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 7 **UNITED STATES BANKRUPTCY COURT**
 8 **EASTERN DISTRICT OF CALIFORNIA**

9
 10 In re:
 11 5 C HOLDINGS, INC.,
 12 Debtor-in-Possession.

Case No. 17-11591-B-11
 Chapter 11
 DC No. LKW-12
 Date: April 5, 2018
 Time: 10:30 a.m.
 Place: United States Courthouse
 510-19th Street
 Bakersfield, CA
 Judge: Rene Lastreto, II

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 17 **DEBTOR’S DISCLOSURE STATEMENT DATED FEBRUARY 9, 2018**

18 **I.**

19 **Introduction**

20 5 C Holdings, Inc. (“Debtor”) filed a Voluntary Petition Under Chapter 11 on April 25,
 21 2017 (“the Petition Date”). Debtor has operated its business as a debtor-in-possession since the
 22 Petition Date and a trustee has not been sought or appointed in Debtor’s case.

23 **II.**

24 **Purpose of the Disclosure Statement**

25
 26 This Debtor’s Disclosure Statement Dated February 9, 2018 (“the Disclosure
 27 Statement”):
 28

- 1 • describes Debtor and significant events during the bankruptcy case,
- 2 • describes the classification and treatment of Claims or equity interests as
- 3 provided in Debtor's Plan of Reorganization ("the Plan"),
- 4 • explains how Debtor will execute the Plan,
- 5 • explains how Claims will be treated and paid,
- 6 • explains who can vote on or object to the Plan,
- 7 • explains what factors the Bankruptcy Court ("the Court") will consider when
- 8 deciding whether to confirm the Plan,
- 9 • explains why Debtor believes the Plan is feasible and how the treatment of your
- 10 Claim or equity interest under the Plan compares to what you would receive on
- 11 your Claim or equity interest in liquidation, and
- 12 • explains the effects of Confirmation of the Plan.

13 The Plan will establish your rights with respect to your Claim if the Plan is confirmed.

14 The information contained in the Disclosure Statement is provided to the holders of Claims for
15 the purpose of providing adequate information to Claimants so that Claimants can arrive at an
16 informed decision in exercising their right to accept or reject the Plan.

17 Your vote to accept or reject the Plan is important. The Plan can be confirmed if it is
18 accepted by the holders of Claims in each Class of Claims voting on the Plan. Additionally, the
19 Court can confirm the Plan if it finds that the Plan accords fair and equitable treatment to the
20 Class rejecting it if the requisite acceptances are not obtained. Debtor will seek Confirmation
21 of the Plan whether the Plan is accepted by all Classes of Creditors or not.

22
23 EVERY ATTEMPT HAS BEEN MADE TO PROVIDE ACCURATE
24 INFORMATION IN THIS STATEMENT. HOWEVER, THE INFORMATION HAS NOT
25 BEEN THE SUBJECT OF A CERTIFIED AUDIT. NO REPRESENTATIONS ARE
26 AUTHORIZED BY DEBTOR EXCEPT AS SET FORTH IN THIS STATEMENT. THE
27 INFORMATION CONTAINED IN THE DISCLOSURE STATEMENT COMES FROM
28

1 DEBTOR AND ITS ATTORNEYS. CAMI HOGG IS THE PRIMARY SOURCE OF
2 INFORMATION CONTAINED IN THE DISCLOSURE STATEMENT AND REPRESENTS
3 THE BEST SOURCE OF INFORMATION CONCERNING DEBTOR AND ITS ASSETS
4 AND LIABILITIES. TO THE EXTENT THAT INFORMATION CONTAINED IN THIS
5 DISCLOSURE STATEMENT IS INCONSISTENT WITH INFORMATION CONTAINED
6 IN THE PLAN, THE TERMS OF THE PLAN ARE CONTROLLING.
7

8 III.

9 Description of Business

10 1. History of Debtor and Events Leading to Filing Chapter 11 Case

11 Debtor is a corporation doing business in California. Debtor's principal place of
12 business is in Shafter, California. Debtor is in the oilfield service and transportation business
13 and Debtor began its business in 2009. Debtor's business generated gross income of
14 \$668,629.00 in 2015, \$1,453,948.26 in 2016, and \$2,098,822.03 in 2017. Debtor's customers
15 began to be slow in paying money owed to Debtor during the Fourth Quarter of 2016 and the
16 First Quarter of 2017 as the result of a recession in the petroleum industry. This slowdown in
17 collections resulted in Debtor not being able to pay all of the debt owed to its creditors when
18 payment of the debt became due. Debtor filed its Chapter 11 case in order to give Debtor a
19 vehicle under which it could reorganize its business and financial affairs and repay all of the
20 debt owed to its creditors over time.
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23 Cami Hogg is Debtor's sole officer, director, and shareholder.

