and their counsel, and (2) preliminary written proof by the potential bidder of its financial capacity to close the proposed transaction satisfactory to the Debtors and their counsel, and (4) written evidence of firm commitment or other satisfactory evidence of any required debt or equity financing. Within three (3) business days after a potential bidder delivers the preliminary bid documents, Debtors' counsel shall determine and notify the potential bidder whether such potential bidder has submitted acceptable preliminary bid documents. The Debtors' counsel will work with potential bidders during the three (3) day period to attempt to correct or cure any deficiencies. Only Qualified Bidders may conduct a due diligence review. Video West shall be deemed a Qualified Bidder and its bid of \$1.5 million is a Qualified Bid. WSB is a Qualified Bidder, and, if it chooses to credit bid, its credit bid is a Qualified Bid.

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- Due Diligence: Following approval as a Qualified Bidder, unless otherwise set by the Court, a party shall have ten (10) days to conduct due diligence. The Debtors will provide a list of the equipment to the Qualified Bidder within one (1) day of a party becoming a Qualified Bidder. The Debtors will work with the Qualified Bidder to conduct a physical review of the equipment at the Property.
- Qualified Bid: The bid must (1) identify the bidder, (2) contain a signed Bid APA (as discussed below) substantially in the form of the Bid APA distributed to the Qualified Bidder and (i) be in form and substance satisfactory to the Debtors, (ii) clearly designate the intent to acquire the equipment, (iii) provide for a purchase price in accordance with the paragraph below, (iv) provide that the Qualified Bidder will forfeit the Sale Deposit, as liquidated damages if the Qualified Bidder defaults under the Bid APA, (v) identify an authorized officer or employee to appear and act on behalf of the Qualified Bidder at the Confirmation Hearing, and (vi) not be subject to any conditions precedent other than the Bankruptcy Court’s confirmation of the Plan.
- Bid Deadline: Unless otherwise set by the Court, a potential bidder that seeks to bid shall deliver its bid with the required information (described below) by email to Grant L. Cartwright (grant@smithandsmithpllc.com), John C. Smith (john@smithandsmithpllc.com), Smith & Smith, PLLC, 6720 E. Camino Principal Ste. 203, Tucson, AZ 85715, so as to actually be

1 received on or before seven (7) days prior to the Confirmation Hearing at
2 5:00 p.m. prevailing Mountain Standard Time.

- 3
4 • Purchase Price: The bid must include an amount at least equal to \$1.5
5 million plus an overbid of \$50,000 (the “**Overbid**”), plus break-up fee to
6 Video West of \$50,000 to cover Video West’s reasonable out of pocket
7 expenses (the “**Break-Up Fee**”).
- 8
9 • Sale Deposit: The bid must include a deposit in the amount of \$100,000 in
10 the form of a wire transfer to an account specified by the Debtors or a
11 certified check. The Sale Deposit shall be held in escrow pending the
12 Effective Date of the Plan. The full amount of the Sale Deposit shall be
13 forfeited as liquidated damages if the Qualified Bidder is the successful
14 purchaser and fails to close the transaction because of a breach or failure to
15 perform on the part of the Successful Purchaser. The Sale Deposit shall,
16 upon the Effective Date, be credited to the purchase price of the Successful
17 Bidder. The Sale Deposit of any successful Qualified Bidder shall be
18 returned to such unsuccessful Qualified Bidder within two (2) days of the
19 Confirmation Hearing.
- 20
21 • Bid APA: The bid must include in the form of an executed asset purchase
22 agreement (the “**Bid APA**”) and offer to purchase the Debtors’ equipment in
23 full, as referenced above in paragraph (B)(3). Video West and the Debtors
24 will negotiate the APA prior to the Disclosure Statement Hearing. The Bid
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1 APA will be distributed to Qualified Bidders upon Debtors' counsel's
2 determination that a bidder constitutes a Qualified Bidder.

