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8 Attorneys for Debtor and Debtor-in-Possession

9
10 **UNITED STATES BANKRUPTCY COURT**
11 **CENTRAL DISTRICT OF CALIFORNIA**
12 **RIVERSIDE DIVISION**

13 In re:) Case No.: 6:17-bk-17137-MH
14)
15 RICK’S PATIO, INC., a California) Chapter 11
16 corporation)
17) **NOTICE OF MOTION AND MOTION**
18) **FOR APPROVAL OF DISCLOSURE**
19) **STATEMENT; MEMORANDUM OF**
20) **POINTS AND AUTHORITIES;**
21) **DECLARATION OF RICHARD JOSEPH**
22) **COLOSIMO IN SUPPORT THEREOF**
23)
24) Date: January 30, 2018
25) Time: 2:00 p.m.
26) Courtroom: 303
27) 3420 Twelfth Street, Riverside, CA 92501
28)

29 **TO THE HONORABLE MARK D. HOULE, UNITED STATES BANKRUPTCY**
30 **JUDGE, PARTIES IN INTEREST, AND THE OFFICE OF THE UNITED STATES**
31 **TRUSTEE:**

32 **PLEASE TAKE NOTICE** that on January 30, 2018, at 1:30 p.m., Chapter 11 Debtor and
33 Debtor-In-Possession Rick’s Patio, Inc. (“Debtor”) will and hereby does respectfully move the Court
34 for an order approving its “Disclosure Statement In Support Of Debtor’s Chapter 11 Plan Of
35 Reorganization” (the “Disclosure Statement”) as having adequate information pursuant to 11 U.S.C.
36 § 1125(b). The Debtor believes that this motion should be granted because the Disclosure Statement
37 has been prepared by the Debtor and its professionals to provide adequate information to creditors of
38 the estate so that they can intelligently assess the proposed plan of reorganization and vote with

1 regard to its proposed confirmation.

2 This motion is made pursuant to Local Bankruptcy Rule 3017-1. It is based upon this Notice
3 of Motion and Motion, the Supporting Memorandum of Points and Authorities, the Declaration of
4 Richard Joseph Colosimo, the arguments of counsel, and any and all other evidence presented to the
5 Court at or before the scheduled hearing. Pursuant to Local Rule 3017-1, any party wishing to
6 oppose this motion must do so in writing, and file and serve their opposition on the Debtor's counsel
7 (at the address listed in the upper-left hand corner of the first page of this Notice) by no later than
8 January 16, 2018, fourteen (14) days prior to the date of the scheduled hearing. If you would like to
9 obtain a copy of the complete Motion for Approval of Disclosure Statement, please mail or fax a
10 written request to Rosenstein & Associates at the above listed address.

11 WHEREFORE, the Debtor requests that this motion be granted, and that the Disclosure
12 Statement be approved for distribution to creditors.

13
14 Dated: 12/26/17

Respectfully Submitted,
Rick's Patio, Inc., Debtor-In-Possession

15
16 By: 

17 Robert B. Rosenstein for
18 Rosenstein & Associates,
Attorneys for Rick's Patio, Inc.,
Debtor and Debtor-In-Possession

1
2 **MEMORANDUM OF POINTS AND AUTHORITIES**

3 **IN SUPPORT OF MOTION**

4 Rick's Patio, Inc. ("Debtor") presents the following Statement of Facts and Legal Authorities
5 in support of this motion for approval of its Disclosure Statement.

6 **A. BACKGROUND**

7 Rick's Patio, which does business under the names Rick's Patio Pool & Spa and Spa Max, is
8 a California corporation, engaged in the business of selling new and used hot tubs (spas) and related
9 supplies. It operates its business from a leased location, 1531 Pomona Road in Corona, California
10 92880. Olena Colosimo is the President and sole shareholder of the company. Richard Joseph
11 Colosimo is the Vice President, Secretary and Chief Financial Officer. The Debtor entered into
12 several large financing agreements over time, but the payments required under all of these
13 agreements could not be maintained. In order to adjust these payments and preserve the business, it
14 was necessary to file for relief and reorganize under Chapter 11 of the Bankruptcy Code, and a
15 petition was so filed on August 25, 2017.

16 Operating over the past months as a debtor-in-possession, the Debtor has improved its
17 business and financial structure, and is current on its post-petition obligations. Debtor has, and is,
18 experiencing strong growth in its business revenues. Within the bankruptcy case, counsel
19 (Rosenstein & Associates) and accountants (Shafer & MacRae) were retained, a meeting of creditors
20 held and concluded in accord with 11 U.S.C. § 341(a), and a bar date of November 30, 2017 set for
21 the filing of claims against the estate.

22 The Debtor is now working to advance its reorganization with the assistance of counsel and is
23 making, or has made, all filings required of a Debtor-In-Possession. The remaining major step is to
24 confirm a plan of reorganization to allow the Debtor to emerge from chapter 11, and the approval of
25 the disclosure statement is a critical step in that process. To that end, the Debtor has filed a proposed
26 plan of reorganization, and requires the approval of the accompanying disclosure statement before
27 soliciting votes in favor of its confirmation.

28 **B. THE COURT SHOULD APPROVE THIS MOTION**

Section 1125(b) of the Bankruptcy Code (11 U.S.C. §§ 101 *et seq.*) provides that "[an

1 acceptance or rejection of a plan may not be solicited after the commencement of a case under this
2 title...unless, at the time of or before such solicitation, there is transmitted to such holder the plan or
3 a summary of the plan, and a written disclosure statement approved, after notice and a hearing, by the
4 court as containing adequate information.” Section 1125(a) defines “adequate information” as
5 “information of a kind, and in sufficient detail, as far as is reasonably practicable in light of the
6 nature and history of the debtor and the condition of the debtor’s books and record, that would enable
7 a hypothetical reasonable investor typical of holders of claims or interests of the relevant class to
8 make an informed judgment about the plan...” The legislative history indicates that the definition of
9 “adequate information” is intended to be flexible.

10 “Precisely what constitutes adequate information in any particular instance will
11 develop on a case-by-case basis. Courts will take a practical approach as to what is
12 necessary under the circumstances of each case, such as the cost of preparation of the
13 statements, the need for relative speed in solicitation and confirmation, and, of
14 course, the need for investor protection. There will be a balancing of interests in each
15 case. In reorganization cases, there is frequently great uncertainty. Therefore the
16 need for flexibility is greatest.”

15 H.R. Rep. No. 595, 95th Cong. 1st Sess (1978), U.S. Code Cong. & Admin. News 1978 pp. 5787,
16 6365. “The primary purpose of a disclosure statement is to give the creditors the information they
17 need to decide whether to accept the plan.” In re Diversified Investors Fund XVII, A California
18 Limited Partnership, 91 B.R. 559, 561 (Bankr. C.D. Cal. 1988)(quoting In re Monnier Bros., 755
19 F.2d 1336, 1342 (8th Cir. 1985)).

20 Many courts have followed the list of elements established in the case of In re Metrocraft
21 Publishing Services, Inc., 39 B.R. 567 (Bankr. N.D. Ga. 1984) for determining whether a disclosure
22 statement has adequate information. According to Metrocraft, a statement should cover: 1) the
23 events which led to the filing of the petition; 2) a description of the available assets and their value;
24 3) the anticipated future of the company; 4) the source of information cited in the statement; 5) a
25 disclaimer; 6) the present condition of the debtor in chapter 11; 7) the scheduled claims; 8) the
26 estimated return to creditors in a chapter 7 liquidation; 9) the accounting method utilized and the
27 names of the accountants (as relevant); 10) the future management of the debtor; 11) the chapter 11
28 plan or a summary thereof; 12) the estimated administrative expenses; 13) the collectability of

1 accounts receivable (as relevant); 14) financial information and projections relevant to the creditors'
2 decision to accept or reject the plan; 15) information relevant to the risks posed to creditors under the
3 plan; 16) actual or projected realizable value from the recovery of avoidable transfers (as relevant);
4 17) litigation likely to arise in a non-bankruptcy context; 18) tax attributes of the debtor; and 19) the
5 relationship of the debtor with affiliates. In re Metrocraft Publishing Services, Inc., 39 B.R. at 568.

6 Based on these authorities, the Debtor's Disclosure Statement provides more than enough
7 information to creditors affected by the plan of reorganization. The Disclosure Statement covers
8 what the debtor is, what its business is, how it got into bankruptcy, and how it is going to operate
9 under the Plan and pay its debts in full. Creditors are informed into which class they fall, with their
10 respective voting rights and claim treatment. As such, the Court should approve the Disclosure
11 Statement and authorize its distribution to creditors, and set a hearing for the confirmation of the
12 Chapter 11 Plan.

13
14 Dated: 12/26/17

Respectfully Submitted,
Rick's Patio, Inc., Debtor-In-Possession

15
16 By: 

Robert B. Rosenstein for
Rosenstein & Associates,
Attorneys for Rick's Patio, Inc.,
Debtor and Debtor-In-Possession

DECLARATION OF RICHARD JOSEPH COLOSIMO

IN SUPPORT OF MOTION

I, Richard Joseph Colosimo, declare as follows:

1. The facts set forth in this Declaration are personally known to me, and if called upon, I could and would competently testify to the truthfulness of the same.

2. I am the Vice President, Secretary and Chief Financial Officer of Rick's Patio, Inc., a California corporation and the chapter 11 debtor in this case ("Debtor"). I make this declaration based upon my personal knowledge, and if called upon to testify, could and would competently testify truthfully thereto.

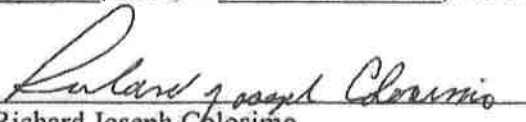
3. I have been one of the senior managers of the Debtor since its inception, and am very familiar with its history, operations and future performance.