24 IV.

25 Debtor's Historical, Post-Petition, and Projected Financial Information

26 1. Historical Financial Information

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1 Debtor has conducted its oilfield service and transportation business since its inception
2 in 2009. Debtor acquired assets in its business and those assets had a market value of
3 \$893,780.28 when Debtor filed its Chapter 11 case. Debtor incurred secured and general
4 unsecured debt before it filed its Chapter 11 case. That debt included (a) secured claims of
5 \$468,944.05 and general unsecured claims of \$435,225.68 according to Debtors' Schedules of
6 Assets and Liabilities and Proofs of Claim filed in Debtors' case.
7

8 **2. Post-Petition Financial Information**

9 Debtor has continued its business operations after the filing of its Chapter 11 case.
10 Debtor has worked to increase its business activity and revenue since Debtor filed its Chapter
11 11 case. Debtor's revenue has increased since Debtor filed its Chapter 11 case due to an
12 improvement in Debtor's business activity. Profit & Loss Statements for Debtor's business
13 from May 1, 2017 through December 31, 2017 are included in the Exhibits to Debtor's
14 Disclosure Statement Filed on February 9, 2018 ("the Exhibits") as Exhibit "A". Debtor's
15 gross sales have averaged \$240,235.92 per month and Debtor's expenses have averaged
16 \$222,294.85 per month. This means that Debtor's has generated a net profit of \$143,678.52
17 since it filed its Chapter 11 case.¹
18

19 Debtor has used revenue received from its business operations to repay \$84,451.88
20 owed to secured creditors through December 31, 2017 and pay ongoing business expenses
21 since Debtor filed its Chapter 11 case. A list of the secured creditors who have received
22 payments since Debtor filed its Chapter 11 case is included in the Exhibits as Exhibit "B".
23 Debtor expects its business to be profitable in 2018, 2019, and 2020 and Debtor believes that it
24 will be able to make all of the payments to creditors required by the Plan.
25

26 _____
27 ¹ Debtor's revenue reported on the Profit & Loss Statements included in Exhibit "A" is reported on an accrual
28 basis. Debtor believes that accrual based accounting is an accurate reflection of Debtor's income and expenses on
a going forward basis.

1 **3. Appointment of Committee of Unsecured Creditors**

2 The United States Trustee appointed a Committee of Unsecured Creditors (“the
3 Committee”) as permitted by the law. The Committee retained Riley C. Walter (“Mr. Walter”)
4 of Walter Wilhelm Law Group to be its attorney. The Committee and Mr. Walter have
5 participated in the administration of Debtor’s case and have provided insight and advice to
6 Debtor’s attorney.
7

8 **4. Employment of Professionals**

9 Debtor obtained authorization from the Bankruptcy Court to employ:

- 10 a. the Law Offices of Leonard K. Welsh to be its general counsel in its
11 Chapter 11 case,
12 b. CBIZ Mayer Hoffinan McCann to be its accountants in its Chapter 11
13 case, and
14 c. Commercial Trade, Inc. to be its collection agency in connection with
15 collection of its account receivables.
16

17 The Committee obtained authorization from the Bankruptcy Court to employ Mr.
18 Walter as its attorney as indicated above.

19 **5. Motions for Relief from Automatic Stay**

20 A Motion for Relief from Automatic Stay was filed by Hitachi Capital America Corp.
21 (“Hitachi”) on May 15, 2017. A hearing on the Motion was held on June 14, 2017. Debtor
22 reached an agreement with Hitachi in response to the Motion under which Debtor will retain
23 possession and ownership of Hitachi’s collateral and Debtor agreed to make adequate
24 protection payments to Hitachi.
25

26 Two Motions for Relief from Automatic Stay were filed by Ally Bank (“Ally”) on June
27 14, 2017. Hearings on the Motions were held on July 13, 2017. Debtor reached agreements
28

1 with Ally in response to the Motions under which Debtor will retain possession and ownership
2 of Ally's collateral and Debtor agreed to make adequate protection payments to Ally.