- 3
- 4 • Irrevocable Bid: The bid must include a signed writing that the potential
5 Qualified Bidder's offer is irrevocable until the selection of the successful
6 bidder, and the offer shall remain irrevocable until the Effective Date.
- 7
- 8 • Auction: If more than one Qualified Bid is received, the Debtors shall
9 conduct an auction for the sale of the equipment three (3) business days prior
10 to the Sale Hearing at the Property.
- 11
- 12 • Auction Procedures: The Auction will be conducted in accordance with the
13 following procedures: (1) The Qualified Bidders shall appear in person
14 through an authorized representative; (2) only Qualified Bidders, including
15 Video West, shall be entitled to bid at the Auction; (3) bidding shall begin at
16 the highest or otherwise best Qualified Bid, as determined and announced by
17 the Debtors; (4) subsequent bids at the Auction shall be made in \$50,000
18 increments, or as otherwise agreed by all of the Bidders and the Debtors; (5)
19 all bidding will be open and transparent to all parties permitted to attend the
20 Auction; (6) the bidding may be transcribed by a certified court reporter to
21 ensure an accurate recording of the auction; (7) each Qualified Bidder will
22 be required to confirm on the date of the Auction that it has not colluded
23 with any other person with respect to bidding or the sale; and (8) the Auction
24 shall be governed by such other procedures as may be announced by the
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1 Debtors or counsel from time to time at the Auction; provided that they are
2 not inconsistent with a Court order related to the Plan in these cases.

- 3
4 • Successful Bid: Upon the conclusion of the Auction (if the Auction is
5 conducted), the Debtors, in the exercise of the Debtors' reasonable, good-
6 faith business judgment, shall identify the highest or otherwise best bid (the
7 "**Successful Bid**"). The Qualified Bidder having submitted the Successful
8 Bid will be deemed the "Successful Purchaser." The Successful Purchaser
9 and the Debtors shall, prior to the Confirmation Hearing, complete and sign
10 all agreements, contracts, instruments or other documents evidencing and
11 containing the terms upon which the Successful Bid was made. The Debtors
12 will present the results of the Auction to the Bankruptcy Court at the
13 Confirmation Hearing, at which certain findings will be sought from the
14 Court regarding the Auction, including, among other things, that (1) the
15 Auction was conducted, and the Successful Purchaser was selected, in
16 accordance with these Bid Procedures, (2) the Auction was fair in substance
17 and procedure, (3) the Successful Bid was a Qualified Bid, and (4)
18 consummation of the Sale contemplated by the Successful Bid is in the best
19 interests of the bankruptcy estates. If an Auction is held, the Debtors shall
20 be deemed to have accepted a Qualified Bid only when (1) such bid is
21 declared the Successful Bid at the Auction or by the Court, and (2) definitive
22 documentation has been executed in respect thereof. Such acceptance is
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1 conditioned on approval by the Court of the Successful Bid and the entry of
2 an Order approving such Successful Bid.

- 3
- 4 • Designation of Back-Up Bidder: Upon the conclusion of the Auction and
5 the selection of the Successful Purchaser, the Debtors shall select the person
6 submitting the next highest or otherwise best bid (the “**Back-Up Bidder**”).
7 The bid of the Back-Up Bidder shall remain open until the day before the
8 Confirmation Hearing. If for any reason the Successful Purchaser is unable
9 or unwilling to consummate an approved Sale because of breach or failure to
10 perform on the part of the Successful Purchaser, (1) it will forfeit its Sale
11 Deposit to the Debtors as liquidated damages in lieu of any other damages
12 with respect to such breach, and (2) the Back-Up Bidder shall be deemed to
13 be the Successful Purchaser. The purchase price shall be the amount of such
14 Back-Up Bidder’s last bid.
- 15
- 16
- 17 • Break-Up Fee: At the closing of the Sale to the Successful Purchaser, if the
18 Successful Purchaser is not Video West, the Debtors shall cause the closing
19 agent to pay a Break-Up Fee of \$50,000 to Video West by
20 wire transfer in immediately available funds to an account designated by
21 Video West.
- 22
- 23
- 24 • Reservation of Rights to Modify Bid Procedures: The Debtors reserve the
25 right to modify these Bid Procedures in any manner that will best promote
26 the goals of the bidding process and may impose, at or prior to the Auction,
27 additional customary terms and conditions on the Sale, including, without
28

