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7 **UNITED STATES BANKRUPTCY COURT**

8 **DISTRICT OF ARIZONA**

9 In re:

Case No. 2:17-bk-02989-EPB

10 PRADO MANAGEMENT L.L.C., a Delaware  
11 limited liability company,

CHAPTER 11

12 Debtor.

13 **AMENDED DISCLOSURE STATEMENT IN**  
14 **SUPPORT OF CHAPTER 11 PLAN OF**  
15 **REORGANIZATION DATED NOVEMBER**  
16 **8, 2017**

17 The Debtor<sup>1,23</sup> has prepared this Amended Disclosure Statement in conjunction with its Plan.

18 **EXHIBITS**

19 Exhibit A	The Plan
20 Exhibit B	Real Property Appraisal
21 Exhibit C	The Prado Listing Agreement
22 Exhibit D	June Operating Report

23 <sup>1</sup> Unless otherwise defined herein, capitalized terms shall have the same meanings ascribed to them in the Debtor's Plan filed  
24 July 25, 2017 [DE 67]. If a term is not defined in the Plan, it shall have the meaning given to it by the Code or Bankruptcy  
25 Rules.

<sup>2</sup> This Amended Disclosure Statement was prepared at the direction of and signed by German Osio as the Debtor's Manager.  
Richard and Melissa Turasky contend that German Osio is not authorized to act for the Debtor.

<sup>3</sup> All portions of this Amended Disclosure Statement shown in *italics* are included upon the request by Richard and Melissa  
Turasky and do not constitute the position(s) of the Debtor or its management.

1 **I. INTRODUCTION TO DISCLOSURE STATEMENT**

2 Bankruptcy Code (“Code”) § 1125(b) prohibits the solicitation of acceptances or Rejections of a  
3 plan of reorganization unless the plan is accompanied by a copy of a disclosure statement that has been  
4 approved by the Bankruptcy Court. The Debtor has prepared this Disclosure Statement to solicit  
5 acceptances of the Plan filed with the Bankruptcy Court on July 25, 2017. The Plan is attached hereto as  
6 Exhibit “A.”

7 **A. Purpose of the Disclosure Statement.** The Debtor submits this Disclosure Statement to  
8 all of its Creditors to comply with certain Code provisions that require creditors to receive sufficient  
9 information to enable them to make an informed decision about whether to vote to accept or reject the  
10 Plan.

11 This Disclosure Statement sets forth certain information regarding the Debtor’s operations and  
12 financial history. It also discusses the Debtor’s need to file its Bankruptcy Case, the significant events  
13 that have occurred during its Bankruptcy Case, and the anticipated organization and operations of the  
14 Reorganized Debtor. This Disclosure Statement also contains a detailed discussion of the Plan, its  
15 implementation, and its associated risk factors. In addition, this Disclosure Statement discusses the Plan  
16 confirmation process and the voting procedures holders of Claims must follow in order for their votes to  
17 be counted.

18 The only representations the Debtor is authorized to make concerning the value of its assets or  
19 potential distributions under the Plan are contained in this Disclosure Statement. The Debtor may not  
20 solicit votes to accept or reject the Plan until the Court approves the Disclosure Statement as containing  
21 sufficient information to allow a Creditor to make an informed decision about whether to vote to accept  
22 or reject the Plan. The statements contained in this Disclosure Statement are made only as of the date  
23 hereof and there can be no assurance that the statements contained herein will be correct at any time  
24 thereafter. In addition, the descriptions and summaries contained herein may be subject to continuing  
25 negotiations between the Debtor and various parties and these negotiations may be ongoing, incomplete,

1 and subject to change. The Debtor urges Creditors and other parties-in-Interest to consult with  
2 independent counsel in deciding whether to accept or reject the Plan.

3 **II. BANKRUPTCY CODE PROVISIONS FOR VOTING**

4 **A. Impairment.** The Plan provides holders of Claims and Interests retain unaltered the  
5 legal, equitable, and contractual rights to which Claim or Interest entitles the holder of such Claim or  
6 Interest, except to the extent modification without impairment is permitted by Code § 1124(2). Absent  
7 impairment, as specified in Code § 1124, Classes of Claims and Interests are conclusively presumed to  
8 have accepted the Plan and no vote is required or solicited from those classes.

9 **B. Allowed and Impaired Claims.** Should any Class of Claim or Interest be determined to  
10 be impaired under the Plan, or any amendment to the Plan, a Claim will be assigned to a Class  
11 containing Claims and the treatment of the Claims within each Class is set forth in this Disclosure  
12 Statement and in the Plan. All Claims within the same Class will receive the same treatment under the  
13 Plan. The Debtor has used its best efforts to comply with Code § 1129 for this treatment. Generally  
14 speaking, impaired Claims cannot be placed in the same Class with Unimpaired Claims and only  
15 impaired Classes of Claims are entitled to vote to accept or reject the Plan. Unimpaired Claims are  
16 deemed to have accepted the Plan as a matter of law.

17 Allowed Claims and Disputed Claims may be placed in the same Class of Claims if the  
18 requirements of Code § 1122 are met. However, only Creditors holding Allowed Claims (or temporarily  
19 Allowed Claims) within an impaired Class of Claims may vote to accept or reject the Plan. The  
20 allowance of a Claim for voting purposes does not necessarily mean the Claim will be allowed or  
21 disallowed for purposes of receiving a distribution under the Plan. Any Claim as to which an objection  
22 has been filed or will be filed will not receive a distribution under the Plan unless the Court enters an  
23 order allowing the Claim in whole or part. Whether such a Disputed Claim will become an Allowed  
24 Claim and entitled to receive a distribution under the Plan may not be determined until after the Plan is  
25 confirmed.

1           **C. Acceptance or Rejection of the Plan by an Impaired Class.** A Creditor that does not  
2 vote or that votes to reject the Plan may be bound by the Plan if the Plan is accepted by the requisite  
3 majorities in each impaired Class of Claims and if the Plan is then confirmed by the Court. An impaired  
4 Class of Claims is deemed to have voted to accept the Plan if at least two thirds (2/3) of the total dollar  
5 amount of all Allowed Claims in the Class votes to accept the Plan and more than one half (1/2) of the  
6 total number of Allowed Claims in that same Class also votes to accept the Plan. For example, if an  
7 impaired Class of Claims contains seven Allowed Claims totaling \$90.00, then that Class will be  
8 deemed to have voted to accept the Plan if four of those Allowed Claims vote to accept the Plan and  
9 those same four Allowed Claims total, in dollar amount, at least \$60.00.

10           **D. Other Plan Requirements and Cram Down.** In addition, except where the “cram-  
11 down” provisions apply, the Plan can only be confirmed if (1) every impaired Class of Claims votes to  
12 accept the Plan and (2) each Allowed Claim within a Class voting to reject the Plan will receive or retain  
13 value under the Plan equal to or greater than the value the holder of the rejecting claim would receive in  
14 a Chapter 7 case of the Debtor. If the “cram-down” provisions apply, however, then the Plan can be  
15 confirmed even if the requirement of (1) above is not met, but the requirement of (2) above remains in  
16 place. For the cram-down provisions to apply: (1) at least one impaired Class of Claims must vote to  
17 accept the Plan; (2) the Court must determine that confirmation of the Plan is not likely to be followed  
18 by a liquidation or the need for further reorganization of the Debtor; and (3) the Plan does not  
19 discriminate unfairly and is fair and equitable with respect to all impaired Classes of Claims that have  
20 voted to reject the Plan.

21           **E. The Debtor’s Representations are Limited.** This Disclosure Statement has been  
22 prepared in accordance with Code § 1125 and Bankruptcy Rule 3016(b). This Disclosure Statement  
23 contains summaries of certain provisions of the Plan, certain statutory provisions of the Code, certain  
24 documents related to the Plan, certain events occurring in the Bankruptcy Case, and certain financial  
25 information about the Debtor. Although the Debtor believes these summaries are fair and accurate, the

1 summaries are qualified to the extent that they do not set forth the entire text of such documents or  
2 statutory provisions. Factual information contained in this Disclosure Statement has been provided by  
3 the Debtor's management.