3 **6. Motions for Authority to Assume or Reject Unexpired Leases**

4 There have been no Motions for Authority to Assume or Reject Unexpired Leases filed
5 in Debtor's case.

6 **7. Motions for Authority to Use Cash Collateral**

7 Debtor and Tri Counties Bank ("the Bank") reached an agreement concerning Debtor's
8 use of the Bank's cash collateral in May 2017. Debtor's agreement with the Bank was
9 continued in December 2017 and Debtor is authorized to use the Bank's cash collateral to pay
10 expenses incurred by Debtor in the operation of its business and the administration of its
11 Chapter 11 case through June 2018.

12 **8. Motions for Authority to Sell Personal Property**

13 There have been no Motions for Authority to Sell Personal Property filed in Debtor's
14 case.

15 **9. Administrative Matters**

16 Debtor has filed its Monthly Operating Reports and paid the Quarterly Fees owed to the
17 United States Trustee as required by the law since it filed its Chapter 11 case.

18 **10. Disclosure Statement and Plan of Reorganization**

19 Debtor has filed a Plan of Reorganization and Disclosure Statement Dated February 9,
20 2018. A hearing for approval of the Disclosure Statement is set for April 5, 2018. The
21 Bankruptcy Court will determine at that time if the Disclosure Statement contains "adequate
22 information" as required by 11 USC Section 1125.
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VI.

Legal Proceedings

Debtor was the party to one lawsuit before it filed its Chapter 11 case . This lawsuit was a collection action against Debtor filed by Circle M Truck Repair, Inc. (“Circle M”) in the Kern County Superior Court. The lawsuit filed against Debtor has been stayed by Debtor’s Chapter 11 case and Circle M’s claim will be paid in full through the Plan.

VII.

Financial Information

1. Liabilities as of the Petition Date and Effective Date

a. Creditors Having Administrative Claims

Debtor has incurred Administrative Claims since the filing of its Voluntary Petition. Debtor estimates that the Administrative Claims for unpaid fees and costs owed to its attorneys and accountants and the Committee’s attorneys will be the following amounts on the Effective

<u>Date of the Plan:</u>	<u>Name</u>	<u>Amount</u>
	Law Offices of Leonard K. Welsh	\$ 20,000.00
	Walter Wilhelm Law Group	\$ 20,000.00
	CBIZ Mayer Hoffman McCann	\$ 10,000.00

Any unpaid Administrative Claims will be paid after Court approval if Court approval is required. Administrative Claims will be paid from money received from income generated by Debtor’s business.

b. Creditors Holding Security

Debtor reported Secured Claims totaling \$468,944.05 on its Schedule D: Creditors Who Have Claims Secured by Property. Debtor has made payments to secured creditors and has reduced the debt owed to its secured creditors since it filed its Chapter 11 case. See Exhibit “B” to Exhibits.

1 Debtor believes that the Allowed Secured Claims on the Effective Date of the Plan will
2 be less than \$390,000.00

3 c. Unsecured Claims with Priority

4 Debtor reported no Priority Unsecured Claims on its Schedule E/F: Creditors Who Have
5 Unsecured Claims - Part 1. See *Schedule E/F: Creditors Who Have Unsecured Claims -Part 1*
6 filed by Debtor on April 25, 2017.

8 Debtor believes that there will be no Allowed Priority Unsecured Claims on the
9 Effective Date of the Plan.

10 d. Unsecured Claims Without Priority

11 Debtor reported Unsecured Nonpriority Claims totaling \$435,225.68 on its Schedule
12 E/F: Creditors Who Have Unsecured Claims – Part 2. See *Schedule E/F: Creditors Who Have*
13 *Unsecured Claims – Part 2*. Debtor’s general unsecured claims include \$199,500.00 owed to
14 Dr. Hemmal Kothary (“Dr. Kothary”).