1 limitation, extending the deadlines set forth in these Bid Procedures, and
2 adjourning the Auction at the Auction. Such modification shall constitute a
3 non-adverse modification of the Plan and be in compliance with the local
4 rules of bankruptcy procedure and the judicial procedures of the Hon. Paul
5 Sala.
6

7 Debtors will sell the vehicle subject to Toyota Motor Credit Corporation's lien via
8 an auto auctioning company, such as E-Bay.
9

10 Debtors will employ a broker, promptly upon filing of the Disclosure Statement and
11 Plan, who will market and sell the Property subject to the liens of Chase and the Maricopa
12 County Treasurer. Should the Debtors receive an offer to purchase the Property prior to
13 the Confirmation Hearing, the Debtors will present the offer and related documents at the
14 Confirmation Hearing for approval with the Plan.
15

16 **B. Causes of Action**

17 Pursuant to Section 1123(b)(3), the Debtors shall retain all of Debtors' Causes of
18 Action, including any avoidance causes of action relating to or in connection with
19 payments made or transfers to insiders or affiliates of the Debtors and violations of the
20 automatic stay. Further, the Debtors shall retain all rights to collect and distribute any
21 recovery under a pre-petition judgment under which Debtors are the judgment creditors, or
22 for which a judgment creditor's rights have been assigned to Debtors.
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25 The Debtors are currently unaware of any causes of action of value to the Estate.
26 The Plan Trustee shall become the authorized representative of the Estate, which shall
27 retain all claims, rights or causes of actions, suits, and proceedings, whether in law or in
28

1 equity, whether known or unknown, that the Debtors or the Estate may hold against any
2 person or entity. The Plan Trustee may pursue such retained Litigation Claims, as
3 appropriate, in accordance with the best interests of creditors and the Debtors.
4

5 C. Management

6 On the Effective Date, John C. Smith, of the Law Offices of Gerald K. Smith &
7 John C. Smith, shall serve as the Plan Trustee and continue to manage the Debtors and
8 oversee the liquidation of the Debtors' assets in accordance with the terms of the Plan
9 during the Plan Period. After the Confirmation Date, the Debtors will cease operations
10 and begin the process of winding up their business. The Plan Trustee will operate free of
11 bankruptcy restrictions and will be able to enter into and terminate contracts, purchase and
12 sell assets, pay and incur debts, and proceed with other business operations, both within
13 and outside the ordinary course, without Court authorization except as expressly required
14 by the Plan or the Confirmation Order. The Plan Trustee will be paid in the ordinary
15 course of business with ordinary hourly rates, billed on a monthly basis, and without
16 Bankruptcy Court oversight. The Debtors hope and expect that the liquidation of the
17 Property and the equipment will be done prior to, or concurrent with, plan confirmation.
18
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21 D. Objections to Claims and Interests

22 At any time before the expiration of sixty (60) days after the Effective Date, the
23 Plan Trustee or any other party in interest may object to any Claim that was not scheduled,
24 or was scheduled as disputed, contingent, or unliquidated, that has not been allowed by a
25 Final Order of the Bankruptcy Court. Any Claim that was not scheduled and for which no
26 Proof of Claim was filed will be disallowed.
27
28

1 Except in regards to Administrative Expenses, objections to Claims and Interests
2 shall be filed and served upon the holder of such Claim or Interest no later than the Claims
3 Objection Bar Date.
4

5 -There shall be no distribution to the holder of a Disputed Claim until the Objection
6 to the Claim has been resolved by a Final Order of the Bankruptcy Court and the Claim
7 has become an Allowed Claim. Payments and distributions on account of each Disputed
8 Claim that is Allowed shall be made in accordance with the provisions of the Plan relating
9 to the class of creditors to which the holder belongs.
10