4 Except where otherwise specifically noted, the Debtor does not warrant or represent that the  
5 information contained herein, including the financial information, is without any material inaccuracy or  
6 omission. Further, some of the information contained herein consists of projections of the future  
7 performance of an uncertain business. While every effort has been made to ensure the assumptions are  
8 valid and the projections set forth herein are as accurate as possible under the circumstances, the Debtor  
9 does not certify or warrant that the projections and other information contained herein are accurate or  
10 complete.

11 Further, the Court has not verified the accuracy of the information contained in this Disclosure  
12 Statement. The Court's approval of the Disclosure Statement does not imply that the Court endorses or  
13 approves the Plan, but only that that the information contained in this Disclosure Statement, if accurate,  
14 provides Creditors with adequate information to make an informed decision about whether to vote to  
15 approve or reject the Plan.

16 The financial information contained in the Disclosure Statement, including, but not limited to the  
17 exhibits, were provided by the Debtor, but have not been audited, verified, or approved by the Court or  
18 by any of the professionals retained in this case, and may not have been prepared in accordance with  
19 generally accepted accounting principles. All of the information set forth above represents the Debtor's  
20 best estimates given current market conditions and its past experiences.

21 The Debtor has not authorized any representation about its operations, assets, and liabilities  
22 except as set forth in this Disclosure Statement. You should not rely on any other representation or  
23 inducement to secure your vote on the Plan. Any person who makes an unauthorized representation or  
24 inducement concerning the Plan should be reported to counsel for the Debtor at the address above and to  
25 the United States Trustee. The United States Trustee may be reached at (602) 682-2600.

1 **III. BACKGROUND INFORMATION RELATED TO THE DEBTOR**

2 **A. General Background.**

3 The Debtor is a Delaware Limited Liability Company formed in 2011 with its principal place of  
4 business in Arizona. The Debtor has one asset consisting of a single family residential property located  
5 in the Prado Estates gated community at 23875 North 91st Street in Scottsdale, Arizona (the  
6 “**Property**”). Michael Kang asserts that he is the sole member and holds 100% ownership Interest in the  
7 Debtor (the “**Equity Interest**”). Mr. Kang also asserts that the Debtor currently has one manager:  
8 German Osio. The Debtor has no employees and no income. Mr. Kang is providing the funds necessary  
9 for the continued upkeep and maintenance of the Property, including, but not limited to utility expenses  
10 and insurance costs.

11 *In contrast to the forgoing, Richard and Melissa Turasky (the “**Turaskys**”) assert that the*  
12 *Debtor is neither managed by Mr. Osio nor owned by Mr. Kang and that neither Mr. Kang nor Mr.*  
13 *Osio had authority to seek relief under Chapter 11 of the bankruptcy code on behalf of Debtor. The*  
14 *Turaskys further assert that Debtor is 100% owned by Whisper Capital Group, LLC (“**Whisper***  
15 *Capital”), that Whisper Capital is owned and controlled through the Turaskys, that Debtor’s principal*  
16 *place of business is 385 Airport Rd., Ste. 100 Elgin, IL 60123, and that the Turaskys formed both the*  
17 *Debtor and Whisper Capital as Delaware limited liability companies. The Turaskys have not authorized*  
18 *the Debtor’s bankruptcy filing and assert that the filing was unauthorized and made in bad faith.*

19 **B. The Property.**

20 The Property was purchased by the Debtor in May 2011 for \$5 million. The Property is  
21 approximately 11,900 square feet. According to Mr. Kang, the Property was acquired with the intent  
22 that Mr. Kang, use the Property as his personal residence. Consequently, Mr. Kang’s wife hired an  
23 interior decorator and made many alterations and additions to the interior of the Property costing an  
24 estimated \$2.4 million. The Property was lived in by Mr. Kang and his family as a seasonal Property  
25 during the falls and winters when the Kangs were not at their other residence in Canada.

1           *According to the Turaskys, Whisper Capital advanced all funds necessary to acquire and*  
2 *improve the Property including the 2.4 million referred to by Debtor above. The Turaskys further assert*  
3 *that neither Mr. Kang nor Mr. Osio can make any legitimate claim to the funds of Whisper Capital or*  
4 *trace any of their funds into the acquisition of the Property.*

5           **C. The Attempted Sale and Lis Pendens on the Property.**

6           1. Mr. Kang asserts the following:

7           The Kangs consistently lived in the Property in this above-referenced manner until they decided  
8 to put the Property up for sale. The Property was listed for sale with a real estate broker in October  
9 2014. In 2012, U.S. Bank, N.A. brought suit against, among others, Capital Realty & Development,  
10 LLC and the Turaskys in the District Court for the Northern District of Illinois, Eastern Division for  
11 breach of contract with a stated demand of more than \$1.4 million. In 2015, as part of this litigation,  
12 Richard Turasky filed a Motion for Rule to Show Cause (“**Show Cause Motion**”) against, Michael  
13 Kang and his attorney. When the court set a hearing on the Show Cause Motion, Capital Realty and/or  
14 Turasky filed a “Notice of Lis Pendens” in the District Court and subsequently recorded this Lis  
15 Pendens, specifically identifying the Property as being affected by it, with the Maricopa County  
16 Recorder’s Office as document number 2015-0260941. Mr. Kang, and his attorney, subsequently filed a  
17 motion to vacate the Show Cause Motion which was granted by the Court. Upon information and belief,  
18 the Lis Pendens has not been released, but no proof of claim was filed asserting its continued validity.

19           On or about November 18, 2015, an interested buyer, Villa 14 LLC (“**Villa**”), came forward,  
20 signed a purchase contract to buy the Property for \$6 million, and put down an earnest money deposit to  
21 secure its place to purchase the Property. Villa is owned by the Williams family. During the time the  
22 Property was under contract with Villa, on or about January 13, 2016, Canal Investment Fund (another  
23 Turasky entity) asserted an interest in the Debtor and filed a lis pendens on the Property. The  
24 anticipated sale of the Property was not consummated between the Debtor and Villa; however, Villa was  
25 still interested in the Property. Therefore, the Debtor permitted Villa to rent the Property for a nominal

1 fee of \$100 per month, until such time as the lis pendens could be resolved and the sale could go  
2 through. The Debtor anticipated that the lis pendens would be resolved in a short period of time, about  
3 60 days or less. The Williams family (Villa) agreed to the rental offer and did in fact move into the  
4 Property.

5 On or about February 29, 2016, Villa filed a complaint against the Debtor requesting specific  
6 performance of the sale contract on the Property. Soon afterwards, on or around March 8, 2016, Villa  
7 filed its own lis pendens on the Property requesting specific performance to consummate the sale of the  
8 Property to Villa. On March 21, 2016, Villa also filed and obtained a temporary restraining order  
9 against the Debtor to keep it from evicting Villa or selling the Property to any other party. During this  
10 time, the Williams family continued to live in the Property. Unbeknownst to the Debtor and without  
11 notice, the Williams acquired another home in the vicinity and moved out of the Property. The Debtor  
12 estimates that the Williams family (Villa) did approximately \$165,000.00 in damage to the audio/video  
13 equipment and interior of the Property at the time it was in their possession. No claim has been made on  
14 the insurance carrier to date to repair the damage to the Property. Any claim against either the Williams  
15 family/Villa, or on the Property's insurance coverage, is a potential claim of this bankruptcy estate.

16 On or about August 31, 2016, the underlying state court action by Villa giving rise to the  
17 recording of the lis pendens (Maricopa County Superior Court Case No. 2016-001632) was consolidated  
18 with an earlier action brought by Mr. Kang against, among others, the Turaskys and Villa in 2015  
19 (Maricopa County Superior Court Case No. 2015-051396) ("the Consolidated Cases"). No releases of  
20 the lis pendens have been identified, but Villa has not asserted any claim in these proceedings.

21 2. *The Turaskys assert the following:*

22 *Due to pending state court litigation in both Illinois and Arizona, and the concern that Mr. Kang*  
23 *would abscond with proceeds from a sale of the Property, lis pendens were filed against the Property by*  
24 *Canal Management Fund I, LLC (a/k/a Canal Investment Fund, LLC) ("**Canal Investment**"), Capital*  
25 *Realty & Development, LLC ("**Capital Realty**") and Richard P. Turasky, Jr. Canal Investment is the*



1 manager of Whisper Capital which in turn owns the Debtor.