4. The Debtor is in the business of selling new and used hot tubs (spas) and related supplies. It entered into several large financing agreements, but the required payments under those agreements could not be sustained. In order to adjust the payments, it was necessary for the Debtor to seek relief under Chapter 11 of the Bankruptcy Code. It filed a chapter 11 bankruptcy petition with this Court on August 25, 2017 (the "Petition Date").

5. Along with counsel, I have prepared the proposed Disclosure Statement submitted to the Court to provide adequate information to creditors regarding the proposed Chapter 11 Plan of Reorganization. I believe that it does in fact provide adequate information for that purpose, and request that it be approved by the Court.

I declare under penalty of perjury, under the laws of the State of California and the United States of America that the foregoing is true and correct to the best of my knowledge, information, and belief.

Executed this 22 day of December, 2017, at Corona, California.


Richard Joseph Colosimo

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7 E-mail: robert@thetemeculalawfirm.com

8 Attorneys for: Debtor and Debtor-in-Possession

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**UNITED STATES BANKRUPTCY COURT
CENTRAL DISTRICT OF CALIFORNIA
RIVERSIDE DIVISION**

11 In re:
12 RICK'S PATIO, INC.,
13
14 Debtor-in-Possession

Case No.: 6:17-bk-17137-MH

Chapter 11

**[PROPOSED] DISCLOSURE STATEMENT
IN SUPPORT OF DEBTOR'S CHAPTER 11
PLAN OF REORGANIZATION**

Date: January 30, 2018

Time: 2:00 p.m.

Courtroom: 303

3420 Twelfth Street, Riverside, CA 92501

I. INTRODUCTION

Rick's Patio, Inc. is the debtor (the "Debtor" or "Proponent" or "Rick's Patio") in a Chapter 11 bankruptcy case. On August 25, 2017, it commenced its bankruptcy case by filing a voluntary chapter 11 petition under the United States Bankruptcy Code ("Code"), 11 U.S.C. §§ 101 *et seq.* Chapter 11 allows debtors, and under some circumstances, creditors and others parties in interest, to propose a plan of reorganization (a "Plan"). The Plan may provide for the debtor to reorganize by continuing to operate, to liquidate by selling assets of the estate(s), or a combination of both. The Debtor is the party proposing the Plan sent to you in the same envelope as this document. THE

1 DOCUMENT YOU ARE READING IS THE DISCLOSURE STATEMENT FOR THE
2 ENCLOSED PLAN.

3 This is a reorganizing plan. In other words, Rick's Patio seeks to accomplish payments
4 under the Plan by making payments to its creditors over time with interest, and thus pay them in full
5 on account of their allowed claims. Provided that the Court enters an order confirming the Plan
6 (the "Confirmation Order"), the Effective Date of the proposed Plan will be ninety (90) days after
7 the entry of the Confirmation Order, unless the Debtor files a notice prior to that declaring that the
8 Effective Date has arrived.

9 **A. Purpose of This Document**

10 This Disclosure Statement summarizes what is in the Plan, and tells you certain information
11 relating to the Plan and the process the Court follows in determining whether or not to confirm the
12 Plan.

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

- 15 (1) WHO CAN VOTE OR OBJECT,
16 (2) WHAT THE TREATMENT OF YOUR CLAIM IS (*i.e.*, what your claim will
17 receive if the Plan is confirmed), AND HOW THIS TREATMENT COMPARES TO WHAT
18 YOUR CLAIM WOULD RECEIVE IN LIQUIDATION,
19 (3) THE HISTORY OF THE DEBTOR AND SIGNIFICANT EVENTS DURING
20 THE BANKRUPTCY,
21 (4) WHAT THINGS THE COURT WILL LOOK AT TO DECIDE WHETHER
22 OR NOT TO CONFIRM THE PLAN,
23 (5) WHAT IS THE EFFECT OF CONFIRMATION, AND
24 (6) WHETHER THIS PLAN IS FEASIBLE.

25 This Disclosure Statement cannot tell you everything about your rights. You should
26 consider consulting your own lawyer to obtain more specific advice on how this Plan will affect
27 you and what is the best course of action for you.
28

1 Be sure to read the Plan as well as the Disclosure Statement. If there are any inconsistencies
2 between the Plan and the Disclosure Statement, the Plan provisions will govern.

3 The Code requires a Disclosure Statement to contain “adequate information” concerning the
4 Plan. The Bankruptcy Court (“Court”) has approved this document as an adequate Disclosure
5 Statement, containing enough information to enable parties affected by the Plan to make an
6 informed judgment about the Plan. Any party can now solicit votes for or against the Plan.

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

8 THE COURT HAS NOT YET CONFIRMED THE PLAN DESCRIBED IN THIS
9 DISCLOSURE STATEMENT IN OTHER WORDS, THE TERMS OF THE PLAN ARE NOT
10 YET BINDING ON ANYONE. HOWEVER, IF THE COURT LATER CONFIRMS THE PLAN,
11 THEN THE PLAN WILL BE BINDING ON THE DEBTORS AND ON ALL CREDITORS AND
12 INTEREST HOLDERS IN THIS CASE.

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

14 The hearing where the Court will determine whether or not to confirm the Plan will take
15 place on _____ at _____, in Courtroom 303, in the
16 Federal Courthouse located at 3420 Twelfth Street in Riverside, California.

17 **2. Deadline For Voting For or Against the Plan**

18 If you are entitled to vote, it is in your best interest to timely vote on the enclosed ballot and
19 return the ballot in the enclosed envelope to Robert B. Rosenstein at Rosenstein & Associates,
20 28600 Mercedes Street, Suite 100, Temecula, California 92590. Your ballot must be received by
21 _____ or it will not be counted.

22 **3. Deadline For Objecting to the Confirmation of the Plan**

23 Objections to the confirmation of the Plan must be filed with the Court and served upon
24 Robert B. Rosenstein (counsel for the Debtor) by no later than _____.

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

1 Any interested party desiring further information about the Plan should contact Robert B.
2 Rosenstein via the information listed in the upper left-hand corner of the first page of this
3 document.

4 **C. Disclaimer**

5 The financial data relied upon in formulating the Plan is provided by the Debtor, and is
6 based on the Debtor's own records and inquiries, as well as information provided by creditors with
7 regard to their own claims and relevant collateral and assets. The Debtor represents that everything
8 stated in the Disclosure Statement is true to its best knowledge. The Court has not yet determined
9 whether or not the Plan is confirmable and makes no recommendation as to whether or not you
10 should support or oppose the Plan.

11 **II. FACTUAL BACKGROUND**

12 **A. Pre-Bankruptcy Events**

13 Rick's Patio, which does business under the names Rick's Patio Pool & Spa and Spa Max,
14 is a California corporation, engaged in the business of selling new and used hot tubs (spas) and
15 related supplies. It operates its business from a leased location at 1531 Pomona Road in Corona,
16 California 92880. Olena Colosimo is the President and sole shareholder of the company. Richard
17 Joseph Colosimo is the Vice President, Secretary and Chief Financial Officer. The Debtor entered
18 into several large financing agreements over time, but the payments required under all of these
19 agreements could not be maintained. In order to adjust these payments and preserve the business, it
20 was necessary to file for relief and reorganize under Chapter 11 of the Bankruptcy Code, and a
21 petition was so filed on August 25, 2017.

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

23 **1. Bankruptcy Proceedings**

24 Operating over the past months as a debtor-in-possession, the Debtor has improved its
25 business and financial structure, and is current on its post-petition obligations. Debtor has, and is,
26 experiencing strong growth in its business revenues. Within the bankruptcy case, counsel
27 (Rosenstein & Associates) and accountants (Shafer & MacRae) were retained, a meeting of
28

1 creditors held and concluded in accord with 11 U.S.C. § 341(a), and a bar date of November 30,
2 2017 set for the filing of claims against the estate.

3 The Debtor now wishes to reorganize the balance of its affairs pursuant to the terms of this
4 Plan. Administrative and non-tax priority claims will be paid in full, either by the Effective Date or
5 on terms agreed upon with each such individual creditor. Priority tax claims (if any) will be paid in
6 full by August 25, 2022, the fifth anniversary of the Petition Date (August 25, 2017, when this case
7 was commenced), or by a date earlier than that. The claims of pre-petition senior secured creditors
8 (Wells Fargo and First Home Bank) will be paid in full over time in accord with terms negotiated
9 with each such creditor. All other creditor claims, including those of junior pre-petition secured
10 claims which now do not have any equity value in the Debtor's assets to secure them, will be paid
11 in full, with interest, over a six-year period following the Effective Date. No creditor claims (as
12 opposed to equity interests) are believed to be held by any insiders of the Debtor's estate.

13 **III. SUMMARY OF THE PLAN OF REORGANIZATION**

14 As required by the Bankruptcy Code, the Plan classifies claims and interests in various
15 classes according to their right to priority. The Plan states whether each class of claims or interests
16 is impaired or unimpaired under the Plan, the treatment that each class will receive and whether
17 such class is entitled to vote on the Plan.

18 **A. Claims**

19 Under the Bankruptcy Code, administrative and priority claims are not placed into separate
20 classes; instead they are unclassified. They are not considered impaired and they do not vote on the
21 Plan because they are automatically entitled to specific treatment provided for them in the
22 Bankruptcy Code. As such, the Proponent has not placed the following claims in a class.

23 **1. Administrative Claims**

24 These include the "actual, necessary costs and expenses of preserving the estate" as
25 determined by the Court after notice to creditors of a request for payment and after a hearing
26 thereon, and any other claims allowed under 11 U.S.C. § 503(b) and entitled to priority under 11
27 U.S.C. § 507(a)(2).
28

1 The Bankruptcy Code requires that allowed administrative expenses be paid on the
2 Effective Date unless the party holding the administrative expense agrees otherwise. No claimant
3 has agreed otherwise, except as specified herein. As of this date, the Debtor's estate is subject to
4 fees for the current quarter due to the Office of the United States Trustee, and any sums ultimately
5 due to professionals retained by the Debtor with the permission of the Court in excess of any
6 retainers paid to such professionals; such sums are estimated to approximate \$30,000 which will be
7 due to the firm of Rosenstein & Associates (for legal services) and \$5,000 which will be due to the
8 firm of Shafer & MacRae (for accounting services).