11 E. Tax Compliance

12 The Debtors will comply with all tax withholding and reporting requirements,
13 including with regard to all distributions and receipts pursuant to this Plan, as applicable.
14 All holders of Allowed Claims and Interests shall have sole responsibility for any tax
15 obligation imposed by any governmental unit pursuant to a distribution received under the
16 Plan.
17

18 F. Vesting

19 Except as provided for in the Plan or Confirmation Order, on the Effective Date, the
20 Debtors shall be vested with the remaining property or assets from the Estate, free and
21 clear of all claims, liens, charges, and other interests of creditors arising prior to the filing
22 date, except as provided by the Plan, to be liquidated in the ordinary course of business.
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1 **IX. Distributions Under the Plan**

2 A. Plan Trustee

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4 The Plan provides for the appointment of a Plan Trustee to collect, administer and
5 distribute in accordance with the terms of the Plan: (i) income and cash proceeds, (ii) any
6 assets to be sold under a Purchase Agreement or the Plan, and (iii) facilitate the winding
7 up of Debtors' business. The Plan Trustee shall be the successor to the Debtors.
8 Whenever the Plan or a Purchase Agreement entered into by the Plan Trustee post-
9 confirmation requires or permits notice to the Debtors after the Effective Date, such
10 notice shall be effective only when given to the Plan Trustee and the Plan Trustee shall
11 have the right to take all actions that the Debtors would have had the right to take.
12

13
14 John C. Smith shall be the Plan Trustee. The Plan Trustee will initially be
15 appointed by the Court in the Confirmation Order. The Plan Trustee will act as the
16 Estate's representative for all purposes, and will be responsible for (i) controlling and
17 managing the consideration received from purchasers of assets, (ii) filing, prosecuting
18 and settling claim objections, (iii) administering the disputed claim reserve, (iv)
19 prosecuting and settling Estate causes of action, (v) making distributions in accordance
20 with the terms of the Plan, and (vi) winding up and closing the Estate.
21

22 The Plan Trustee's compensation will be approved by the Court under the
23 Confirmation Order without the need for compliance post-confirmation under the
24 applicable Sections of the Bankruptcy Code. The compensation will be from the sale of
25 the Property, unless otherwise agreed by the Plan Trustee. At the Confirmation Hearing,
26 the Plan Trustee will represent to the Court the estimate of fees for post-confirmation
27
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1 work, and the amount will be worked into the Confirmation Order. John C. Smith has an
2 hourly rate of \$350.00. Any successor Plan Trustee will be selected by the Plan Trustee,
3 subject to approval by the Bankruptcy Court. The Plan Trustee will be authorized to
4 employ legal and accounting professionals employed by the Debtors pre-confirmation, as
5 well as such other professionals as may be approved by the Bankruptcy Court including,
6 without limitation, employment of professionals on a contingent fee basis for the purpose
7 of prosecuting causes of action transferred to the Trust, although this is not expected to
8 occur. Such professionals will be compensated according to their standard terms separate
9 and apart from the Debtors' compensation.

12 Although the Debtors do not expect that the Trustee will have chapter 5 causes of
13 action, there were payments made in the preference period to the following parties:
14 American Express (\$7,021.77), Chase Credit Card Services (\$37,140.80), Super Logistics
15 (\$7,350.00), and Video West (\$28,391.25). The Debtors and/or the Trustee will
16 investigate the payments.

19 Nothing contained herein shall limit the right of the Plan Trustee to seek authority
20 to surrender Collateral to any holder of a valid, enforceable, perfected Lien on that
21 Collateral, and nothing shall limit the rights of any Secured Creditor to request either a
22 vacation of any applicable injunction against the enforcement of its rights against
23 Collateral in the possession of the Plan Trustee or object to the Plan Trustee's proposed
24 use or sale of Collateral or the right of the Plan Trustee to oppose any such request. The
25 provisions of Code Sections 361, 363 and 364 shall apply to the Plan Trustee's use or
26 sale of Collateral hereunder.
27
28