2           Litigation involving the sale of the Property was initiated by Villa and that litigation (the “**Villa**  
3 **Litigation**”) was consolidated with other pending litigation involving a dispute over ownership of the  
4 Debtor. In the Villa Litigation, the Maricopa County Superior Court authorized Villa to proceed with  
5 the sale of the Property and ordered the sale proceeds to be deposited into the court registry. The sale  
6 was for the purchase price of \$6,000,000. In order to facilitate the closing of the sale transaction,  
7 Canal Investment, Capital Realty and Richard P. Turasky, Jr. each executed a release of lis pendens and  
8 tendered the releases to Villa pending the closing of the sale of the Property. Notwithstanding the  
9 forgoing court authorization and the tenders of the releases of the lis pendens, the Debtor and its  
10 purported manager Mr. Osio, defaulted under the Villa sale contract by refusing to execute required  
11 closing documents and to close the sale of the Property. The proposed sale of the Property to Villa was  
12 not precluded by any lis pendens filed by Canal Investment, Capital Realty, Richard Turasky or any  
13 other person or entity, but rather, by Mr. Osio’s refusal to consummate the sale. Simply stated, Mr.  
14 Osio refused to close the sale transaction because the court had ordered the net proceeds to be  
15 deposited into the court registry pending resolution of the dispute over ownership of the Debtor was at  
16 issue in the Maricopa County Superior litigation.

17           **D. The Arizona Bank & Trust Loan on the Property.**

18           In 2014, the Debtor with Mr. Osio as co-guarantor, took out a mortgage on the Property for \$3.4  
19 million with Arizona Bank & Trust (“AZBT”). The Property was valued at approximately \$5 million at  
20 the time.

21           The AZBT loan is accruing Interest and fees, both of which will be paid in full from the proceeds  
22 of the sale of the Property. The approximate balance of the amount owed to AZBT is currently \_\_\_\_\_.  
23 The Property is currently listed for sale at \$5.75 million, a value greater than the secured amount  
24 perfected against it. The Debtor believes that there is approximately \$2 million in Equity remaining in  
25 the Property. Therefore, there is sufficient Equity in the Property to pay AZBT in full once a sale is

1 consummated.

2       *The Turaskys assert that the AZBT loan was obtained by Mr. Osio without the authority of*  
3 *Debtor, was not authorized by the Debtor or the Debtor's true owner, Whisper Capital, and was*  
4 *obtained through the presentation to AZBT of false ownership and other documents including a*  
5 *fraudulent residential lease agreement for the Property.*

6       **E. The Parties Asserting a Dispute Over Ownership in the Debtor in the State Court**  
7 **Litigation.**

8       Mr. Kang maintains that he is the sole member (Class 6 Equity Interest Holder) of the Debtor  
9 and Mr. Osio is the sole manager and that according to all available records, Mr. Kang is the sole owner  
10 of the Debtor. If other parties believe they have a claim to, or an Interest in the Debtor, then those  
11 parties had the opportunity to file a proof of Claim or Interest by September 11, 2017, which is the  
12 deadline set by the Court.

13       The other entities and parties disputing Mr. Kang's ownership in the Debtor and wanting to  
14 claim that ownership as their own are primarily Richard and Melissa Turasky, in their individual  
15 capacities and by and through their affiliations with Canal Investment Fund and Whisper Capital Group,  
16 LLC.

17       Mr. Kang however, contests these assertions. Mr. Kang and his wife retained a real estate agent  
18 in 2011 specifically to find a residence in the Scottsdale area. They chose the Property and Mr. Kang  
19 subsequently directed the formation of the Prado Management LLC (the Debtor; aptly named because  
20 the Property is located in the Prado Estates Community) in order to purchase the Property.

21       *The Turaskys dispute Mr. Kang's ownership interest in Debtor. According to the Turaskys, the*  
22 *Debtor is owned by Whisper Capital which in turn is owned and controlled through the Turaskys. The*  
23 *Turaskys further assert that they formed and created Debtor and Whisper Capital for their own benefit.*

24       **F. Factors Leading to the Filing of the Bankruptcy Case.**

25       Mr. Kang has desired to sell the Property since 2015 but litigation over ownership of the Debtor

1 clouded title and precluded the Debtor from selling or refinancing the Property. The Property was set  
2 for a trustee's sale on March 28, 2017, by AZBT because the Debtor was unable to sell or refinance the  
3 Property. The Debtor was forced to file the Bankruptcy Case in order to preserve its only asset from  
4 being lost at sale.

5 *According to the Turaskys, Mr. Kang sabotaged the sale of the Property to Villa by refusing to*  
6 *close the transaction in accordance with a state court order. Turaskys assert that this bankruptcy case*  
7 *was not filed to preserve the Property or to protect the Property from an imminent trustee's sale, but*  
8 *rather, to avoid the finality of state court litigation over the ownership of Debtor and the determinations*  
9 *of the state court relative to such ownership.*

10 **G. Events and Filings in the Bankruptcy Case.**

11 1. Statements, Petition, and Schedules. On March 27, 2017, the Debtor filed its Chapter 11  
12 petition (the "**Bankruptcy Case**"). Subsequently, the Debtor has filed its Statements and Schedules  
13 [DE 16 and 17], and various amendments thereto [DE 27 and 46]. The June 8, 2017 amendment,  
14 changed the Debtor's previously selected "single asset real estate" designation to "None of the Above."  
15 See DE 46 at p. 4. The Petition, Statements, and Schedules contain detailed financial information about  
16 the Debtor, its assets, liabilities, and creditors.

17 2. Employment of Professionals. The Debtor has retained Schian Walker, P.L.C. ("**Schian**  
18 **Walker**") as its general bankruptcy and restructuring counsel. By order entered April 29, 2017 [DE 25],  
19 Schian Walker was approved as the Debtor's counsel. The Debtor has also retained Ms. Kelly Carroll  
20 (f.k.a. Hendon) and Mr. Keith Mishkin of Cambridge Properties, as its real estate broker in order to list  
21 the Property for sale. By order entered June 12, 2017 [DE 47], both Ms. Carroll and Mr. Mishkin were  
22 approved as Debtor's real estate broker.

23 3. Claims Bar Date. The Debtor has filed a Motion to Establish a Bar Date for Filing Proofs  
24 of Claims or Interests ("**Claims Motion**") [DE 34]. The Turaskys filed an objection to the Claims  
25 Motion [DE 51]. The Court established September 11, 2017, as the date to file proofs of Claims and

1 Interests [DE 75]. Three claims have been timely filed. The claims filed by the Maricopa County and  
2 AZBT are described more fully below. The third claim was filed by Whisper Capital, LLC, which is  
3 owned and controlled by the Turaskys. Whisper Capital, LLC, claims to hold a 100 percent ownership  
4 interest of the Debtor. The claim does not specify an amount owed. The Debtor disputes the Whisper  
5 Capital, LLC, claim and for the purposes of this Disclosure Statement assigns it no value as a disallowed  
6 claim.

7 4. Maricopa County Treasurer's Proof of Claim. On May 4, 2017, Maricopa County filed  
8 proof of claim No. 1 in the amount of \$41,416.85, which consists of the second half of 2016 real estate  
9 taxes and the estimated 2017 real estate taxes associated with the Property. The Maricopa County  
10 Treasurer claim accrues Interest at 16% annually.

11 5. AZBT's Proof of Claim. On June 20 2017, AZBT filed proof of claim No. 2 in the  
12 amount of \$3,665,959.75 including principal, Interest, attorneys' fees and costs, appraisals, and  
13 searches. AZBT listed the principal balance of the loan as \$3,399,981.11, with Interest and other fees  
14 and costs as \$265,978.64. Additionally, the AZBT claim lists an accruing per diem Interest in the  
15 amount of \$1,416.65. The Debtor is in the process of determining whether the amounts set forth in  
16 AZBT's claim are consistent with the Debtor's records.

17 6. Executory Contracts. The Debtor has no contracts to assume or reject.

18 7. Leases. The Debtor has no leases to assume or reject.