16 e. Disputed Claims

17 Debtor does not have disputed claims listed the its Schedules of Assets and Liabilities.

18 f. Allowance of Claims

19
20 Any claim not objected to by Debtor or another party in interest will be an Allowed
21 Claim in (a) the amount set forth in a Proof of Claim filed by or for a creditor or (b) scheduled
22 by Debtor. However, nothing contained in the Disclosure Statement will be deemed to be a
23 determination of the amount or allowance of a Claim.

24 The Plan provides that there will be no fixed date for Debtor to object to the allowance
25 of any Claims except Class Thirteen general unsecured claims. The Plan sets (a) sixty days
26 after the Effective Date of the Plan or (b) sixty days after the filing of an amended claim
27 whichever is later as the deadline for Debtor to object to the allowance of a general unsecured
28 claim. See Plan of Reorganization, Section 10.4 at Page 15.

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IX.

Preference and/or Avoidance Claims

Debtor does not believe that there is a basis for bringing any preference and/or avoidance claims in its Chapter 11 case. This is true because Debtor believes that:

- a. there were no material transfers of property outside of the ordinary course of business before Debtor filed its Chapter 11 case,
- b. it received fair market value in exchange for any property transferred in the ordinary course of business before it filed its Chapter 11 case, and
- c. any transfer of property or payments made to creditors or insiders before Debtor filed its Chapter 11 case will not result in creditors receiving less than one-hundred percent (100%) of their allowed claims based on (i) the payments provided in the Plan and (ii) the value of Debtor's assets available for liquidation if the Plan fails and Debtor is forced to liquidate.

X.

Summary of the Plan of Reorganization

1. Generally

Debtor will operate its business after confirmation of the Plan. Debtor expects to be profitable in 2018, 2019, and 2020. A summary of Debtor's post-petition revenue and expenses is included in the Exhibits as Exhibit "A". Debtor anticipates that its revenue and expenses will be stable and consistent during the Term of the Plan and that it will generate sufficient revenue to make the payments required by the Plan. The Term of the Plan will not exceed 24 months after the Effective Date of the Plan.

2. General Treatment of Classes of Claims

The Plan includes Seventeen Classes of Claims including:

- 1 a. one Class of priority unsecured claims (Class One),
- 2 b. eleven Classes of secured claims (Classes Two through Twelve),
- 3 c. two Classes of general unsecured claims (Classes Thirteen and
- 4 Fourteen),
- 5 d. one Class for Debtor's executory contracts and unexpired leases (Class
- 6 Fifteen),
- 7 e. one class for the interest of Debtor's shareholders (Class Sixteen), and
- 8 f. one Class for Debtor's interests (Class Seventeen)

9 **The Plan provides for payment in full of all Allowed Claims during the Term of**
10 **the Plan and for Debtor's shareholders and Debtor to retain their interest in Debtor and**
11 **Debtor's assets except as modified by the Plan.** The Plan further provides that all secured
12 creditors will retain their liens against Debtor's personal property in the same order and priority
13 as existed on the Petition Date until the secured claim is paid in full.

14 Dr. Kothary has agreed to subordinate his general unsecured claim to the claims held by
15 all other general unsecured creditors so all other general unsecured claims can be (a) paid in
16 full before Dr. Kothary begins receiving payment on his claim and (b) paid in full within two
17 years of the Effective Date of the Plan.

18 **3. Debtor's Interests.**

19 Debtor will retain its assets and will not be required to liquidate any of its assets during
20 the Term of the Plan except as provided in the Plan. However, Debtor will have the right to
21 sell any of its assets during the Term of the Plan as Debtor deems to be prudent and/or
22 necessary. Confirmation of the Plan will not vest all property of the estate in Debtor as
23 provided in Section 1141(b) of the Code. Property of the estate will vest in Debtor when Class
24 Thirteen claims are paid in full. Debtor's assets shall revert in the bankruptcy estate if Debtor's
25 case is converted to Chapter 7 at any time after confirmation of the Plan and before the Court
26 enters a Final Decree.

1 interest holder has a claim or equity interest that is both (a) allowed or allowed for voting
2 purposes and (b) impaired. Debtor believes there are five classes of claims that are impaired
3 under the Plan.