9 After the entry of the confirmation order, all approved professionals will apply to the Court
10 for final approval of their respective fees, pursuant to 11 U.S.C. § 330. The Debtor shall pay all
11 Administrative Claims (excluding ordinary operating expenses which shall be paid in the ordinary
12 course of business) against the Debtor's estate on the later of: (i) the Effective Date; or (ii) the date
13 each Administrative Claim becomes due and payable, unless the creditor holding such claim agrees
14 to alternative treatment.

15 **2. Priority Claims**

16 These are claims which are entitled to priority for payment under 11 U.S.C. § 507(a). The
17 Bankruptcy Code requires that all such claims be satisfied in cash on the Effective Date (unless the
18 holders accept alternate treatment), with the exception of tax claims specified under 11 U.S.C. §
19 507(a)(8), which must receive cash payments in regular installments, equal in value to the allowed
20 amount of the claim on the Effective Date (plus ongoing interest in accord with 11 U.S.C. § 511),
21 ending no later than five years after the debtor/taxpayer's bankruptcy petition date.

22 The Debtor does not believe that it is liable for or subject to any non-tax priority claims.
23 The Debtor is subject to an audit by the California State Board of Equalization, but disputes that it
24 has any net liability for taxes owed. To the extent that any such claim is made and sustained, the
25 claim will be paid in full, with required interest, by August 25, 2022. Installment payments will be
26 made monthly after the Effective Date (subject to the procedures set forth in this Plan for the
27 treatment of disputed claims) in equal amounts sufficient to fully satisfy the allowed priority tax
28

1 claim by the August 25, 2022 deadline, and the Debtor will have the right to pre-pay any such
2 monthly payments, in whole or in part.

3 **3. Classified Claims**

4 The Plan also provides for the following seven classes of claims and interests.

5 **Class 1 – Wells Fargo Commercial Distribution Finance, LLC**

6 Class 1 consists of the allowed claim of Wells Fargo Commercial Distribution Finance,
7 LLC (“Wells Fargo”), which is in the amount (as of the Petition Date) of \$773,050.60; this amount
8 may vary due to post-petition purchases and sales of inventory and adequate protection payments to
9 Wells Fargo for the use of its cash collateral. This claim will be satisfied in full through payments
10 made in accord with the Inventory Financing Agreement between Wells Fargo and the Debtor, as
11 sales are made from the Debtor’s inventory subject to Wells Fargo’s senior security interest. Wells
12 Fargo will retain its senior security interest (including any post-petition replacement liens) in the
13 Debtor’s assets until its claim is paid in full.
14

15 Class 1 is unimpaired, and is conclusively deemed to have accepted the Plan.

16 **Class 2 – First Home Bank**

17 Class 2 consists of the allowed claim of First Home Bank, which is in the amount (as of
18 August 31, 2017) of \$257,858.19, and may have been modified thereafter by adequate protection
19 payments made to First Home Bank for the use of its cash collateral. This claim will be satisfied in
20 full through continued payments in accord with the August 28, 2015 promissory note from the
21 Debtor to First Home Bank which underlies the Class 2 claim.
22

23 First Home Bank will retain its security interest in the Debtor’s assets (including any post-
24 petition replacement liens), subject only to the senior lien of Wells Fargo, until its claim is paid in
25 full.
26

27 Class 2 is unimpaired, and is conclusively deemed to have accepted the Plan.
28

1 **Class 3 – General Unsecured Claims**

2 Class 3 consists of all general unsecured claims against the Debtor not otherwise classified.
3 This includes the claims of creditors such as Fast Advanced Funding, LLC; Complete Business
4 Solutions Group, Inc.; Broadway Advance, LLC; Par Funding; Yellowstone Capital West LLC; and
5 Cap Call LLC, without limitation, that had pre-petition security interests against the Debtor’s assets
6 junior to the positions of Wells Fargo and First Home Bank. As the value of the Debtor’s assets is
7 only sufficient to secure the senior positions of Wells Fargo and First Home Bank, no other
8 creditors will retain any security interests in the Debtor’s assets and all Class 3 creditors will be
9 unsecured as of the Effective Date. Similarly, any stipulations for treatment between the Debtor
10 and any such creditors are superseded in favor of the terms of this Plan.
11

12 All claims within this class will be satisfied in full, with interest at the federal judgment rate
13 set per 28 U.S.C. § 1961 on each unpaid balance starting from the Effective Date, within seventy
14 two (72) months of the Effective Date. See In re Cardelucci, 285 F.3d 1231 (9th Cir. 2002).

15 Class 3 is impaired and is entitled to vote on the Plan.

16 **Class 4 – Equity Interests**

17 Class 4 consists of the equity interests in the Debtor, which will be left unaffected by this
18 Plan. Class 4 interests are not impaired, and it is conclusively deemed to have accepted the Plan.
19

20 **4. Treatment of Disputed Claims**

21 All claims listed herein are undisputed and will remain so unless an objection to claim is
22 timely made prior to the Effective Date, or where the Plan specifies that the allowance of such
23 claim will be determined through pending litigation. Any claim which is the subject of an objection
24 to claim, or which is the subject of pending litigation in another forum, will be “disputed” until such
25 objection and/or litigation is resolved. After the Effective Date, when payment on account of a
26 disputed claim would come due under the Plan, the Debtor will deposit into a segregated account
27 (the “Reserve Account”) an amount of cash equal to the distribution which would otherwise then be
28 due on account of that claim. The cash in the Reserve Account, along with all interest thereon, will

1 be held in trust for the benefit of creditors, to satisfy disputed claims once allowed. The Debtor will
2 have the power and authority to settle and compromise a disputed claim with court approval and
3 compliance with Fed. R. Bankr. P. 9019, unless the amount allowed by the compromise does not
4 exceed \$5,000, in which case no court approval is necessary.

5 When a disputed claim becomes allowed, the Debtor will distribute to the holder thereof an
6 amount equal to the payments which would have been made on account of said claim prior to that
7 date absent its disputed status, plus accrued interest thereon. If a surplus arises from the fact that
8 not all claims are allowed, then that money shall be available to guarantee payment of other claims.
9 No claimant or interest holder is an affiliate of the Debtor, other than as stated herein.

10 **B. Means of Effectuating the Plan**

11 The funds for implementation of the Plan shall come from the funds held by the estate as of
12 the entry of the Confirmation Order and the ongoing operating profits of the Debtor's business
13 operations.
14

15 **C. Post-Confirmation Management**

16 The Debtor will manage its own affairs under this Plan, through its president, Olena
17 Colosimo, and its Vice President, Richard Joseph Colosimo. They will not receive any
18 compensation for such services called for under this Plan, other than compensation normally due to
19 them for non-bankruptcy duties.¹

20 All causes of action (and related legal, equitable and contractual rights and benefits) possessed
21 by the estate, whether the subject of pending litigation or not, including avoidance actions created
22 pursuant to bankruptcy law, are re-vested in the Debtor upon confirmation, and may be prosecuted
23 and/or settled by it at the Debtor's discretion.
24

25 ///

26 ///

27
28 ¹ Olena Colosimo has a monthly salary of \$3,000 with a \$400 car allowance, and Richard Joseph Colosimo has a
monthly salary of \$6,000 with a \$500 car allowance.

1
2 **IV. POST-CONFIRMATION JURISDICTION**

3
4 The Bankruptcy Court shall retain jurisdiction for all matters relating to the Plan, the Debtor
5 and the assets administered under this Plan to the maximum extent permitted by the Bankruptcy
6 Code and Title 28 of the United States Code.

7 **V. RISK FACTORS**

8
9 The proposed Plan has the following risks: If the Debtor's business stopped being
10 profitable in the future, it would have increased difficulties in satisfying creditor claims, except to
11 the extent that such claims are and would be secured by adequate collateral. All claimants who
12 have consented to specific treatment incorporated into this Plan have been advised of this risk prior
13 to their agreement. If the Debtor were not able to service the Wells Fargo or First Home Bank
14 claims going forward, Wells Fargo or First Home Bank might well have the right and ability to
15 foreclose on many or all of the Debtor's assets under non-bankruptcy law and thus cripple or
16 terminate the Debtor's business. This risk, however, already exists, and should decrease over time
17 as the Plan provides for the satisfaction of these claims and others.

18 **VI. TAX CONSEQUENCES OF PLAN**

19
20 CREDITORS CONCERNED WITH HOW THE PLAN MAY AFFECT THEIR TAX
21 LIABILITY SHOULD CONSULT WITH THEIR OWN ACCOUNTANTS, ATTORNEYS,
22 AND/OR ADVISORS. The Debtor believes that it such sufficient net operating losses and other
23 tax attributes that it will not have to pay income taxes for several years.

24 **VII. CONFIRMATION REQUIREMENTS AND PROCEDURES**

25
26 PERSONS OR ENTITIES CONCERNED WITH CONFIRMATION OF THIS PLAN
27 SHOULD CONSULT WITH THEIR OWN ATTORNEYS BECAUSE THE LAW ON
28 CONFIRMING A PLAN OF REORGANIZATION IS VERY COMPLEX. The following
discussion is intended solely for the purpose of alerting readers about basic confirmation issues,

1 which they may wish to consider, as well as certain deadlines for filing claims. The Debtor
2 CANNOT and DOES NOT represent that the discussion contained below is a complete summary of
3 the law on this topic.

4 Many requirements must be met before the Court can confirm a Plan. Some of the
5 requirements include that the Plan must be proposed in good faith, acceptance of the Plan by a
6 sufficient number of creditors, whether the Plan pays creditors at least as much as creditors would
7 receive in a Chapter 7 liquidation, and whether the Plan is feasible. These requirements are not the
8 only requirements for confirmation.