19 8. United States Trustee Requirements. The Debtor has filed all required Monthly  
20 Operating Reports and maintains a segregated debtor-in-possession bank account to receive or disperse  
21 any monies as required. Upon information and belief, the Debtor has made all required payments to the  
22 United States Trustee and is current on any other requirements set by the United States Trustee.

23 9. Motions to Dismiss. Two motions to dismiss have been filed against the Debtor. Both  
24 motions allege that the Bankruptcy Case was filed in bad faith and that it is essentially a two-party  
25 dispute. The motions are as follows: (a) the Turaskys filed their motion to dismiss on June 5, 2017

1 [DE 44] and (b) AZBT filed its motion to dismiss on June 21, 2017 [DE 52]. *The Turaskys Motion to*  
2 *Dismiss asserts that this bankruptcy proceeding was initiated by Debtor without proper authority and in*  
3 *bad faith.* A pre-trial conference on the motions will be held on November 21, 2017, the initial  
4 evidentiary hearing set for December 13, 2017.

5 10. Motion for Relief from Stay. AZBT filed a Motion for Relief from the Automatic Stay to  
6 exercise its rights under its Deed of Trust on the Property, including completion of the pending trustee's  
7 sale and/or appointment of a receiver to sell the Property. In the alternative, AZBT seeks partial relief  
8 from the automatic stay in order to file a declaratory judgment in state court to determine that its interest  
9 in the Deed of Trust related to the Property is valid and perfected [DE 83]. The Court has set a  
10 preliminary hearing on this matter for November 8, 2017 [DE 88].

#### 11 **IV. SUMMARY OF THE PLAN**

12 The following is an overview of the Plan. It describes the structure of the Plan and the  
13 classification of the Claims asserted against the Debtor in the Plan. The following is only a summary of  
14 the Plan and does not purport to be the Plan or to contain all of the terms, conditions, and provisions of  
15 the Plan. Accordingly, the Plan should be read carefully and in its entirety. The Plan sets forth the  
16 treatment of Claims against the Debtor. The obligations and distributions made under the Plan are in  
17 full and final settlement, release, and compromise of any and all Claims against the Debtor.

18 **A. Sale of the Property.** Unless the Property sells earlier, it will be auctioned for sale at the  
19 Bankruptcy Court once the Court approves a Confirmation Order. Any party may bid at the sale in  
20 order to purchase the Property and fund the Plan. The rights of parties under Code § 363(k) shall be  
21 preserved.

22 **B. Classification of Claims.** The Plan contains separate Classes for holders of Claims  
23 against the Debtor. Under the Code, impaired Classes of Claims are entitled to vote on the Plan. A  
24 Class containing Unimpaired Claims is deemed to have accepted the Plan and, thus, the claims within  
25 that Class are not permitted to vote. A Class is "impaired" under the Code if the Claims within it have

1 had their legal, equitable, or contractual rights modified or altered by the Plan. For purposes of the Plan,  
 2 **no classes are “impaired” and therefore, no classes are entitled to vote** on the Plan. Because no  
 3 classes are impaired, all Classes will be deemed to have accepted the Plan without voting pursuant to  
 4 Code § 1126(f).

5 The following chart summarizes the Classes within the Plan and the Debtor’s estimation of the  
 6 total dollar amount of Claims within each such Class.

Class	TYPE OF CLAIMS	ESTIMATED CLAIMS
1	Administrative Expense Claims	<u>Broker fees:</u> \$375,000.00 <u>Schian Walker fees:</u> \$50,000.00
2	Secured Tax Claims	2016 taxes: \$13,927.79 2017 taxes: \$27,489.06
3	AZBT’s Secured Claim	<u>Principal:</u> \$3,400,000.00 <u>Interest and costs:</u> \$265,978.64
4	Priority Claims	\$0.00
5	General Unsecured Claims	No Claims Filed
6	Equity Interest	Unknown (amount remaining in Equity cushion)

1. Class 1 Administrative Claims. Class 1 consists of Administrative Claims, which include the following claims: (a) ordinary course business expenses the Debtor has incurred after the Petition Date; (b) Professional Fee Claims; and (c) any other Claim under Code § 503(b). The amount of fees and costs going forward will depend greatly on whether the Plan process is contested and, if so, as to which issues. Currently, the anticipated broker fees are \$375,000, or 6% commission on the sale of the Property, currently listed for \$6.25 million. On the Petition Date, Schian Walker held a fee deposit

1 of \$44,460.50. The Debtor anticipates additional fees to Schian Walker of approximately \$50,000.00.

2           2.     Class 2 Secured Tax Claims. Class 2 consists of Secured Tax Claims of the Maricopa  
3 County Treasurer in the amount of the real property taxes that became due and payable before the  
4 Petition Date. The Secured Tax Claims consist of two separate years: the second half of 2016 taxes  
5 (\$13,927.79) and the 2017 taxes owed, but not yet assessed (estimated at \$27,489.06). The Debtor  
6 estimates that such Claims will total approximately \$41,416.85.

7           3.     Class 3 Secured Claim of AZBT. Class 3 consists of the Secured Claim of AZBT. It has  
8 filed proof of claim No. 2 in the amount of \$3,665,959.75, including principal, Interest, attorneys' fees  
9 and costs, appraisals, and searches. AZBT listed the principal balance of the loan as \$3,399,981.11,  
10 with Interest and other fees and costs as \$265,978.64. Additionally, the AZBT claim lists an accruing  
11 per diem Interest in the amount of \$1,416.65.

12           4.     Class 4 Priority Claims. Class 4 consists of Priority Claims, including those Tax Claims  
13 under Code § 507(a)(8). The Debtor estimates that such Tax Claims will total approximately \$0. Other  
14 Priority Claims under Code § 507(b) not falling within Class 1 above are also included in Class 4. The  
15 Debtor estimates that such Claims will total approximately \$0.00.

16           5.     Class 5 General Unsecured Claims. Class 5 is comprised of all Claims that are not  
17 classified within any other Class under the Plan. Class 5 Claims include, without limitation, all  
18 deficiency claims, all Rejection claims, and all other unsecured claims.

19           6.     Class 6 Equity Interests. Class 6 consists of membership, Equity, and other ownership  
20 Interests in the Debtor.

21           **C.     Classes of Claims and Allowed Claims.** The Code provides for treatment only of  
22 “impaired class” claims. Because no class is impaired under the Plan, no treatment explanation is  
23 provided and no ballot solicitations will be made. The Plan and the Disclosure Statement will be  
24 provided to all Creditors. All Creditors will have the opportunity to object to approval of both the  
25 Disclosure Statement and confirmation of the Plan. The Plan is deemed to treat all Claims against the

1 Estate in the same, unimpaired fashion regardless of its character, description, or classification.

2 **V. IMPLEMENTATION OF THE PLAN**

3 **A. Administrative Claims Bar Date.** Applications requesting payment of Administrative  
4 Claims incurred before the Effective Date pursuant to Code §§ 507(a)(1) and 503(b), including  
5 applications for Professional Fees under Code §§ 331 and 330, must be served and filed with the  
6 Bankruptcy Court no later than thirty (30) days after the Effective Date. Any such Claim not served and  
7 filed within this time period will be forever barred. Administrative Claims need not be filed with  
8 respect to (i) any operating expense the Debtor incurred in the ordinary course of its business after the  
9 Petition Date and (ii) any and all Professional Fees, costs, and expenses the Debtor incurred after the  
10 Effective Date. The Claims and expenses set forth in (i) and (ii) may be paid in the ordinary course of  
11 business without notice or hearing.

12 **B. Causes of Action.** The Debtor's assets include the Causes of Action and other potential  
13 litigation claims. The Causes of Action and other potential litigation claims are against Villa 14, LLC:  
14 Claim resulting from damages to Property's audio/video equipment and interior. Estimated amount of  
15 claim is \$165,000.00.