1 The Plan Trustee will exercise independent business judgment with respect to the
2 administration of the Estate. The Plan Trustee may settle claims held by the Estate or use
3 or transfer any interests in assets owned by the Estate subject to obtaining a Final Order of
4 the Bankruptcy Court authorizing the Plan Trustee to take such actions. Except as
5 provided herein, any request for Bankruptcy Court authority to use or transfer Estate
6 property or settle any significant causes of action shall be governed by Section 363
7 (including Section 363(f) with respect to any sale free and clear of Liens and the right of
8 each Creditor holding a valid and enforceable Lien to adequate protection of that Lien).
9

10
11 B. Manner of Payments

12 All distributions will be made in the form of cash payments and checks to entities
13 holding Allowed Claims at the addresses listed on the Proof of Claim filed by such entity,
14 as the address where payments are to be sent, unless other instructions are received in
15 writing by the Plan Trustee.
16

17 C. No Distributions to Holders of Disputed Claims

18 No payments or distributions of any kind will be made on account of any claim
19 listed as disputed, contingent, or unliquidated, until such claim becomes an Allowed
20 Claim, and only to the extent such claim is Allowed. The Debtors anticipate objections to
21 claims will be filed. If any Disputed Claim becomes an Allowed Claim after the Effective
22 Date and after a distribution is made to other holders of Allowed Claims in its Class, such
23 claim will receive payment within fourteen (14) days after the Disputed Claim becomes an
24 Allowed Claim and the Order allowing the Claim is final.
25

26 D. Claims Bar Date and Administrative Expenses Bar Date
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1 The Claims Bar Date shall be set for 60 days after the filing of the Plan and
2 Disclosure Statement. Any Claim filed after the Claims Bar Date, or any claim for
3 Administrative Expenses filed after the Administrative Expenses Bar Date, shall not be
4 recognized and will be disallowed automatically without further objection from the
5 Debtors, unless such Claim is recognized pursuant to a filed and approved stipulation with
6 the Debtors or by Order of the Court.
7

8
9 E. Post-Petition Interest, Fees, and Costs

10 Interest on and fees and expenses, if any, with respect to any Allowed Secured
11 Claim, including but not limited to unpaid professional fees due the holders of such
12 Claims, shall be paid only to the extent permitted by Section 506(b) from the proceeds of
13 the Collateral securing such Claims. Allowance thereof shall be determined separately
14 for each Class and each subclass. Any interest, fees and expenses paid during the
15 pendency of these Cases to the holder of any Allowed Secured Claim that are not
16 allowable pursuant to Section 506(b) of the Bankruptcy Code shall be credited against
17 and shall reduce the principal amount of any such Allowed Secured Claim.
18
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20 Except as otherwise provided in the Plan, or in an order of the Bankruptcy Court,
21 no holder of an Allowed Claim shall be entitled to the accrual of post-petition interest or
22 the payment by the Debtors of post-petition interest or professional fees on account of
23 such Claim for any purpose.
24

25 **X. Effect of Plan on Claims**

26 A. Effect of Confirmation
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1 Except for continuing liens, claims, rights, and interests of the secured creditors
2 against the Debtors, the Estate, and the Property as provided for in the Plan, or in the
3 confirmation order, the confirmation of the Plan is a discharge, on the Effective Date, of
4 any and all debts of the Debtors that arose at any time prior to confirmation, including, but
5 not limited to, all principal and all interest accrued thereon, pursuant to Section 1141 of
6 the Bankruptcy Code. Such discharge shall be effective as to each claim, regardless of
7 whether a proof of claim thereof was filed, whether the claim is an allowed claim or
8 whether the holder thereof votes to accept the Plan.
9

10
11 Holders of claims against the Debtors may not receive any payment or distribution
12 except as otherwise provided for in the Plan, and may not seek any recourse against
13 Debtors or their assets except as provided for in the Plan. After the Confirmation Date, all
14 holders of claims will be forever enjoined from taking any action against the Debtors or its
15 property on account of such claim; including the commencement or continuation of any
16 proceeding; enforcing any judgment or award; creating, perfecting, or enforcing any lien;
17 or any other action inconsistent with the terms of the Plan.
18