9 **A. Who May Vote or Object**

10 **1. Who May Object to Confirmation of the Plan**

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

13 **2. Who May Vote to Accept/Reject the Plan**

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

17 **a. What Is an Allowed Claim/Interest**

18 As noted above, a creditor or interest holder must first have an allowed claim or interest to
19 have the right to vote. Generally, any proof of claim or interest will be allowed, unless a party in
20 interest brings a motion objecting to the claim. When an objection to a claim or interest is filed, the
21 creditor or interest holder holding the claim or interest cannot vote unless the Court, after notice and
22 hearing, either overrules the objection or allows the claim or interest for voting purposes.
23

24 **THE BAR DATE FOR FILING A PROOF OF CLAIM IN THE DEBTOR'S CASE IS**
25 **NOVEMBER 30, 2017.**

1 **b. What Is an Impaired Claim/Interest**

2 Any party in interest may object to the confirmation of the Plan, but only the holder of an
3 allowed claim or interest has the right to vote if it is in a class that is impaired under the Plan. A
4 class is impaired if the Plan alters the legal, equitable, or contractual rights of the members of that
5 class.

6 In this case, the Debtor believes that class 3 is impaired, and therefore members of that class
7 are entitled to vote to accept or reject the Plan. Parties who dispute the characterization of their
8 claim or interest as being impaired or unimpaired may file an objection to the Plan contending that
9 the Plan has incorrectly characterized the class.

10 **3. Who is Not Entitled to Vote**

11 The following four types of claims are not entitled to vote: (1) claims that have been
12 disallowed; (2) disputed claims, unless an order has been entered allowing such disputed claim to
13 vote; (3) claims in unimpaired classes; (4) claims entitled to priority pursuant to §507 of the
14 Bankruptcy Code; and (5) claims in classes that do not receive or retain any value under the Plan.
15 Claims in unimpaired classes are not entitled to vote because such classes are deemed to have
16 accepted the Plan. Claims in classes that do not receive or retain any value under the Plan do not
17 vote because such classes are deemed to have rejected the Plan. **EVEN IF YOUR CLAIM IS OF**
18 **THE TYPE DESCRIBED ABOVE, YOU MAY STILL HAVE A RIGHT TO OBJECT TO THE**
19 **CONFIRMATION OF THE PLAN.**

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

21 A creditor whose claim has been allowed in part as a secured claim and in part as an
22 unsecured claim is entitled to accept or reject a Plan in both capacities by casting one ballot for the
23 secured part of the claim and another ballot for the unsecured claim, unless such creditor elects to
24 have its entire claim treated as secured under § 1111(b) of the Bankruptcy Code.

25 **5. Votes Necessary to Confirm the Plan**

26 If impaired classes exist, the Court cannot confirm the Plan unless (1) at least one impaired
27 class has accepted the Plan without counting the votes of any insiders within that class, and (2) all
28

1 | impaired classes have voted to accept the Plan, unless the Plan is eligible to be confirmed by
2 | “cramdown” on non-accepting classes, as discussed later.

3 | **6. Votes Necessary for a Class to Accept the Plan**

4 | A class of claims is considered to have accepted the Plan when more than one-half (1/2) in
5 | number and at least two-thirds (2/3) in dollar amount of the claims which actually voted, voted in
6 | favor of the Plan. A class of interests is considered to have accepted the Plan when at least two-
7 | thirds (2/3) in amount of the interest-holders of such class which actually voted, voted to accept the
8 | Plan.

9 | **7. Treatment of Nonaccepting Classes**

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

18 | **8. Request for Confirmation Despite Non-Acceptance By Impaired Class(es)**

19 | The Proponent will ask the Court to confirm this Plan by cramdown on impaired class 3,
20 | pursuant to and in accord with Section 1129(b)(2)(B) of the Code, if any of these classes do not
21 | vote to accept the Plan.
22 |

23 | **B. Liquidation Analysis**

24 | Another confirmation requirement is the “Best Interest Test,” which requires a liquidation
25 | analysis. Under the Best Interest Test, if a claimant or interest holder is in an impaired class and
26 | that claimant or interest holder does not vote to accept the Plan, then that claimant or interest holder
27 | must receive or retain under the Plan property of a value not less than the amount that such holder
28 | would receive or retain if the debtor(s) were liquidated under Chapter 7 of the Bankruptcy Code.

In a Chapter 7 case, a debtor's assets are usually sold by a Chapter 7 trustee. Secured creditors are paid first from the sales proceeds of properties on which the secured creditor has a lien; administrative claims are paid next. Next, unsecured creditors are paid from any remaining sales proceeds, according to their rights to priority. Unsecured creditors with the same priority share in proportion to the amount of their allowed claim in relationship to the amount of total allowed unsecured claims. Finally, interest holders receive the balance that remains after all creditors are paid, if any.

For the Court to be able to confirm this Plan, the Court must find that all creditors and interest holders who do not accept the Plan will receive at least as much under the Plan as such holders would receive under a Chapter 7 liquidation. The Debtor maintains that this requirement is met here. Set forth in the chart below is an illustration of how much each class of claims would receive in a Chapter 7 liquidation of the Property and how much they will receive under the Plan. According to the Debtor's schedules of assets, the liquidation value of those assets is \$1,013,780.60, and the Debtor will have accrued approximately \$50,000 in additional cash due to its operations as a debtor-in-possession, for a total of approximately \$1,063,780.60.

Liquidation Analysis

| Type Of Claim | Aggregate Amount Of Claims | Percentage Distribution On Claim In Event Of Chapter 7 Liquidation | Percentage Distribution On Claim Under Plan |
|-----------------------|---|--|---|
| Administrative Claims | \$35,000 (estimated through confirmation) | 57.14% ² | 100% |
| Priority Claims | \$88,850 | 0% ³ | 100% |
| Class 1 | \$773,050.60 | 100% | 100% |
| Class 2 | \$257,858.19 | 92.24% ⁴ | 100% |
| Class 3 | \$1,590,337.12 | | 100% |
| Class 4 | Equity Interests | 100% (valueless) | 100% |

² Based on a \$20,000 carve-out for professional fees in the First Home Bank cash collateral stipulation.

³ Because all assets would be collateral for secured creditors.

⁴ Because of the \$20,000 carveout for professional fees.

1 The claims totals for Classes 1 and 2 may be slightly smaller as of the Effective Date due to
2 adequate protection payments during the term of the case, but this will not greatly affect the
3 calculation presented above.

4
5 In summary, in a putative chapter 7 liquidation, and presuming that the Debtor's assets
6 would retain their value, priority and unsecured creditors would receive nothing on account of their
7 claims. Under the Plan, however, these claims will be paid in full. The Plan thus satisfies the "best
8 interests" test for all classes of creditors.

9 **C. Feasibility**

10 Another requirement for confirmation involves the feasibility of the Plan, which means that
11 confirmation of the Plan is not likely to be followed by the liquidation, or the need for further
12 financial reorganization, of the Debtor or any successor to the Debtor under the Plan, unless such
13 liquidation or reorganization is proposed in the Plan.

14 There are at least two important aspects of a feasibility analysis. The first aspect considers
15 whether the Debtor will have enough cash on hand on the Effective Date to pay all the claims and
16 expenses which are entitled to be paid on such date. Second, a feasibility analysis considers
17 whether the Debtor will have enough cash over the life of the Plan to make the required payments.

18 Attached hereto is the Declaration of Rick Colosimo, with appended financial reports
19 showing the past history and projected future course of the Debtor's business operations. This
20 evidence illustrates that the Debtor operates a profitable business, and there are no known business
21 reasons why this should change in the future. Further, the Debtor will have sufficient cash on hand
22 as of the Effective Date to satisfy the allowed claims due at that time. While any business is subject
23 to unknown risks, these do not rise to the level of challenging the Plan's feasibility.

24 **VIII. EFFECT OF CONFIRMATION OF PLAN**

25 **A. Discharge**

26 Under the Plan, the Debtor shall be discharged of liability for payment of debts incurred
27 before confirmation of the Plan, to the greatest extent possible as specified in 11 U.S.C. § 1141,
28

1 unless such liabilities are specified for treatment under the Plan, and then only to the extent of the
2 treatment hereunder. Discharge will be entered with regard to each claim upon the substantial
3 consummation of the Plan.

4 To the extent that the Debtor does not currently have *in personam* liability for a claim, the
5 Plan does not create any such liability.

6 **B. Modification of the Plan**

7 The Debtor may modify the Plan at any time prior to confirmation. The Debtor may modify
8 the Plan at any time after confirmation and before substantial consummation, but only if
9 circumstances warrant and after notice and a hearing. Once the Plan has been substantially
10 consummated, the Debtor may move the Court for entry of a final decree pursuant to 11 U.S.C. §
11 350 and Fed. R. Bankr. P. 3022, the effect of which would be to close this bankruptcy case. After
12 such closure, a party seeking any type of relief relating to a Plan provision may seek such relief in
13 any court of competent jurisdiction.

14 **C. Post-Confirmation Status Report**

15 The confirmation of the Plan vests all property of the Debtor's estate in the Debtor unless
16 otherwise distributed. Within one hundred and twenty (120) days after the entry of the
17 confirmation order, the Debtor will file a status report explaining what progress has been made
18 towards consummation of the Plan. The report will be served on the United States Trustee, as well
19 as all creditors of the Debtor's estate whose allowed claims have not been satisfied as provided for
20 herein, and any party requesting special notice. Further reports will be filed every 120 days
21 thereafter and served on the same categories of extant parties, unless otherwise ordered by the
22 Court. These reports will include information on the claims satisfied under the Plan and those
23 remaining to be satisfied, a schedule of any and all post-confirmation tax liabilities that have
24 accrued or come due and a detailed explanation of payments thereon, the Debtor's projections as to
25 its continuing ability to comply with the terms of the Plan, and an estimate of the dates for plan
26 consummation and an application for final decree.