16 The Debtor reserves all rights to commence, continue, amend, and prosecute all Causes of  
17 Action against any Person or Governmental Unit (as both are defined in the Code), including after the  
18 Effective Date by and through the Reorganized Debtor, and with respect to any transaction that occurred  
19 through the Effective Date. The Debtor is currently evaluating the Causes of Action. Potential damages  
20 and recoveries for the Causes of Action include monetary awards, setoff rights, claim reductions, and  
21 potential subordination or disallowance of Claims. All Causes of Action shall be preserved and  
22 transferred to and for the benefit of the Reorganized Debtor on the Effective Date. The Reorganized  
23 Debtor shall have the exclusive power to bring, dismiss, or compromise any of the Causes of Action,  
24 and all matters pertaining to the implementation of the Plan. The Debtor reserves the right to prosecute  
25 litigation to challenge the validity of any lien that AZBT or any other party claims in the Debtor's



1 property. Such a challenge shall include the right to prosecute avoidance actions under Chapter 5 of the  
2 Code.

3 **C. Conditions to Confirmation.** The Court enters the Confirmation Order in form and  
4 substance acceptable to the Debtor in its sole and absolute discretion.

5 **D. Conditions to Effective Date.** The Confirmation Date occurs and the Plan Documents  
6 have been issued, executed, delivered, or filed and have become effective and binding. Notwithstanding  
7 the foregoing, in its sole and absolute discretion, the Debtor may waive any of the aforementioned  
8 conditions.

9 **E. Contingent Claims.** Until a Contingent Claim or a disputed Claim becomes an Allowed  
10 Claim or a Disallowed Claim, the Claim will be treated as a Disputed Claim for all purposes under the  
11 Plan. The holder of a Contingent Claim will be entitled to a distribution under the Plan only when the  
12 Contingent Claim becomes an Allowed Claim. Any Contingent Claim for reimbursement or  
13 contribution held by a person that may be liable to the Debtor on a Claim of a Creditor is disallowed as  
14 of the Effective Date if: (i) that Creditor's Claim is disallowed; (ii) the Claim for reimbursement or  
15 contribution is Contingent as of the Effective Date; or (iii) that person asserts a right of subrogation to  
16 the rights of the Creditor under Code § 509.

17 **F. Disbursing Agent.** Unless otherwise set forth in the Confirmation Order, the  
18 Reorganized Debtor shall act as Disbursing Agent under the Plan. The Disbursing Agent shall ensure  
19 that all distributions provided for under the Plan are accurately and timely made. The Disbursing Agent  
20 shall create and maintain a register of all Allowed Claims and a record of all payments made on account  
21 of such Allowed Claims. The Disbursing Agent shall calculate (with the assistance of any professionals  
22 deemed necessary) any pro-rata distribution calculations and/or other calculations necessary to  
23 implement the provisions of the Plan regarding distributions to Creditors.

24 **G. Distributions Under the Plan.** No payments or distributions will be made to any  
25 Creditor or Interest holder on account of a Claim or Interest unless and until the Claim or Interest is

1 allowed. The Reorganized Debtor or any party in Interest may object to the allowance of any Claim or  
2 Interest by filing a written objection with the Bankruptcy Court. **Objections must be filed on or before**  
3 **the Claims Objection Date.** If the Reorganized Debtor or an Interested party objects to a Claim or  
4 Interest, any distributions payable by reason of such Disputed Claims or Interests shall be held by the  
5 Reorganized Debtor until the Court has entered final orders resolving the Disputed Claims or Interests.  
6 Except as otherwise provided in the Plan, no interim distributions shall be required to be made by the  
7 Disbursing Agent in an amount less than \$100.00. The Disbursing Agent shall distribute funds to  
8 Claimants holding Allowed Claims according to the priorities set forth in the Plan. If there are  
9 insufficient funds available to pay all Allowed Claims in a given Class in full, then the Reorganized  
10 Debtor may make a pro rata distribution for such Allowed Claims on an interim or final basis. All  
11 distributions under the Plan unclaimed for a period of one year after distribution thereof (or an attempt  
12 to effect such distribution) in accordance with the Plan will be deemed unclaimed property under Code §  
13 347(b), and such unclaimed property will be forfeited and shall indefeasibly vest in the Reorganized  
14 Debtor. Notwithstanding anything otherwise to the contrary, in no event will a holder of an Allowed  
15 Claim be entitled to receive distributions in excess of its Allowed Claim.

16 **H. Executory Contracts.** Pursuant to Code § 365(a), the Plan provides for the Rejection of  
17 any and all Executory Contracts of the Debtor that are in force on the Confirmation Date, except for  
18 those Executory Contracts specifically assumed pursuant to an order of the Court, including the  
19 Confirmation Order.

20 **I. Funding of Plan.** Funding for the Plan will come from the sale proceeds of the Property  
21 and any capital contributions from the Equity Interests, which the Debtor believes will be sufficient to  
22 enable the Debtor to meet its Plan obligations. Unless the Property sells earlier, at the Confirmation  
23 Hearing the Debtor shall request that the Court enter an order establishing a date for a sale of the  
24 Property, free and clear of all liens, claims and Interests as soon as possible after the Confirmation Order  
25 becomes final. The sale shall be by public auction, conducted in open court, and upon such other terms

1 and conditions as the Court may establish after notice and hearing. The rights of parties under Code  
2 § 363(k) shall be preserved. Unless the Court orders otherwise, all bids must be in cash and the sale  
3 must close at least seven (7) prior to the Effective Date. The Court may establish bidder qualifications,  
4 but no party shall be disqualified from bidding based upon their affiliation or prior affiliation with the  
5 Debtor or the holder of any Claim or Interest. Distributions under this Plan shall be made to holders of  
6 Allowed Claims and Interests by the Disbursing Agent, who shall report on activity in this account in  
7 periodic reports to the Court.

8 *Whisper Capital, LLC objects to the use of proceeds of the sale of the Debtor's property to fund*  
9 *the Plan.*

10 **J. Management.** The Debtor's management after the Effective Date shall be substantially  
11 similar to the management the Debtor had before its Bankruptcy Case was filed. It is anticipated that no  
12 changes will be made to the members, managers, or organization of the company.

13 *It is the Turaskys' position that the only authorized manager of Debtor is Richard Turasky, not*  
14 *German Osio.*

15 **K. Objections to Claims.** Notwithstanding the occurrence of the Effective Date, and except  
16 as to any Claim that has been Allowed before the Effective Date by a Final Order, the Reorganized  
17 Debtor may object to the allowance of any Claim or Interest, or seek estimation of any Claim on any  
18 grounds permitted by the Code. All objections to Claims and Interests must be brought by filing the  
19 appropriate pleading in the Bankruptcy Court on or before the Claims objection bar date unless a motion  
20 seeking to extend the Claims objection bar date is filed on or before such date. Any Disputed Claim  
21 may be settled by order of this Court submitted after 20 days' notice of the settlement has been provided  
22 to all parties that have requested notice.

23 **L. Rejection Claims Bar Date.** All Rejection Claims arising from the rejection of any  
24 Executory Contract under the Plan are required to be filed with the Bankruptcy Court no later than the  
25 Rejection Claims bar date. Any such Rejection Claim not filed on or before the Rejection Claims bar

1 date will be forever barred. With respect to any Executory Contract rejected by the Debtor before the  
2 Confirmation Date, the deadline for filing a Rejection Claim related to that rejected contract remains the  
3 deadline set forth in the order that authorized its rejection. If that particular order did not contain its own  
4 deadline to file a Rejection Claim, then the Rejection Claim bar date shall be that deadline. Rejection  
5 Claims shall be treated as Class 5 General Unsecured Claims.

6 **VI. EFFECT OF CONFIRMATION**

7 **A. Binding Effect.** The Plan is binding on, and inures to the benefit of, the Debtor, the  
8 Reorganized Debtor, and the holders of all Claims and Interests, and their respective successors and  
9 assigns. The Plan, if confirmed, and if the Effective Date occurs, shall bind all creditors and parties in  
10 Interest whether a Claim has been filed, deemed to be an Allowed Claim or a Disallowed Claim,  
11 whether a distribution has or has not been made on account of any such Claim, or whether such Claim  
12 has voted to accept or reject the Plan.

13 **B. Deletion of Classes.** Classes not containing any Allowed Claims within them shall be  
14 automatically deleted from the Plan.