4 **2. What Is an Allowed Claim or an Allowed Equity Interest**

5 Only a creditor or equity interest holder with an Allowed Claim or an allowed equity
6 interest has the right to vote on the Plan. Generally, a Claim or equity interest is allowed if (a)
7 Debtor has scheduled the claim on Debtor's Schedules unless the Claim has been scheduled as
8 disputed, contingent, or unliquidated, or (b) the creditor has filed a Proof of Claim or equity
9 interest unless an objection has been filed to such Proof of Claim or equity interest. When a
10 Claim or equity interest is not allowed, the creditor or equity interest holder holding the Claim
11 or equity interest cannot vote unless the Court overrules the objection or allows the Claim or
12 equity interest for voting purposes pursuant to Rule 3018(a) of the Federal Rules of Bankruptcy
13 Procedure.

14 *The deadline for filing a Proof of Claim for non-governmental agencies in this case*
15 *was August 28, 2017.*

16 *The deadline for filing a Proof of Claim for governmental agencies in this case was*
17 *October 22, 2017.*

18 **3. What Is an Impaired Claim or Impaired Equity Interest?**

19 The holder of an Allowed Claim or equity interest has the right to vote only if it is in a
20 Class that is *impaired* under the Plan. As provided in 11 USC Section 1124, a Class is
21 considered impaired if the Plan alters the legal, equitable, or contractual rights of the members
22 of that Class.

23 **4. Who is Not Entitled to Vote?**

24 The holders of the following five types of Claims and equity interests are *not* entitled to
25 vote:

- 26 • holders of Claims and equity interests that have been disallowed by an order of
27 the Court;
- 28 • holders of other Claims or equity interests that are not "Allowed Claims" or
"allowed equity interests" unless they have been "allowed" for voting purposes;
- holders of Claims or equity interests in unimpaired classes;

- 1 • holders of Claims entitled to priority pursuant to 11 USC Sections 507(a)(2),
- 2 (a)(3), and (a)(8);
- 3 • holders of Claims or equity interests in classes that do not receive or retain any
- 4 value under the Plan; and
- 5 • administrative expenses.

6 *You Have a Right to Object to the Confirmation of the Plan Even If You Are Not Entitled to*
7 *Vote on the Plan.*

8 **5. Who Can Vote in More Than One Class?**

9 A creditor whose Claim has been allowed in part as a secured claim and in part as an
10 unsecured claim, or who otherwise hold claims in multiple classes, is entitled to accept or reject
11 a Plan in each capacity and should cast one ballot for each claim.

12 **6. Votes Necessary to Confirm the Plan**

13 The Court cannot confirm the Plan unless (a) at least one impaired class of creditors has
14 accepted the Plan without counting the votes of any insiders within that class, and (b) all
15 impaired classes have voted to accept the Plan unless the Plan is eligible to be confirmed by
16 “cram down” on non-accepting classes as discussed in Paragraph b below.

17 **a. Votes Necessary for a Class to Accept the Plan**

18 A class of claims accepts the Plan if both of the following occur: (a) the holders of more
19 than one-half (1/2) of the allowed claims in the class, who vote, cast their votes to accept the
20 Plan, and (b) the holders of at least two-thirds (2/3) in dollar amount of the allowed claims in
21 the class, who vote, cast their votes to accept the Plan.

22 A class of equity interests accepts the Plan if the holders of at least two-thirds (2/3) in
23 amount of the allowed equity interests in the class, who vote, cast their votes to accept the Plan.

24 **b. Treatment of Non-Accepting Classes**

25 Even if one or more impaired classes reject the Plan, the Court may confirm the Plan if
26 the non-accepting classes are treated in the manner prescribed by 11 USC Section 1129(b). A
27 plan that binds non-accepting classes is commonly referred to as a “cram down” plan. The
28 Code allows the Plan to bind non-accepting classes of claims or equity interests if it meets all
the requirements for consensual confirmation except the voting requirements of 11 USC Section

1 1129(a)(8), does not “discriminate unfairly,” and is “fair and equitable” toward each impaired
2 class that has not voted to accept the Plan.