27
28 ///

1 **D. Quarterly Fees**

2 Quarterly fees accruing under 28 U.S.C. § 1930(a)(6) to date of confirmation shall be paid
3 to the UST on or before the effective date of the Plan. Quarterly fees accruing under 28 U.S.C. §
4 1930(a)(6) after confirmation shall be paid to the UST in accordance with 28 U.S.C. § 1930(a)(6)
5 until entry of a final decree, or entry of an order of dismissal or conversion to chapter 7.

6 **E. Post-Confirmation Conversion/Dismissal**

7 A creditor or party in interest may bring a motion to convert or dismiss the case under 11
8 U.S.C. § 1112(b), after the Plan is confirmed, if there is a default in performing the Plan. If the
9 Court orders the case converted to Chapter 7 after the Plan is confirmed, then all property that had
10 been property of the Chapter 11 estate, and that has not been disbursed pursuant to the Plan, will
11 revert in the Chapter 7 estate.

12 The order confirming the Plan may also be revoked under very limited circumstances. The
13 Court may revoke the order if the order of confirmation was procured by fraud and if the party in
14 interest brings an adversary proceeding to revoke confirmation within 180 days after the entry of
15 the order of confirmation.

16
17
18 Date: _____

ROSENSTEIN & ASSOCIATES

19
20 By: _____
21 Robert B. Rosenstein, for
22 Rosenstein & Associates
23 Attorneys for Debtor and Debtor-in-Possession
24 Rick's Patio, Inc.
25
26
27
28

DECLARATION OF RICHARD JOSEPH COLOSIMO

I, Richard Joseph Colosimo, declare as follows:

1. I am the Vice-President, Secretary and Chief Financial Officer of Rick's Patio, Inc., a California corporation and the chapter 11 debtor in this case ("Debtor"). I make this declaration based upon my personal knowledge, and if called upon to testify, could and would competently testify truthfully thereto.

2. I have been one of the senior managers of the Debtor since its inception, and am very familiar with its history, operations and future performance.

3. The Debtor's business has been reorganized, after the filing of its chapter 11 petition, to operate on a more profitable basis. With the aid of the reorganization steps taken to date in this chapter 11 case and those in the proposed plan of reorganization, I intend to see that success continue and grow in the future, without the problems that led to the filing of the bankruptcy petition.

4. Other than as clarified in this Disclosure Statement, and presuming that the proposed chapter 11 plan is confirmed, I am not aware of any major financial or other business conditions that would threaten the continued profitability of the business.

5. Attached hereto as Exhibit "1" is a projection of the financial performance of the Debtor, over this calendar year and beyond, showing that we will be able to make the payments required to all of our creditors. This projection was prepared by the Debtor. It is predicated on a detailed exposition of the Debtor's administrative costs of all types, the service of pre-petition secured claims as agreed to under the Plan of Reorganization, and the resulting net income that will then be available to service the other obligations under the proposed Plan.

6. The Debtor has accrued considerable Net Operating Losses from past years, and even upon meeting the cash flow projection goals set out in Exhibit "1" will not have to likely pay income taxes (as an additional drain on its cash reserves) for several years. This will allow the Debtor to complete the Plan, satisfy the allowed claims of its creditors in full, and then operate profitably in the future.

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I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on _____, 2017, at Temecula, California.

Richard Joseph Colosimo

EXHIBIT “1”

EXHIBIT “1”

For Period Ending March 1

| | 11/25-12/3 | 12/4-12/11 | 12/12-12/19 | 12/20-12/27 | 12/28-1/4 | 1/5-1/12 | 1/13-1/20 | 1/21-1/28 | 1/29-2/5 | 2/6-2/13 | 2/14-2/21 | 2/22-3/1 |
|---|---------------|---------------|---------------|---------------|---------------|---------------|---------------|---------------|---------------|---------------|---------------|---------------|
| Beginning Cash | \$ 85,000.00 | \$ 66,860.00 | \$ 93,808.50 | \$ 109,464.25 | \$ 108,298.50 | \$ 90,896.75 | \$ 121,944.50 | \$ 123,880.75 | \$ 98,279.75 | \$ 73,147.75 | \$ 119,367.50 | \$ 149,540.25 |
| Spa Sales | \$ 43,000.00 | \$ 49,000.00 | \$ 42,900.00 | \$ 48,300.00 | \$ 45,100.00 | \$ 51,700.00 | \$ 33,100.00 | \$ 19,600.00 | \$ 34,000.00 | \$ 72,500.00 | \$ 61,700.00 | \$ 37,400.00 |
| Sales Tax Collected on Spa Sales | \$ 3,332.00 | \$ 3,797.50 | \$ 3,324.75 | \$ 3,743.25 | \$ 3,495.25 | \$ 4,006.75 | \$ 2,565.25 | \$ 1,519.00 | \$ 2,635.00 | \$ 5,618.75 | \$ 4,781.75 | \$ 2,898.50 |
| Delivery | \$ 5,590.00 | \$ 6,370.00 | \$ 5,577.00 | \$ 6,279.00 | \$ 5,863.00 | \$ 6,721.00 | \$ 4,303.00 | \$ 2,548.00 | \$ 4,420.00 | \$ 9,425.00 | \$ 8,021.00 | \$ 4,862.00 |
| Service Sales | \$ 1,500.00 | \$ 1,000.00 | \$ 800.00 | \$ 600.00 | \$ 600.00 | \$ 1,000.00 | \$ 1,200.00 | \$ 1,500.00 | \$ 1,500.00 | \$ 1,500.00 | \$ 1,200.00 | \$ 1,500.00 |
| Total Income | \$ 53,422.00 | \$ 60,167.50 | \$ 52,601.75 | \$ 58,322.25 | \$ 55,058.25 | \$ 63,427.75 | \$ 41,168.25 | \$ 25,167.00 | \$ 42,555.00 | \$ 89,043.75 | \$ 75,702.75 | \$ 46,660.50 |
| Total Available Funds | \$ 138,422.00 | \$ 127,027.50 | \$ 146,410.25 | \$ 167,786.50 | \$ 163,356.75 | \$ 154,324.50 | \$ 163,112.75 | \$ 149,047.75 | \$ 140,834.75 | \$ 162,191.50 | \$ 195,070.25 | \$ 196,200.75 |
| Payments to Wells on Flooring Inventory | \$ 12,900.00 | \$ 14,700.00 | \$ 12,870.00 | \$ 14,490.00 | \$ 13,530.00 | \$ 15,510.00 | \$ 9,830.00 | \$ 5,880.00 | \$ 10,200.00 | \$ 21,750.00 | \$ 18,510.00 | \$ 11,220.00 |
| Payment for additional Inventory | \$ 4,300.00 | \$ 4,900.00 | \$ 4,290.00 | \$ 4,830.00 | \$ 4,510.00 | \$ 5,170.00 | \$ 3,310.00 | \$ 1,950.00 | \$ 3,400.00 | \$ 7,250.00 | \$ 6,170.00 | \$ 3,740.00 |
| Sales Tax Payable | | | | | | | | \$ 17,521.00 | | | | \$ 10,831.00 |
| U.S. Trustee Fees | \$ 27,000.00 | | | \$ 27,000.00 | | | \$ 6,500.00 | | \$ 27,000.00 | | | |
| Rent | \$ 3,551.00 | | | \$ 3,551.00 | | | | | \$ 3,551.00 | | | |
| Rent - CAM | \$ 3,500.00 | | | \$ 3,500.00 | | | | | \$ 3,500.00 | | | |
| Electric | | | | | | | | | | | | |
| Alarm Monitoring | | | \$ 281.00 | | | | | | | | \$ 281.00 | |
| Alarm Cameras | | | \$ 314.00 | | | | | | | | \$ 314.00 | |
| Automobile Expenses (includes gas) | \$ 1,500.00 | \$ 1,500.00 | \$ 1,500.00 | \$ 1,500.00 | \$ 1,500.00 | \$ 1,500.00 | \$ 1,500.00 | \$ 1,000.00 | \$ 1,500.00 | \$ 2,000.00 | \$ 1,800.00 | \$ 1,500.00 |
| Bank Fees (includes credit card fees) | \$ 3,000.00 | \$ 3,000.00 | \$ 3,000.00 | \$ 3,000.00 | \$ 3,000.00 | \$ 3,000.00 | \$ 3,000.00 | \$ 2,000.00 | \$ 3,500.00 | \$ 3,500.00 | \$ 2,000.00 | \$ 2,000.00 |
| Freight | \$ 1,359.00 | \$ 1,359.00 | \$ 1,359.00 | \$ 1,359.00 | \$ 1,359.00 | \$ 1,359.00 | \$ 1,359.00 | \$ 1,359.00 | \$ 1,359.00 | \$ 1,359.00 | \$ 1,359.00 | \$ 1,359.00 |
| Insurance-Auto | \$ 771.00 | \$ 771.00 | \$ 771.00 | \$ 771.00 | \$ 771.00 | \$ 771.00 | \$ 771.00 | \$ 499.00 | \$ 771.00 | \$ 771.00 | \$ 499.00 | \$ 499.00 |
| Insurance Liability | \$ 499.00 | \$ 499.00 | \$ 499.00 | \$ 499.00 | \$ 499.00 | \$ 499.00 | \$ 499.00 | \$ 499.00 | \$ 499.00 | \$ 499.00 | \$ 499.00 | \$ 499.00 |
| Insurance WC | \$ 11,600.00 | \$ 11,600.00 | \$ 11,600.00 | \$ 11,600.00 | \$ 11,600.00 | \$ 11,600.00 | \$ 11,600.00 | \$ 11,600.00 | \$ 11,600.00 | \$ 11,600.00 | \$ 11,600.00 | \$ 11,600.00 |
| Interest Expense-Wells Fargo | \$ 8,000.00 | \$ 8,000.00 | \$ 8,000.00 | \$ 8,000.00 | \$ 8,000.00 | \$ 8,000.00 | \$ 8,000.00 | \$ 8,000.00 | \$ 8,000.00 | \$ 8,000.00 | \$ 8,000.00 | \$ 8,000.00 |
| Madwire Media | | | | | | | | | | | | |
| RevLocal | | | | | | | | | | | | |
| Facebook Ads | \$ 499.00 | \$ 499.00 | \$ 499.00 | \$ 499.00 | \$ 499.00 | \$ 499.00 | \$ 499.00 | \$ 499.00 | \$ 499.00 | \$ 499.00 | \$ 499.00 | \$ 499.00 |
| Office Supplies | \$ 350.00 | \$ 350.00 | \$ 350.00 | \$ 350.00 | \$ 350.00 | \$ 350.00 | \$ 350.00 | \$ 350.00 | \$ 350.00 | \$ 350.00 | \$ 350.00 | \$ 350.00 |
| Payroll, including employer payroll taxes | \$ 12,500.00 | \$ 12,500.00 | \$ 12,500.00 | \$ 12,500.00 | \$ 12,500.00 | \$ 12,500.00 | \$ 12,500.00 | \$ 200.00 | \$ 12,500.00 | \$ 12,500.00 | \$ 12,500.00 | \$ 12,500.00 |
| Payroll Processing Charges | \$ 94.00 | \$ 94.00 | \$ 94.00 | \$ 94.00 | \$ 94.00 | \$ 94.00 | \$ 94.00 | \$ 94.00 | \$ 94.00 | \$ 94.00 | \$ 94.00 | \$ 94.00 |
| Telephone | \$ 585.00 | \$ 585.00 | \$ 585.00 | \$ 585.00 | \$ 585.00 | \$ 585.00 | \$ 585.00 | \$ 585.00 | \$ 585.00 | \$ 585.00 | \$ 585.00 | \$ 585.00 |
| Telephone | \$ 410.00 | \$ 410.00 | \$ 410.00 | \$ 410.00 | \$ 410.00 | \$ 410.00 | \$ 410.00 | \$ 410.00 | \$ 410.00 | \$ 410.00 | \$ 410.00 | \$ 410.00 |
| SBA Loan payment | \$ 3,402.00 | \$ 3,402.00 | \$ 3,402.00 | \$ 3,402.00 | \$ 3,402.00 | \$ 3,402.00 | \$ 3,402.00 | \$ 3,402.00 | \$ 3,402.00 | \$ 3,402.00 | \$ 3,402.00 | \$ 3,402.00 |
| FAF Loan | | | | | | | | | | | | |
| Trash | \$ 346.00 | \$ 346.00 | \$ 346.00 | \$ 346.00 | \$ 346.00 | \$ 346.00 | \$ 346.00 | \$ 346.00 | \$ 346.00 | \$ 346.00 | \$ 346.00 | \$ 346.00 |
| Parts | \$ 1,500.00 | \$ 1,500.00 | \$ 1,500.00 | \$ 1,500.00 | \$ 1,500.00 | \$ 1,500.00 | \$ 1,500.00 | \$ 1,500.00 | \$ 1,500.00 | \$ 1,500.00 | \$ 1,500.00 | \$ 1,500.00 |
| Spa Covers | \$ 1,295.00 | \$ 1,470.00 | \$ 1,287.00 | \$ 1,449.00 | \$ 1,353.00 | \$ 1,551.00 | \$ 993.00 | \$ 588.00 | \$ 1,020.00 | \$ 2,175.00 | \$ 1,851.00 | \$ 1,122.00 |
| Water Service | | | | | | | | | | | | |
| UPS | \$ 20 | \$ 20 | \$ 20 | \$ 20 | \$ 20 | \$ 20 | \$ 20 | \$ 20 | \$ 20 | \$ 20 | \$ 20 | \$ 20 |
| Less Expenses | \$ 71,562.00 | \$ 33,219.00 | \$ 36,946.00 | \$ 59,488.00 | \$ 72,460.00 | \$ 32,380.00 | \$ 39,232.00 | \$ 50,768.00 | \$ 67,687.00 | \$ 42,824.00 | \$ 45,530.00 | \$ 89,485.00 |
| Total Remaining Cash | \$ 66,860.00 | \$ 93,808.50 | \$ 109,464.25 | \$ 108,298.50 | \$ 90,896.75 | \$ 121,944.50 | \$ 123,880.75 | \$ 98,279.75 | \$ 73,147.75 | \$ 119,367.50 | \$ 149,540.25 | \$ 106,715.75 |