15 **C. Discharge.** Except as provided in the Plan or the Confirmation Order, the rights granted  
16 under the Plan and the treatment of Claims and Interests under the Plan are in exchange for and in  
17 complete satisfaction and release of all Claims and Interests against the Debtor. The Plan provides for  
18 the treatment and satisfaction of all Claim and Interests and the vesting of assets in the Reorganized  
19 Debtor. Pursuant to Code § 1141(d)(3)(A) the Debtor shall not receive a discharge.

20 **D. Exemption from Transfer Taxes.** In accordance with Code § 1146(a): (i) the issuance,  
21 distribution, transfer, and exchange of assets or property of an Estate; (ii) the execution, assignment,  
22 modification, or recording of any lease or sublease; and (iii) the execution, delivery, or recording of a  
23 deed or other instrument of transfer under, in furtherance of, or in connection with the Plan, the  
24 Confirmation Order, or any transaction contemplated above, or any transactions arising out of,  
25 contemplated by, or in any way related to, the foregoing are not subject to any document recording tax,

1 stamp tax conveyance fee, intangibles or similar tax, mortgage tax, or real estate transfer tax, or other  
2 similar tax or governmental assessment and the appropriate state or local government officials or agents  
3 are directed to forego the collection of any such tax or assessment and to accept for filing or recordation  
4 any of the foregoing instruments or other documents without the payment of any such tax or assessment.

5 **E. Injunction.** Except as provided in the Plan or the Confirmation Order, as of the  
6 Confirmation Date, all entities that have held, currently hold, or may hold a Claim or other debt or  
7 liability that is unclassified by the Plan, or that is subject to a distribution under the Plan, are  
8 permanently enjoined from taking any of the following actions on account of such Claims, debts or  
9 liabilities: (i) commencing or continuing in any manner any action or other proceeding against any  
10 property to be distributed under the Plan; (ii) enforcing, attaching, collecting, or recovering in any  
11 manner any judgment, award, decree, or order against any property to be distributed under the Plan;  
12 (iii) creating, perfecting, or enforcing any lien or encumbrance against any property to be distributed  
13 under the Plan; and (iv) commencing or continuing any action, in any manner, in any place, that does  
14 not comply with or is inconsistent with the provisions of the Plan or the Code.

15 **F. Ratification.** The Confirmation Order ratifies all transactions initiated by the Debtor  
16 during the period commencing on the Petition Date and ending on the Effective Date, except for any acts  
17 constituting willful misconduct, gross negligence, recklessness, or fraud.

18 **G. Vesting of Property.** Pursuant to Code §§ 541(a) and 1141(b), all property of the Debtor  
19 will vest in the Reorganized Debtor on the Effective Date, free and clear of all liens, Claims,  
20 encumbrances, and Interests, except as the Plan provides. The Reorganized Debtor shall have the  
21 authority to incur debt, sell assets, conduct business inside and outside the ordinary course, and  
22 encumber and grant liens on its property subject to those liens and restrictions retained under the Plan,  
23 all of the foregoing as it deems fit in its good business judgment and without notice to creditors or  
24 further order of the Court.

25

1 **VII. RETENTION OF JURISDICTION**

2 **A. Administrative Claims.** The Bankruptcy Court shall retain jurisdiction to adjudicate all  
3 Claims, controversies, contested matters, or adversary proceedings arising out of any action, purchase,  
4 sale, agreement, or obligation made or undertaken by and between the Debtor and any third party during  
5 the pendency of the Bankruptcy Case.

6 **B. Claims and Interests.** The Bankruptcy Court shall retain jurisdiction related to the  
7 classification, allowance, subordination, and liquidation of any Claim or Interest and the determination  
8 of such objections as may be filed, including determinations of Disputed Claims and Interests.

9 **C. Disputes.** The Bankruptcy Court shall retain jurisdiction related to the determination of  
10 all questions and disputes regarding title to the assets of the Estate and the determination of all causes of  
11 action, controversies, disputes or conflicts, known or unknown, whether or not subject to actions  
12 pending as of the Confirmation Date, between the Debtor and any other person or governmental unit,  
13 including, but not limited to, the Debtor's right to recover assets, avoid transfers, recover fraudulent  
14 transfers, offset Claims, recover money or property from any person or governmental unit, or to seek the  
15 return assets which were or are the property of the Estate.

16 **D. Enforcement.** The Bankruptcy Court shall retain jurisdiction to enter any order,  
17 including injunctions, necessary to enforce the title, rights, and powers of the Debtor under the Plan.

18 **E. Executory Contracts.** The Bankruptcy Court shall retain jurisdiction to determine all  
19 matters relating to the assumption, assignment, or Rejection of Executory Contracts, including matters  
20 related to Rejection Claims.

21 **F. Extensions of Time.** The Bankruptcy Court shall retain jurisdiction to shorten or extend,  
22 for cause, the time fixed for doing any act or thing under the Plan.

23 **G. Governmental Unit.** The Bankruptcy Court will retain jurisdiction to adjudicate any  
24 dispute or to hear and determine any action taken, proposed, or threatened by any federal, state, or local  
25 government unit having or asserting jurisdiction or power over the conduct of the Debtor or its business.

1           **H.    Injunction.** The Bankruptcy Court shall retain jurisdiction to issue any injunction  
2 (including an injunction under Code § 105) or restraining order or stay that is necessary to implement  
3 the Plan. To issue injunctions, enter and implement other orders, or take such other action as may be  
4 necessary or appropriate to restrain interference by any person or entity with consummation or  
5 enforcement of the Plan.

6           **I.    Intent.** Until the Bankruptcy Case is closed, the Bankruptcy Court will retain  
7 jurisdiction to ensure that the purposes and intent of the Plan are performed.

8           **J.    Interpretation.** The Bankruptcy Court shall retain jurisdiction to enforce and construe  
9 the terms and conditions of the Plan and to determine all controversies and disputes that may arise in  
10 connection with the enforcement, interpretation, or consummation of the Plan.

11           **K.   Litigation.** The Bankruptcy Court shall retain jurisdiction to decide or resolve any and  
12 all applications, motions, adversary proceedings (including but not limited to any Causes of Action),  
13 contested or litigated matters, and any other matters, or grant or deny any application involving the  
14 Debtor or the Estate.

15           **L.    Other Matters.** The Bankruptcy Court shall retain jurisdiction to determine such other  
16 matters as may be provided in the Confirmation Order or as may be authorized under the Code.

17           **M.   Plan Corrections.** The Bankruptcy Court shall retain jurisdiction to correct any defect,  
18 the curing of any omission, or the reconciliation of any inconsistency in the Plan, the Confirmation  
19 Order, or any and all document executed or to be executed in connection therewith, as may be necessary  
20 to carry out the purposes and the intent of the Plan.

21           **N.   Professional Fees of Estate Professionals.** The Bankruptcy Court will retain  
22 jurisdiction to determine any timely application for Professional Fees sought pursuant to Code §§ 330,  
23 331, and 503(b).

24           **O.    Termination.** The Bankruptcy Court shall retain jurisdiction to enter an order  
25 concluding and terminating this Bankruptcy Case.

1           **P.     United States Trustee Fees.** Until the Bankruptcy Case is closed, the Debtor must file  
2 post-confirmation reports and pay quarterly fees under 28 U.S.C. § 1930(a)(6).

3 **VIII.   MISCELLANEOUS PROVISIONS**

4           **A.     Additional Assurances.** The Debtor and any party-in-Interest will execute any such  
5 other documents as are necessary to implement the Plan.

6           **B.     Business of Reorganized Debtor.** After the Confirmation Date, as well as after the  
7 Effective Date, the Reorganized Debtor shall be empowered to and shall continue its ordinary course  
8 business operations. As of the Effective Date (i) the adoption, execution, delivery, and implementation  
9 of all contracts, leases, instruments, releases, and other agreements related to or contemplated by the  
10 Plan and (ii) the other matters provided for under, or in furtherance of, the Plan involving corporate  
11 action required of the Debtor, will be deemed to have occurred and become effective as provided in the  
12 Plan, and will be deemed authorized and approved in all respects without further order of the  
13 Bankruptcy Court or any further action by the directors of the Debtor. In addition, the Reorganized  
14 Debtor shall have the exclusive power and standing to bring, dismiss, or compromise all Causes of  
15 Action. The net proceeds realized from any Causes of Action shall be available to the Reorganized  
16 Debtor and disbursed or invested as the Reorganized Debtor deems fit in its sole discretion except as set  
17 forth in the Plan.