19
20 The Plan Trustee will move the Court to close the case once the Plan has been
21 substantially consummated. Until substantial consummation, the Plan Trustee will be
22 responsible for filing pre- and post-confirmation reports required by the United States
23 Trustee and paying the quarterly post-confirmation fees of the United States Trustee.
24 Alternatively, the Court may enter a final decree closing the case on its own motion.
25

26 B. Plan Trustee's Authority to Compromise and Settle
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28

1 Pursuant to Bankruptcy Rule 9019(a), the Plan Trustee may compromise or settle
2 any Claim or Interest, or any cause of action against the Debtors or brought by the Debtors
3 upon notice and a hearing.
4

5 C. Right of Setoff

6 The Debtors may set off against any payment or distribution made pursuant to an
7 Allowed Claim a claim of any kind that it may have against the holder of such an Allowed
8 Claim, but the Debtors will not be required to do so. The failure to utilize the right of
9 setoff does not constitute a waiver or release of any claim Debtors have against a holder of
10 an Allowed Claim.
11

12 **XI. Liquidation Analysis**

13 Pursuant to Section 1129(a)(7), the Plan must provide that creditors not accepting
14 the Plan will receive at least as much under the Plan as they would receive in a liquidation
15 of the Debtor under Chapter 7 of the Bankruptcy Code. Because Debtors' plan liquidates
16 all of their assets, Creditors receive what they would have had in a Chapter 7 in addition to
17 the additional funds that have been earned by the Debtors through their continued
18 operation during the immediate future in the pendency of their cases. Further, Creditors
19 receive the added benefit of the Debtors having identified a stalking horse bidder for a
20 purchase of WSB's collateral.
21
22

23 **XII. Risk Analysis**

24 A. General

25 There is little risk associated with the Debtors' Plan. The success of the Plan turns
26 on the effective marketing and sale of the assets of the Debtors. The risk related to the
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1 sale of WSB's collateral is low because the Debtors have identified a potential purchaser
2 of said assets. The risk associated with the sale of the Property is slightly higher because
3
4 (1) no prospective buyers have yet been located, (2) the value of the Property is subject to
5 market conditions, and (3) the time it will take for the real estate broker employed under
6 the Plan to sell the Property is unknown. The risk associated with selling the Debtors'
7 vehicle is limited because (1) the robust used-vehicle market, and (2) the value of the
8 vehicle can be ascertained with some predictability due to trade publications such as Kelly
9 Blue Book and NADA Guides.

11 The risks in the Plan are lesser than a standard chapter 11 reorganization. The
12 success of Debtors' Plan does not turn on their continued operation of the business, but
13 only on the successful marketing and sale of the Debtors' assets. Although the risk
14 associated with Debtors' Plan is low, it is extremely doubtful that Debtors' proposed Plan
15 will provide general unsecured creditors with full payment.

17 B. Alternatives to the Confirmation of the Plan

18 If the Plan is not confirmed, there are two possible alternatives. First is to convert
19 the Case to Chapter 7, have a Chapter 7 Trustee appointed, and the Estate liquidated. The
20 Debtors do not believe this is a suitable alternative. Considerable investigation, time, and
21 effort have been put into evaluating the assets of Debtors and determining the best course
22 of action. It would be time-intensive for a Chapter 7 Trustee to become familiar with the
23 case, causing substantial delay and expense in the payment of creditors. The second
24 alternative is to dismiss the case with prejudice, leaving creditors to resort to state law
25 collection procedures. For similar reasons as outline above relating to the conversion, the
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1 Debtors do not believe this is a suitable alternative. The Debtors also believe that they
2 should be able to have the major assets in this case liquidated in the next two-to-three
3 months, and do not believe there is a more efficient manner to liquidation and of the assets
4 than that proposed herein.
5