1 ROBERT B. ROSENSTEIN (SBN 90036)
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2 28600 Mercedes Street, Suite 100
Temecula, CA 92590
3 Telephone: (951) 296-3888
Facsimile: (951) 296-3889
4 E-mail: robert@thetemeculalawfirm.com

5 Attorneys for: Debtor and Debtor-in-Possession

6
7 **UNITED STATES BANKRUPTCY COURT**
8 **CENTRAL DISTRICT OF CALIFORNIA**
9 **RIVERSIDE DIVISION**

10 In re:

11 RICK'S PATIO, INC.,

12 Debtor-in-Possession

Case No.: 6:17-bk-17137-MH

Chapter 11

CHAPTER 11 PLAN OF
REORGANIZATION

Date:

Time:

Courtroom: 303

3420 Twelfth Street

Riverside, CA 92501

17 **I. INTRODUCTION**

18 On August 25, 2017 (the "Petition Date"), Rick's Patio, Inc. ("Debtor" or "Rick's Patio")
19 filed a voluntary chapter 11 bankruptcy petition before this bankruptcy court (the "Court"), thus
20 commencing case no. 6:17-bk-17137-MH. The document you are reading is the Chapter 11 Plan
21 of Reorganization (the "Plan"). It is proposed by the Debtor to treat the claims of its creditors
22 and reorganize its business affairs. Explanations of this Plan, and descriptions of the
23 assumptions that underlie it and the mechanisms for its execution, are contained in the
24 Disclosure Statement which accompanies the Plan.

25 The Debtor has reserved _____, 20__ at the United States
26 Bankruptcy Court, 3420 Twelfth Street, Riverside, CA 92501, in Courtroom 303 for a hearing to
27 determine whether the Court will confirm the Plan. Any interested party desiring further
28

1 information should contact: Robert B. Rosenstein, Rosenstein & Associates, 28600 Mercedes
2 Street, Suite 100, Temecula, California 92590. Once the Court has indicated that the Plan should
3 be confirmed, the Debtor will submit a form of order to confirm the Plan (the “confirmation
4 order”).

5 **II. THE FUTURE OF THE DEBTOR UNDER THE PLAN**

6 Rick’s Patio, which does business under the names Rick’s Patio Pool & Spa and Spa
7 Max, is a California corporation, engaged in the business of selling new and used hot tubs (spas)
8 and related supplies. It operates its business from a leased location, 1531 Pomona Road in
9 Corona, California 92880. Olena Colosimo is the President and sole shareholder of the
10 company. Richard Colosimo is the Vice President, Secretary and Chief Financial Officer. The
11 Debtor entered into several large financing agreements over time, but the payments required
12 under all of these agreements could not be maintained. In order to adjust these payments and
13 preserve the business, it was necessary to file for relief and reorganize under Chapter 11 of the
14 Bankruptcy Code, and a petition was so filed on August 25, 2017.

15 Operating over the past months as a debtor-in-possession, the Debtor has improved its
16 business and financial structure, and is current on its post-petition obligations. Debtor has, and
17 is, experiencing strong growth in its business revenues. Within the bankruptcy case, counsel
18 (Rosenstein & Associates) and accountants (Shafer & MacRae) were retained, a meeting of
19 creditors held and concluded in accord with 11 U.S.C. § 341(a), and a bar date of November 30,
20 2017 set for the filing of claims against the estate.

21 The Debtor now wishes to reorganize the balance of its affairs pursuant to the terms of
22 this Plan. Administrative and non-tax priority claims will be paid in full, either by the Effective
23 Date or on terms agreed upon with each such individual creditor. Priority tax claims will be paid
24 in full by August 25, 2022, the fifth anniversary of the Petition Date (August 25, 2017, when this
25 case was commenced), or by a date earlier than that. The claims of pre-petition secured creditors
26 will be paid in full over time in accord with terms negotiated with each such creditor, and
27 general unsecured claims not otherwise classified will be paid in full, with interest, over a six-
28

1 year period following the Effective Date. No creditor claims (as opposed to equity interests) are
2 believed to be held by any insiders of the Debtor's estate.

3 The Court must make certain findings of fact before approving the aforementioned
4 provisions as part of the Plan. The Debtor will request that the Court make the appropriate
5 findings at the confirmation hearing, based upon evidence submitted in support of the
6 confirmation motion. All such findings will be recited on the record and/or in the confirmation
7 order. Such findings may include those necessary to support the "cramdown" of a dissenting
8 class of creditors pursuant to 11 U.S.C. § 1129(b); the Debtor will seek cramdown of dissenting
9 classes, if any.

10 The provisions of this Plan, once confirmed, will bind the Debtor, any entity acquiring
11 property under the Plan, and any creditor of and/or interest holder in the Debtor, even those who
12 do not vote to accept the Plan.

13 The confirmation of the Plan vests all property of the Debtor's estate in the Debtor unless
14 otherwise distributed. Within one hundred and twenty (120) days after the entry of the
15 confirmation order, the Debtor will file a status report explaining what progress has been made
16 towards consummation of the Plan. The report will be served on the United States Trustee, as
17 well as all creditors of the Debtor's estate whose allowed claims have not been satisfied as
18 provided for herein, and any party requesting special notice. Further reports will be filed every
19 one hundred and twenty (120) days thereafter and served on the same categories of extant
20 parties, unless otherwise ordered by the Court. These reports will include information on the
21 claims satisfied under the Plan and those remaining to be satisfied, a schedule of any and all
22 post-confirmation tax liabilities that have accrued or come due and a detailed explanation of
23 payments thereon, the Debtor's projections as to its continuing ability to comply with the terms
24 of the Plan, and an estimate of the dates for plan consummation and an application for final
25 decree.