18           **C.     Effecting Documents.** The Debtor and all other parties to the Plan Documents are  
19 authorized and directed as of the Effective Date, and without further order of the Bankruptcy Court, to  
20 execute, deliver, file, or record all Plan Documents and other contracts, instruments, releases, and other  
21 agreements or documents, and to take all actions necessary or appropriate to effect and further evidence  
22 the terms of the Plan. All transactions required to occur on the Effective Date under the terms of the  
23 Plan are deemed to have occurred simultaneously.

24           **D.     Fees and Costs.** Except as the Plan provides, the Allowed amount of any Claim shall not  
25 include Claims for attorneys' fees, default Interest, punitive damages, penalties, fines other fees, and



1 charges unless the holder of such Claim obtains an Order of the Court allowing such Claims.

2       **E. Good Faith.** Confirmation of the Plan shall constitute a finding that the Plan has been  
3 proposed in good faith and in compliance with the Code, and that the solicitation of acceptances and  
4 Rejections of the Plan has been performed in good faith and in compliance with the Code.

5       **F. Governing Law.** Except to the extent that the Bankruptcy Code or other federal law is  
6 applicable or as provided in any document entered into in connection with the Plan, the rights, duties,  
7 and obligations of the Debtor and any other person arising under the Plan are governed by, and  
8 construed and enforced, in accordance with, the internal laws of the State of Arizona, without giving  
9 effect to Arizona's choice of law provision.

10       **G. Insurance.** The discharge and release from Claims as provided in the Plan, except as  
11 necessary to be consistent with the Plan, do not diminish or impair the enforceability of any insurance  
12 policy that may cover Claims against a Debtor or any other person.

13       **H. Interest on Claims.** Unless otherwise provided in instruments that either take effect on  
14 the Effective Date or that remain unaltered by the Plan, interest on any Allowed Claims that is payable  
15 under the Plan will be simple interest and will not be compound interest. In all events, there will be no  
16 default interest payable with respect to any Allowed Claims.

17       **I. Modification of Plan.** In addition to the modification rights under Code § 1127, the  
18 Debtor may propose amendments to, or modifications of, the Plan at any time prior to the entry of the  
19 Confirmation Order with leave of the Court, upon such notice as may be prescribed by the Court. After  
20 entry of the Confirmation Order, the Debtor may, with the approval of the Court, and so long as it does  
21 not materially or adversely affect the Interest of Creditors, cure any omission, correct any defect, or  
22 reconcile any inconsistencies in the Plan, the Confirmation Order or any and all documents executed or  
23 to be executed in accordance therewith, in such manner as may be necessary to carry out the purposes  
24 and intent of the Plan.

25       **J. Payment Dates.** Whenever any payment or distribution to be made under the Plan shall

1 be due on a day other than a business day, such payment or distribution shall instead be made without  
2 Interest on the next business day.

3 **K. Prohibition Against Prepayment Penalties.** If the Debtor so chooses, in its sole and  
4 absolute discretion, to prepay any obligation on which deferred payments are provided for under the  
5 Plan, the Debtor will not be liable or subject to the assessment of any prepayment penalty thereon.

6 **L. Revocation of Plan.** The Debtor reserves the right to revoke and withdraw the Plan  
7 before entry of the Confirmation Order. If the Debtor revokes or withdraws the Plan, or if Confirmation  
8 of the Plan does not occur, then the Plan shall be deemed null and void and nothing contained herein  
9 shall be deemed to constitute a waiver or release of any Claims by or against the Debtor or any other  
10 person, or to prejudice in any manner the rights of the Debtor in any further proceedings involving the  
11 Estate.

12 **M. Severability and Reformation.** It is the Debtor's intent to comply fully with the Code  
13 and applicable non-bankruptcy law in proposing the Plan. Therefore, if any provision of the Plan is  
14 determined by the Bankruptcy Court to be contrary to the Code or applicable non-bankruptcy law, that  
15 provision will be deemed severed and automatically deleted from the Plan if it cannot be reformed or the  
16 provision or its interpretation will be deemed reformed to ensure compliance; provided, however, that  
17 nothing contained in this paragraph will prevent the Debtor from modifying the Plan in any manner  
18 whatsoever in accordance with and as set forth in the Plan. Pursuant to any ruling by the Bankruptcy  
19 Court regarding the subject matter of this paragraph, any such severance or reformation will be stated  
20 specifically in the Confirmation Order, which then will control notwithstanding any contrary or  
21 inconsistent provisions of the Plan.

22 **N. Statutory Fees.** All fees payable pursuant to 28 U.S.C. § 1980 will be paid according to  
23 applicable law, and quarterly reports of disbursements will be filed according to applicable bankruptcy  
24 law.

25 **O. Timing of Distributions.** In the event that any payment, distribution, or act under the

1 Plan is required to be made or performed on a date that is not a Business Day, then the making of such  
2 payment or distribution or the performance of such act may be completed on or as soon as reasonably  
3 practicable after the next succeeding Business Day, but will be deemed to have been completed as of the  
4 required date.

5 **IX. VOTING, ACCEPTANCE, AND CONFIRMATION**

6 **A. Parties Entitled to Vote.** Holders of Claims are entitled to vote if their Claims are  
7 Allowed and impaired. An Allowed Claim is a claim that has been Allowed under the Code or by the  
8 Bankruptcy Court, or that has been temporarily Allowed under Bankruptcy Rule 3018. An impaired  
9 Claim is a claim that has had its legal or equitable rights modified under the Plan. Impaired Claims and  
10 unimpaired Claims are not placed in the same Class.

11 **B. Ballots.** No ballots will be sent or solicited to any Classes in the Plan because no Classes  
12 are impaired and none are entitled to vote on the Plan.

13 **C. Hearing on Confirmation.** A hearing on confirmation of the Plan will be conducted by  
14 the Bankruptcy Court at the date and time to be set by the Court. The confirmation hearing may be  
15 adjourned from time to time without further notice except for an announcement made at the hearing.  
16 Code § 1128(b) provides that any creditor or Interested party may object to confirmation of the Plan. If  
17 an objection to confirmation of the Plan is not timely made, then the Court is not required to consider it.  
18 All objections to confirmation of the Plan must be filed with the Bankruptcy Court and served upon  
19 parties entitled to notice on or before the date set by the Bankruptcy Court.

20 **D. Liquidation Analysis.** Before a plan of reorganization can be confirmed, it must provide  
21 for a distribution to any unsecured creditor that votes to reject the plan that has a value that is at least  
22 equal to the value that such creditor would receive if the assets of the same debtor were liquidated in a  
23 hypothetical Chapter 7 proceeding. This test is known as the “Best Interest of Creditors Test” and is  
24 codified in Code § 1129(a)(7). The Plan calls for the sale and liquidation of the Debtor’s sole asset and  
25 payment of creditors. The Debtor has already commenced that process by engaging a broker to market

1 its sole asset. The Debtor is not seeking any fee or commission in connection with the sale and  
2 distribution of proceeds. If the Property sells for \$6,000,000, a Chapter 7 trustee would be entitled to  
3 25% of the first \$5,000 (\$1,250); 10% between \$5,000 and \$50,000 (\$4,500); 5% between \$50,000 and  
4 \$1,000,000 (\$47,500) and 3% above \$1,000,000 (\$150,000). That is a total fee of \$203,250 payable to  
5 the Chapter 7 trustee. The trustee would incur the same commissions and expenses of sale and  
6 liquidation. Unlike the Debtor, which has already commenced marketing the Property, some delay  
7 would necessarily be occasioned by the trustee's selection, appointment and familiarity with the case  
8 and the Property. During that time AZBT's Secured Claim will continue to accrue interest and other  
9 fees and costs. The Debtor's Plan also provides that all other creditors holding Allowed Claims will  
10 receive full payment on account of their Allowed Claims. The Plan, therefore, will result in recoveries to  
11 all creditors that are more favorable than those that could be achieved if a Chapter 7 trustee were to  
12 liquidate the Debtor and satisfies the Best Interest of Creditors Test.