3 To the extent any Class impaired under the Plan and entitled to vote does not accept the
4 Plan by the requisite statutory majority provided in 11 USC Section 1126(c) as discussed
5 above, or is deemed to have rejected the Plan, Debtor will request confirmation of the Plan
6 under 11 USC Section 1129(b).

7 **c. Application of the Absolute Priority Rule**

8 In corporate Chapter 11 cases, classes of creditors must consent to their treatment under
9 the Plan or receive payment in full before any junior class of creditors receive anything under
10 the Plan. This is called the “Absolute Priority Rule.” Debtor does not believe that the Absolute
11 Priority Rule applies because the Plan provides for payment in full of all Allowed Claims.
12 However, Debtor will seek confirmation of the Plan under the “cram down” provisions of 11
13 USC Section 1129(b) if the Court determines that the Absolute Priority rule does apply in this
14 case.

15 **XIII.**

16 **Chapter 7 Comparison and Liquidation Analysis**

17 Unsecured creditors will receive a dividend in Debtor’s Chapter 11 case equal to the
18 dividend that would be available to unsecured creditors in a Chapter 7 case. This is true
19 because the Plan provides for payment in full of all Allowed Claims and the liquidation value
20 of Debtor’s assets is greater than the amount of debt Debtor owes to its creditors. Interest will
21 accrue on all allowed general unsecured claims at the rate of two percent (2%) per annum from
22 the Effective Date of the Plan until the unsecured claims are paid in full. The interest rate
23 provided to general unsecured claims is higher than the Federal Judgment rate of interest and
24 the amount required by the law. See In re Cardelucci, 285 F.3d 1231 (9th Cir. 2002).

25 **XIV.**

26 **Discharge**

27 Confirmation of the Plan does not discharge any debt provided for in the Plan until one
28 of the following occurs: (a) the Court grants a Discharge on confirmation of the Plan, (b) a

1 Final Decree and Order Closing the Chapter 11 Case is entered, or (c) as otherwise provided in
2 Section 1141(d)(5) of the Code.

3 **XV.**

4 **Management Compensation**

5 Debtor will continue to operate its business during the Term of the Plan. Debtor will be
6 managed by Cami Hogg and Casey Hogg during the Term of the Plan. Debtor will pay wages
7 to Mr. and Mrs. Hogg during the Term of the Plan. Debtor estimates that the wages paid to its
8 managers will be about \$12,000.00 per month during the Term of the Plan. Debtor will reduce
9 the wages paid to its managers during the Term of the Plan if such a reduction is necessary to
10 insure the viability of Debtor's business and feasibility of the Plan.

11 **XVI.**

12 **Insider Claims**

13 Debtor's principals do not have any claims against Debtor for debt owed to the
14 principals.

15 **XVII.**

16 **Creditor Risks**

17 There is risk to creditors with the confirmation of the Plan. The primary risk to
18 creditors is Debtor's failure to complete the payments required by the Plan. Debtor believes the
19 benefits associated with the Plan outweigh the risks associated with the Plan and that the Plan
20 represents the best chance for all creditors to receive payment in full of the debt owed to them
21 in the shortest period of time possible.

22 **XVIII.**

23 **Alternatives to the Amended Plan**

24 Dismissal of the case or conversion to Chapter 7 are alternatives available to Debtor if
25 the Plan is not confirmed. Confirmation of the Plan is preferable to the dismissal of Debtor's
26 case because dismissal of the case would result in repossession and liquidation of collateral by
27 secured creditors, the termination of Debtor's business, and unsecured creditors being forced to
28 pursue collection actions against Debtor under state law.

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Debtor believes that its debt owed to creditors will be paid faster under the Plan than would be true if Debtor’s Chapter 11 case was converted to Chapter 7. This is true because the Term of the Plan is two years and large Chapter 7 cases often take more than two years to administer and payments to be made to creditors.

For the foregoing reasons, Debtor believes that the Plan proposes the best treatment of creditors possible under the circumstances of this case and believes creditors should vote in favor of the Plan.

Date: February 9, 2018

5 C HOLDINGS, INC.

By /s/ Cami Hogg
CAMI HOGG
President

APPROVED:
LAW OFFICES OF LEONARD K. WELSH

By /s/ Leonard K. Welsh
LEONARD K. WELSH
Attorneys for Debtor-in-Possession