26 The Debtor may modify the Plan at any time prior to confirmation. The Debtor may
27 modify the Plan at any time after confirmation and before substantial consummation, but only if
28

1 circumstances warrant and after notice and a hearing. Once the Plan has been substantially
2 consummated, the Debtor may move the Court for entry of a final decree pursuant to 11 U.S.C. §
3 350 and Fed. R. Bankr. P. 3022, the effect of which would be to close this bankruptcy case.
4 After such closure, a party seeking any type of relief relating to a Plan provision may seek such
5 relief in any court of competent jurisdiction.

6
7 **III. DESCRIPTION AND TREATMENT OF CLAIMS**

8 The timing of payments to many creditors is determined by the “Effective Date.”
9 Administrative claims, unless otherwise stated, must be paid by the Effective Date. The timing
10 of payments to impaired creditors is measured from the Effective Date. In this case, the
11 Effective Date shall occur ninety (90) days after the entry of the confirmation order, unless the
12 Debtor files a notice prior to that declaring that the Effective Date has arrived.

13 All claims listed below are undisputed and will remain so unless an objection to claim is
14 timely made prior to the Effective Date, or where the Plan specifies that the allowance of such
15 claim will be determined through pending litigation. Any claim which is the subject of an
16 objection to claim, or which is the subject of pending litigation in another forum, will be
17 “disputed” until such objection and/or litigation is resolved. After the Effective Date, when
18 payment on account of a disputed claim would come due under the Plan, the Debtor will deposit
19 into a segregated account (the “Reserve Account”) an amount of cash equal to the distribution
20 which would otherwise then be due on account of that claim. The cash in the Reserve Account,
21 along with all interest thereon, will be held in trust for the benefit of creditors, to satisfy disputed
22 claims once allowed. The Debtor will have the power and authority to settle and compromise a
23 disputed claim with court approval and compliance with Fed. R. Bankr. P. 9019, unless the
24 amount allowed by the compromise does not exceed \$5,000, in which case no court approval is
25 necessary.

26 When a disputed claim becomes allowed, the Debtor will distribute to the holder thereof
27 an amount equal to the payments which would have been made on account of said claim prior to
28

1 that date absent its disputed status, plus accrued interest thereon. If a surplus arises from the fact
2 that not all claims are allowed, then that money shall be available to guarantee payment of other
3 claims. No claimant or interest holder is an affiliate of the Debtor, other than as stated herein.
4

5 **A. Administrative Expenses**

6 These include the “actual, necessary costs and expenses of preserving the estate” as
7 determined by the Court after notice to creditors of a request for payment and after a hearing
8 thereon, and any other claims allowed under 11 U.S.C. § 503(b) and entitled to priority under 11
9 U.S.C. § 507(a)(2).

10 The Bankruptcy Code requires that allowed administrative expenses be paid on the
11 Effective Date unless the party holding the administrative expense agrees otherwise. No
12 claimant has agreed otherwise, except as specified herein. As of this date, the Debtor’s estate is
13 subject to fees for the current quarter due to the Office of the United States Trustee, and any
14 sums ultimately due to professionals retained by the Debtor with the permission of the Court in
15 excess of any retainers paid to such professionals; such sums are estimated to approximate
16 \$30,000 which will be due to the firm of Rosenstein & Associates (for legal services) and \$5,000
17 which will be due to the firm of Shafer & MacRae (for accounting services).

18 After the entry of the confirmation order, all approved professionals will apply to the
19 Court for final approval of their respective fees, pursuant to 11 U.S.C. § 330. The Debtor shall
20 pay all Administrative Claims (excluding ordinary operating expenses which shall be paid in the
21 ordinary course of business) against the Debtor’s estate on the later of: (i) the Effective Date; or
22 (ii) the date each Administrative Claim becomes due and payable, unless the creditor holding
23 such claim agrees to alternative treatment.

24 **B. Priority Claims**

25 These are claims which are entitled to priority for payment under 11 U.S.C. § 507(a).
26 The Bankruptcy Code requires that all such claims be satisfied in cash on the Effective Date
27 (unless the holders accept alternate treatment), with the exception of tax claims specified under
28

1 11 U.S.C. § 507(a)(8), which must receive cash payments in regular installments, equal in value
2 to the allowed amount of the claim on the Effective Date (plus ongoing interest in accord with 11
3 U.S.C. § 511), ending no later than five years after the debtor/taxpayer's bankruptcy petition
4 date. The Debtor does not believe that it is liable for or subject to any non-tax priority claims.

5 The Debtor is subject to an audit by the California State Board of Equalization, but
6 disputes that it has any net liability for taxes owed. To the extent that any such claim is made
7 and sustained, the claim will be paid in full, with required interest, by August 25, 2022.
8 Installment payments will be made monthly after the Effective Date (subject to the procedures
9 set forth in this Plan for the treatment of disputed claims) in equal amounts sufficient to fully
10 satisfy the allowed priority tax claim by the August 25, 2022 deadline, and the Debtor will have
11 the right to pre-pay any such monthly payments, in whole or in part.

12
13 **C. Classified Claims**

14 **Class 1 – Wells Fargo Commercial Distribution Finance, LLC**

15 Class 1 consists of the allowed claim of Wells Fargo Commercial Distribution Finance,
16 LLC (“Wells Fargo”), which is in the amount (as of the Petition Date) of \$773,050.60; this
17 amount may vary due to post-petition purchases and sales of inventory and adequate protection
18 payments to Wells Fargo for the use of its cash collateral. This claim will be satisfied in full
19 through payments made in accord with the Inventory Financing Agreement between Wells Fargo
20 and the Debtor, as sales are made from the Debtor's inventory subject to Wells Fargo's senior
21 security interest. Wells Fargo will retain its senior security interest (including any post-petition
22 replacement liens) in the Debtor's assets until its claim is paid in full.

23 Class 1 is unimpaired, and is conclusively deemed to have accepted the Plan.
24

25 **Class 2 – First Home Bank**

26 Class 2 consists of the allowed claim of First Home Bank, which is in the amount (as of
27 August 31, 2017) of \$257,858.19, and may have been modified thereafter by adequate protection
28

1 payments made to First Home Bank for the use of its cash collateral. This claim will be satisfied
2 in full through continued payments in accord with the August 28, 2015 promissory note from the
3 Debtor to First Home Bank which underlies the Class 2 claim.

4 First Home Bank will retain its security interest in the Debtor's assets (including any
5 post-petition replacement liens), subject only to the senior lien of Wells Fargo, until its claim is
6 paid in full.

7 Class 2 is unimpaired, and is conclusively deemed to have accepted the Plan.

8
9 **Class 3 – General Unsecured Claims**

10 Class 3 consists of all general unsecured claims against the Debtor not otherwise
11 classified. This includes the claims of creditors such as Fast Advanced Funding, LLC; Complete
12 Business Solutions Group, Inc.; Broadway Advance, LLC; Par Funding; Yellowstone Capital
13 West LLC; and Cap Call LLC, without limitation, that had pre-petition security interests against
14 the Debtor's assets junior to the positions of Wells Fargo and First Home Bank. As the value of
15 the Debtor's assets is only sufficient to secure the senior positions of Wells Fargo and First
16 Home Bank, no other creditors will retain any security interests in the Debtor's assets and all
17 Class 3 creditors will be unsecured as of the Effective Date. Similarly, any stipulations for
18 treatment between the Debtor and any such creditors are superseded in favor of the terms of this
19 Plan.

20 All claims within this class will be satisfied in full, with interest at the federal judgment
21 rate set per 28 U.S.C. § 1961 on each unpaid balance starting from the Effective Date, within
22 seventy two (72) months of the Effective Date.

23 Class 3 is impaired and is entitled to vote on the Plan.

24
25 **Class 4 – Equity Interests**

26 Class 4 consists of the equity interests in the Debtor, which will be left unaffected by this
27 Plan. Class 4 interests are not impaired, and it is conclusively deemed to have accepted the Plan.

1 **IV. EXECUTORY CONTRACTS AND LEASES**

2 On the Effective Date, the Debtor shall assume all leases and executory contracts to
3 which its estate is subject, if not already either assumed or rejected by prior motion and order of
4 the Court, unless a motion to reject such lease or contract is filed prior to the date and time of the
5 confirmation hearing on the Plan, and/or if an objection to claim has been filed which
6 substantively constitutes a rejection of any such lease or contract.

7 With regard to leases and contracts being assumed, any pre-confirmation arrearages (if
8 any) will be paid by the Effective Date, unless the parties otherwise agree or the Court finds that
9 a proposed payment schedule provides timely cure and adequate assurance of future
10 performance. Post-confirmation obligations will be paid as they come due. All claims arising
11 from the rejection of executory contracts shall be filed no later than thirty (30) days after the
12 confirmation hearing on the Plan, or ten (10) days after the entry of an order rejecting such lease
13 or contract, whichever is later, unless such claim is otherwise classified under this Plan, in which
14 case it will be treated as classified.

15
16 **V. MEANS OF IMPLEMENTATION**

17 The funds for implementation of the Plan shall come from the ongoing operating profits
18 of the Debtor's business operations.

19
20 **VI. POST-CONFIRMATION MANAGEMENT**

21 The Debtor will manage its own affairs under this Plan, through its president, Olena
22 Colosimo, and its Vice President, Richard Colosimo. They will not receive any compensation
23 for such services called for under this Plan, other than compensation normally due to them for
24 non-bankruptcy duties.¹

25 All causes of action (and related legal, equitable and contractual rights and benefits)
26 possessed by the estate, whether the subject of pending litigation or not, including avoidance

27 ¹ Olena Colosimo has a monthly salary of \$3,000 with a \$400 car allowance, and Richard Colosimo has a monthly
28 salary of \$6,000 with a \$500 car allowance.