13 **E. Feasibility Analysis.** Before a plan can be confirmed, it must be determined to be that  
14 the plan is not likely to be followed by the liquidation, or the need for further reorganization, **unless**  
15 **such liquidation is proposed under the plan.** The Plan calls for a liquidation and therefore satisfies  
16 this requirement.

17 **F. Acceptance of Plan by Impaired Class.** The Debtor believes there are no impaired  
18 Classes in the Plan. Therefore, Code § 1129(a)(10) does not require an affirmative acceptance by any  
19 Class as all are conclusively presumed to have accepted the Plan.

20 **G. Cram Down.** Cram Down only applies where a Class is impaired and does not accept  
21 the Plan. Should any Class of Claim or Interest be determined to be impaired under the Plan, or any  
22 amendment to the Plan, then the Debtor may seek to proceed to Confirmation as described herein.

23 Although Code § 1129(a)(8) requires that the Plan be accepted by each Class that is impaired by  
24 the Plan, Code § 1129(b) provides that the Court may still confirm the Plan at the request of the Debtor  
25 if all requirements of Code § 1129(a) are met and (1) at least one impaired Class has accepted the Plan;

1 (2) the Plan “**does not discriminate unfairly**” and (3) the Plan is “**fair and equitable.**” This provision  
2 commonly is referred to as a “cram down” because the Plan may be imposed against a rejecting Class of  
3 Claims. The Debtor has requested cram-down confirmation of the Plan with respect to any such non-  
4 accepting classes.

5 1. **Unfair Discrimination.** For purposes of cram down, a plan of reorganization “does not  
6 discriminate unfairly” if (a) the legal rights of a non-accepting class are treated in a manner that is  
7 consistent with the treatment of other classes whose legal rights are related to those of the non-accepting  
8 class; and (b) no Class receives payments in excess of that which it is legally entitled to receive on  
9 account of its claims or Equity Interests. The Debtor asserts that the Plan satisfies these requirements.

10 2. **Fair and Equitable Test.** For purposes of cram down, the Code establishes different  
11 “fair and equitable” tests for secured creditors, unsecured creditors, and holders of Equity Interests, as  
12 follows:

13 (a) **Secured Creditors.** With respect to a secured claim, “fair and equitable” means  
14 that a Plan provides for one of the following: (i) the holder of the impaired secured Claim (a) retains its  
15 liens on the subject property whether the property is retained by the Debtor or is transferred to another  
16 entity, and does so to the extent that such claim is secured pursuant to Code § 506, and (b) receives  
17 deferred cash payments totaling at least the allowed amount of such claim, of a value, as of the Effective  
18 Date of the Plan, of at least the value of such holder’s Interest in the estate’s Interest in such property;  
19 (ii) a sale, subject to Code § 363(k), of any property that is subject to the liens securing such claim, free  
20 and clear of such liens, with such liens to attach to the proceeds of such sale; or (iii) the realization by  
21 such holder of the “indubitable equivalent” of such claim. The Debtor believes that the Plan is fair and  
22 equitable with respect to the holders of Secured Claims in its Bankruptcy Case.

23 (b) **Unsecured Creditors.** With respect to an unsecured claim, “fair and equitable”  
24 means that a Plan provides that either (i) each impaired unsecured creditor receives or retains property of  
25 a value, as of the Effective Date, equal to the amount of its allowed claim, or (ii) the holders of claims

1 and Equity Interests that are junior to the claims of the dissenting class will not receive or retain any  
2 property under the Plan. Because the Debtor is a not-for-profit entity, it does not have any Interests that  
3 are junior to the Interests of Unsecured Creditors, and therefore that the Plan is fair and equitable with  
4 respect to Class 5 General Unsecured Claims, which is the only Class of unsecured claims in the Plan.

5 (c) **Equity Interest Holders.** With respect to holders of Equity Interests, “fair and  
6 equitable” means that a Plan provides that either (i) each holder will receive or retain under the Plan  
7 property of a value, as of the Effective Date, equal to the greater of: (a) the fixed liquidation preference  
8 or redemption price, if any, of such Interest, or (b) the value of such Interest; or (ii) the holders of Equity  
9 Interests that are junior to the non-accepting class will not receive any property under the Plan. Because  
10 the Debtor is a Limited Liability Company with one member, it has one Equity Interest holder.

11 *The Turaskys assert that Whisper Capital, LLC is the holder of 100% of the member interests in*  
12 *Debtor.*

## 13 **X. TAX CONSEQUENCES**

14 Pursuant to § 1125(a)(1) of the Bankruptcy Code, the Debtor is to provide a discussion of the  
15 potential material federal tax consequences of the Plan to the Debtor, any successor to the Debtor, and a  
16 hypothetical investor typical of the holders of Claims or Interests in the Bankruptcy Cases, that would  
17 enable such a hypothetical investor of the relevant Class to make an informed judgment about the Plan,  
18 but adequate information need not include such information about any other possible or proposed plan.  
19 In determining whether the Disclosure Statement provides adequate information, the Court shall  
20 consider the complexity of the Bankruptcy Cases, the benefit of additional information to creditors and  
21 other parties-in-interest, and the cost of providing additional information.

22 Substantial uncertainties exist with respect to any tax consequences of the Plan to any particular  
23 holder of a Claim or Interest. No opinion of counsel has been sought or obtained with respect to any tax  
24 consequences of the Plan. To the extent a creditor’s Allowed Claim is not paid in full, that creditor  
25 should consult with its tax advisor concerning the possibility of writing off for tax purposes that portion

1 of its Allowed Claim that is not paid. The Debtor strongly urges each creditor in the Bankruptcy Cases,  
2 when analyzing the Plan, to consult with its own professional advisors to determine whether or not  
3 acceptance of the Plan by the creditor will result in any adverse tax consequences to the creditor.

4 In accordance with IRS Circular 230, holders of Claims or Interests are hereby notified that  
5 (i) any discussion of federal tax issues contained or referred to in this Disclosure Statement is not  
6 intended or written to be used, and cannot be used, by Holders of Claims or Interests for the purpose of  
7 avoiding penalties that may be imposed on them under the Internal Revenue Code, (ii) any tax  
8 discussion contained in this Disclosure Statement is prepared in connection with the promotion of the  
9 transactions or matters discussed herein; and (iii) holders of Claims or Interests should seek advice  
10 based on their particular circumstances from an independent tax adviser.

11 Certain payments by the Debtor may be subject to information reporting to the Internal Revenue  
12 Service. Moreover, such reportable payments are subject to backup withholding under certain  
13 circumstances. Backup withholding is not an additional tax. Amounts withheld under the backup  
14 withholding rules may be credited against a holder's United States federal income tax liability, and a  
15 Holder may obtain a refund of any excess amounts withheld under the backup withholding rules by  
16 filing an appropriate claim for refund with the IRS.

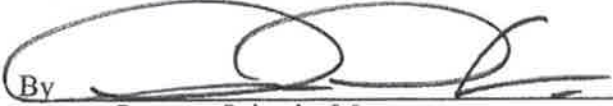
17 **XI. ALTERNATIVES TO THE PLAN, RECOMMENDATION, AND CONCLUSION**

18 If the Plan is not confirmed, then several possible events could occur. The Debtor or another  
19 party might be able to propose an alternative plan, but this possibility is tempered or limited by the fact  
20 that the Debtor's sole asset is a single family residential Property. The Court could grant relief from the  
21 automatic stay to permit secured creditors to foreclose their liens upon the Debtor's assets. Or the Court  
22 also could convert or dismiss the Bankruptcy Case. The Debtor believes that the Plan provides a better  
23 result for Creditors than do any of these possible alternatives. The Debtor has proposed the Plan in a  
24 good faith effort to maximize the recovery for all Creditors, and to use future income from the sale  
25 proceeds to pay Creditors the best return possible on their Allowed Claims. The Debtor urges Creditors

1 and Interested parties to vote to accept the Plan.

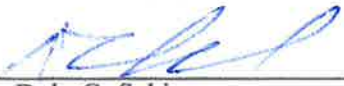
2 DATED this 8 November 2017.

3 PRADO MANAGEMENT L.L.C., a Delaware  
4 limited liability company

5   
6 By \_\_\_\_\_  
German Osio, its Manager

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