6 **XIII. Tax Consequences**

7 Pursuant to Section 1125(a)(1), the Disclosure Statement is to provide a discussion
8 of the possible material tax consequences of the Plan to the Debtors, any successor to the
9 Debtors and a hypothetical investor typical of the holders of claims or interests in the case,
10 such that would enable such investor to make an informed judgment about the Plan. The
11 Debtors have not obtained a tax opinion and do not express any opinion as to the tax
12 consequences to the creditors or equity security holders. Interested parties are encouraged
13 to obtain their own professional counsel to determine the tax consequences of the Plan. In
14 particular, to the extent any creditor is not paid in full on its Allowed Claim, such creditor
15 should consult with a tax advisor concerning the potential for any write off of such claim.
16 It is generally anticipated that any discharge of debt will not have to be recognized as
17 income for the Debtors for income tax purposes.
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21 **Because the Debtors do not express any tax advice, in no event will the**
22 **Debtors, their counsel, or the professional advisors of the Debtors be liable for any**
23 **tax consequences of the Plan. Creditors and Equity Interest Holders must look solely**
24 **to and rely solely upon their own advisors as to the tax consequences of this Plan.**
25

26 **XIV. Confirmation Process**

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1 The Plan may be corrected or modified, prior or subsequent to Confirmation, or
2 prior to consummation, after notice to interested parties and by Court order as provided by
3 law. The Debtors further retain all rights to modify the Plan prior to Confirmation as
4 permitted by Section 1127. The Plan may be amended or modified prior to Confirmation
5 without leave of Court, so long as notice is provided to Creditors. After Confirmation and
6 with approval of the Court and upon notice to creditors, the Plan Trustee may remedy any
7 defect or omission, or may reconcile any inconsistencies in the Plan or Confirmation
8 Order, so long as such modification does not materially alter or adversely affect the
9 interests of Creditors, to the extent it may be necessary to carry out the purposes and intent
10 of the Plan.
11

12
13 The Court will be asked to confirm the Plan as to any class of claims or interests
14 that does not accept the Plan. In order to do so, the Court must find (1) that the Plan is fair
15 and equitable to each class of claims or interests that is impaired and has not accepted the
16 Plan and that the classification of claims is not discriminatory; and (2) that each claimant
17 or interest holder receives, under the Plan, property of a value as of the Effective Date that
18 is not less than what would be received or retained if the Property were liquidated pursuant
19 to Chapter 7 of the Bankruptcy Code.
20

21 The first requirement is satisfied with respect to any class that might not accept the
22 Plan because the classification has not been designed in a discriminatory manner and any
23 similar claims classified separately have been treated in this manner because they are
24 either an administrative classification or arise from a substantially different economic
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1 basis. The second requirement is satisfied as demonstrated by the Liquidation Analysis
2 provided.

3
4 If a class of secured claims does not accept the Plan, the Code provides that the fair
5 and equitable requirement is satisfied if the class retains its lien and receives deferred cash
6 payments of a present value equal to the value of the claimant's secured interest in the
7 collateral. This requirement may be satisfied as to each class treated as a secured claim
8 because the Plan provides for them to receive the value of their interest in their collateral
9 together with interest.
10

11 If a class of unsecured claims does not accept the Plan, the fair and equitable rule
12 requires that (1) each impaired unsecured creditor receives or retains, under the plan,
13 property of a value equal to the amount of its allowed claim; or (2) the holders of claims
14 and interests that are junior to the claims of the dissenting class will not receive any
15 property under the plan if claims in the dissenting class are not paid in full.
16

17 The Debtor recommends that the Plan and Disclosure Statement be approved as it is
18 in the best interests of the Estate and all creditors. The alternatives to confirmation of the
19 Plan include dismissal or conversion to Chapter 7 liquidation. Dismissal would result in
20 creditors having to resort to other legal proceedings to collect debts, and Chapter 7
21 liquidation would delay distributions. For these reasons, the Debtors recommend all
22 creditors accept the Plan and return ballots timely so that the votes can be counted.
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25 RESPECTFULLY SUBMITTED this 19th day of June, 2017.

26
27 **CHAPTER 11 DEBTORS**

28 By /s/ David Stern

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David Stern

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