1 actions created pursuant to bankruptcy law, are re-vested in the Debtor upon confirmation, and
2 may be prosecuted and/or settled by it at the Debtor's discretion.

3
4 **VII. DISCHARGE**

5 Under the Plan, the Debtor shall be discharged of liability for payment of debts incurred
6 before confirmation of the Plan, to the greatest extent possible as specified in 11 U.S.C. § 1141,
7 unless such liabilities are specified for treatment under the Plan, and then only to the extent of
8 the treatment hereunder. Discharge will be entered with regard to each claim upon the
9 substantial consummation of the Plan.

10 To the extent that the Debtor does not currently have *in personam* liability for a claim,
11 this Plan does not create any such liability.

12
13 **VIII. POST-CONFIRMATION JURISDICTION**

14 The Bankruptcy Court shall retain jurisdiction for all matters relating to the Plan, the
15 Debtor and the assets administered under this Plan to the maximum extent permitted by the
16 Bankruptcy Code and Title 28 of the United States Code.

17
18 **IX. GENERAL PROVISIONS**

19 The Debtor reserves the right to seek confirmation of this Plan, pursuant to 11 U.S.C. §
20 1129(b), notwithstanding the rejection of the Plan by one or more impaired classes of creditors
21 (and notwithstanding the lack of any impaired classes of creditors under the Plan).

22 The headings contained in this Plan are for convenient reference only, and do not affect
23 the meaning or interpretation of the Plan. The definitions and rules of construction set forth in
24 11 U.S.C. §§ 101-102 apply when a term or terms defined or construed in the Bankruptcy Code
25 are used in the Plan, unless contradicted by the explicit text of this Plan itself. Unless a rule of
26 law or procedure is supplied by federal law (including the Bankruptcy Code and Federal Rules of
27 Bankruptcy Procedure), the laws of the State of California govern this Plan and any agreements,
28

1 documents and instruments executed in connection with the Plan, except as otherwise provided
2 in the Plan.

3
4 RICK'S PATIO, INC.

5 By: _____
6 Rick Colosimo, Vice-President

7
8 Date: _____, 2017

ROSENSTEIN & ASSOCIATES

9
10 By: _____
11 Robert B. Rosenstein, for
12 Rosenstein & Associates
13 Attorneys for Debtor-in-Possession
14
15
16
17
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19
20
21
22
23
24
25
26
27
28

PROOF OF SERVICE OF DOCUMENT

I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding. My business address is:
Rosenstein & Associates, 28600 Mercedes Street, Ste. 100, Temecula, CA 92590.

A true and correct copy of the foregoing document entitled (*specify*): **(1) NOTICE OF MOTION AND MOTION FOR APPROVAL OF DISCLOSURE STATEMENT; MEMORANDUM OF POINTS AND AUTHORITIES; DECLARATION OF RICHARD JOSEPH COLOSIMO IN SUPPORT THEREOF; (2) [PROPOSED] DISCLOSURE STATEMENT IN SUPPORT OF DEBTOR'S CHAPTER 11 PLAN OF REORGANIZATION; and, (3) [PROPOSED] CHAPTER 11 PLAN OF REORGANIZATION**, will be served or was served **(a)** on the judge in chambers in the form and manner required by LBR 5005-2(d); and **(b)** in the manner stated below:

1. TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF): Pursuant to controlling General Orders and LBR, the foregoing document will be served by the court via NEF and hyperlink to the document. On December 26, 2017, I checked the CM/ECF docket for this bankruptcy case or adversary proceeding and determined that the following persons are on the Electronic Mail Notice List to receive NEF transmission at the email addresses stated below:

- Michele S Assayag on behalf of Creditor Wells Fargo Commercial Distribution Finance, LLC
efilings@amlegalgroup.com; efilings@amlegalgroup.com
- Ronald Clifford on behalf of Creditor LPI, Inc., rclifford@blakeleyllp.com, ecf@blakeleyllp.com;
seb@blakeleyllp.com; info@ecf.inforuptcy.com
- Everett L Green on behalf of U.S. Trustee United States Trustee (RS), everett.l.green@usdoj.gov
- Joshua N Kastan on behalf of Creditor First Home Bank, DLC@dkmlawgroup.com
- Joshua K Partington on behalf of Creditor Wells Fargo Commercial Distribution Finance, LLC,
efilings@amlegalgroup.com
- Robert B Rosenstein on behalf of Debtor Ricks Patio, Inc., robert@thetemeculalawfirm.com;
sylvia@thetemeculalawfirm.com; leah@thetemeculalawfirm.com
- Mohammad Tehrani on behalf of U.S. Trustee United States Trustee (RS), Mohammad.V.Tehrani@usdoj.gov
- United States Trustee (RS), ustpreion16.rs.ecf@usdoj.gov

Service information continued on attached page

2. SERVED BY UNITED STATES MAIL: On December 26, 2017, I served the following persons and/or entities at the last known addresses in this bankruptcy case or adversary proceeding by placing a true and correct copy thereof in a sealed envelope in the United States mail, first class, postage prepaid, and addressed as follows. Listing the judge here constitutes a declaration that mailing to the judge will be completed no later than 24 hours after the document is filed.

Service information continued on attached page

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

Service information continued on attached page

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

12/26/2017
Date

LEAH N. CANTU
Printed Name


Signature

SERVICE LIST:
IN RE: RICKS'S PATIO, INC.
CASE NO.: 6:17-bk-17137-MH

2. SERVED BY UNITED STATES MAIL:

Honorable Mark D. Houle
United States Bankruptcy Court
Central District of California
3420 Twelfth Street, Suite 365
Courtroom 303
Riverside, CA 92501-3819

U.S. Trustee
United States Trustee (RS)
3801 University Avenue
Suite 720
Riverside, CA 92501-3200

Everett L Green
Office of the US Trustee
3801 University Ave., Ste. 720
Riverside, CA 92501

WELLS FARGO COMMERCIAL
DISTRIBUTION FINANCE, LLC
c/o Michele Sabo Assayag, Esq.
2915 Red Hill Avenue, Suite A200
Costa Mesa, California 92626
Requested Special Notice

FIRST HOME BANK
c/o Joshua N Kastan
DKM Law Group LLP
201 Spear St., Ste. 1100
San Francisco, CA 94105
Requested Special Notice

PROOF OF SERVICE OF DOCUMENT

I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding. My business address is:
Rosenstein & Associates, 28600 Mercedes Street, Ste. 100, Temecula, CA 92590.

A true and correct copy of the foregoing document entitled (*specify*): **NOTICE OF MOTION AND MOTION FOR APPROVAL OF DISCLOSURE STATEMENT** will be served or was served (**a**) on the judge in chambers in the form and manner required by LBR 5005-2(d); and (**b**) in the manner stated below:

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

Service information continued on attached page

2. **SERVED BY UNITED STATES MAIL**: On December 26, 2017, I served the following persons and/or entities at the last known addresses in this bankruptcy case or adversary proceeding by placing a true and correct copy thereof in a sealed envelope in the United States mail, first class, postage prepaid, and addressed as follows. Listing the judge here constitutes a declaration that mailing to the judge will be completed no later than 24 hours after the document is filed.

Service information continued on attached page

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

Service information continued on attached page

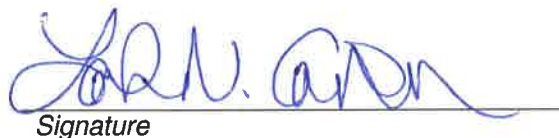
I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

12/26/17

Date

LEAH N. CANTU

Printed Name


Signature

**SERVICE LIST:
IN RE: RICKS'S PATIO, INC.
CASE NO.: 6:17-bk-17137-MH**

2. SERVED BY UNITED STATES MAIL:

American Express Gold
P.O. Box 0001
Los Angeles, CA 90096-8000

Bank of America Mastercard
P.O. Box 982238
El Paso, TX 79998-2238

Broadway Advance LLC
39 Broadway, Suite 930
New York, NY 10006

CAP CALL, LLC
c/o Douglas Robinson, Esq.
RTR Recovery, LLC
122 East 42nd Street, Suite 2112
New York, NY 10168

California Energy Commission
1516 Ninth Street
Sacramento, CA 95814
Attn: Andrew Salazar

Complete Business Solutions
Group, Inc.
c/o Norman M. Valz, Esq.
205 Arch Street, 2nd Floor
Philadelphia, PA 19106

Fast Advance Funding, LLC
141 N. 2nd Street
Philadelphia, PA 19106

Fidelity Fire
P.O. Box 1243
Redlands, CA 92373

Yellowstone Capital West LLC
c/o Josh Weinstein
MCA RECOVERY LLC
17 State Street, Suite 4000
New York, NY 10004

Four Winds Spa
c/o Jaime Lynn DeRensis
Baker, Donelson, Bearman, Caldwell &
Berkowitz, PC
211 Commerce Street, Suite 800
Nashville, TN 37201

Franchise Tax Board
Attn: Bankruptcy
P.O. Box 2952
Sacramento, CA 95812-2952

Internal Revenue Services
P.O. Box 7346
Philadelphia, PA 19101-7346

LPI, INC.
c/o Ronald A. Clifford, Esq.
BLAKELEY LLP
18500 Von Karman Ave., Ste. 530
Irvine, CA 92612

Olena Colosimo
1531 Pomona Road
Corona, CA 92880

Paychex Payroll
1420 Iowa Avenue, Suite 100
Riverside, CA 92507

Pomona Corona, LLC
2433 POMONA RD
Corona, CA 92880

State Board of Equalization
P.O. Box 942879
Sacramento, CA 94279

State Board of Equalization
Attn: Bankruptcy
P.O. Box 942879
Sacramento, CA 94279-7072

New York City Marshal
1517 Voorhies Ave., Suite 3R
Brooklyn, NY 11235