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**United States Bankruptcy Court
Northern District of California**

In re: **FLOYD ELMER MCCLUNG, III**

Case No. 16-41298 RLE 11
Chapter 11

_____/

**[PROPOSED] COMBINED PLAN OF REORGANIZATION
AND DISCLOSURE STATEMENT dated September 27, 2016**

INTRODUCTION

This is Debtor's Combined Chapter 11 Plan of Reorganization and Disclosure Statement (the Plan). The Plan identifies each known creditor by name and describes how each claim will be treated if the Plan is confirmed.

Part 1 contains the treatment of creditors with secured claims; Part 2 contains the treatment of general unsecured creditors: a prorata portion of \$114,861.00, likely to result in a 12.50% recovery of allowed claims in Monthly payments over 60 months. Taxes and other priority claims would be paid in full, as shown in Part 3.

Most creditors (those in impaired classes) are entitled to vote on confirmation of the Plan. Completed ballots must be received by Debtor's counsel, and objections to confirmation must be filed and served, no later than _____. The court will hold a hearing on confirmation of the Plan on _____ at _____.

Attached to the Plan are exhibits containing financial information that may help you decide how to vote and whether to object to confirmation. Exhibit 1 includes background

information regarding Debtor and the events that led to the filing of the bankruptcy petition and describes significant events that have occurred during this Chapter 11 case. Exhibit 2 contains an analysis of how much creditors would likely receive in a Chapter 7 liquidation. Exhibit 3 shows Debtor's monthly income and expenses. Exhibit 4 describes how much Debtor is required to pay on the effective date of the plan. Exhibit 5 shows Debtor's monthly income and expenses related to each investment property.

Whether the Plan is confirmed is subject to complex legal rules that cannot be fully described here. You are strongly encouraged to read the Plan carefully and to consult an attorney to help you determine how to vote and whether to object to confirmation of the Plan.

If the Plan is confirmed, the payments promised in the Plan constitute new contractual obligations that replace the Debtor's pre-confirmation debts. Creditors may not seize their collateral or enforce their pre-confirmation debts so long as Debtor performs all obligations under the Plan. If Debtor defaults in performing Plan obligations, any creditor can file a motion to have the case dismissed or converted to a Chapter 7 liquidation, or enforce their non-bankruptcy rights. Debtor will be discharged from all pre-confirmation debts (with certain exceptions) if Debtor makes all Plan payments. Enforcement of the Plan, discharge of the Debtor, and creditors' remedies if Debtor defaults are described in detail in Parts 5 and 6 of the Plan.

PART 1: TREATMENT OF SECURED CREDITORS

Creditors' Rights Remain Unchanged.

Class	Name of Creditor	Description of Collateral
1A	Wells Fargo Home Mortgage	25510 Crestfield Circle, Castro Valley, CA 94552

These creditors' legal, equitable, and contractual rights remain unchanged with respect to the above collateral. The confirmation order will constitute an order for relief from stay. Creditors in these classes shall retain their interest in the collateral until paid in full. **These secured claims are not impaired and are not entitled to vote on confirmation of the Plan.**

PART 2: TREATMENT OF GENERAL UNSECURED CREDITORS

Class 2(b). [Other] General Unsecured Claims.

Name of Creditor	Amount of Claim	Disputed Y/N	Estimated Amount to be Paid	Estimated Monthly Payment
All Pro Bail	2,250.00	N	285.00	4.75
American Express (Claim 3-1)	14,415.91	N	1803.00	30.05
Archer Norris	33,254.50	N	4155.00	69.25
Barclays Bank Delaware	21,414.00	N	2685.00	44.75
BMW Financial Services NA, LLC (Claim 2) ¹	6,858.20	N	855.00	14.25
Elizabeth Andrews	10,339.00	N	1290.00	21.5
Eric Finson	56,200.00	N	7026.00	117.1
Fang Da USA, LLC (Claim 6)	451,553.31	N	56445.00	940.75
Internal Revenue Service (Claim 1)	776.10	N	99.00	1.65
LoanMe, Inc	5,398.00	N	675.00	11.25
Midamerica/Milestone	430.00	N	54.00	0.90
Shawn and Patricia Heisdorffer	39,935.00	N	4992.00	83.20
Steven Carson / Stacey Dedinas	209,408.48	N	26175.00	436.25
Tate & Kirlin Associates	333.30	N	45.00	0.75
The Affiliated Group	404.00	N	51.00	0.85
Tobin Schiller	20,000.00	N	2502.00	41.70
Wells Fargo Bank, NA	26,458.00	N	3309.00	55.15
Wells Fargo PLL (Claim 4)	17,659.06	N	2205.00	36.75
Wells Fargo Bank, NA (Claim 7)	360.00	N	45.00	0.75
Wells Fargo Bank, NA (Claim 5)	1,306.49	N	165.00	2.75
TOTAL	918,753.35	--	114,861.00	1,914.35

Allowed claims of general unsecured creditors (including

¹ This claim is subject to amendment based on the Debtor' rejection of the lease with BMW Financial Services, LLC.

allowed claims of creditors whose executory contracts or unexpired leases are being rejected under this Plan) shall be paid as follows:

Pot Plan. Creditors will receive a pro-rata share of a fund totaling \$114,861.00, created by Debtor's payment of \$1,914.35 per month for a period of 60 months, starting the month following the Effective Date of the plan. Pro-rata means the entire amount of the fund divided by the entire amount owed to creditors with allowed claims in this class.

Creditors in this class may not take any collection action against Debtor so long as Debtor is not in material default under the Plan (defined in Part 6(c)). **This class is impaired and is entitled to vote on confirmation of the Plan.** Debtor has indicated above whether a particular claim is disputed.

PART 3: TREATMENT OF PRIORITY AND ADMINISTRATIVE CLAIMS

(a) Professional Fees.

The following professionals have agreed to accept payment over time as follows. Payments will be made monthly, due on the 1st day of the month, starting the December 1, 2016 or the month following approval by the court, whichever is later.

Name and Role of Professional	Estimated Amount	Payment Amount	Number of Payments
Sagaria Law, PC	\$5,000.00 ²	\$500.00	10

Professionals may not take collection action against Debtor so long as Debtor is not in material default under the Plan (defined in Part 6(c)). **Estate professionals are not entitled to vote on confirmation of the Plan.**

(b) Other Administrative Claims. Debtor will pay other allowed claims entitled to priority under section 503(b) in full on the Effective Date; except expenses incurred in the ordinary course of Debtor's business or financial affairs, which shall be paid when normally due and payable (these creditors are not listed below). All fees payable to the United States Trustee as of confirmation will be paid on the Effective Date; post-confirmation fees to the United States Trustee will be paid when due.

² This amount is net of \$8,500.00 pre-petition retainer.

Administrative Creditors may not take any collection action against Debtor so long as Debtor is not in material default under the Plan (defined in Part 6(c)). **Administrative claimants are not entitled to vote on confirmation of the Plan.**

Name of Administrative Creditor	Estimated Amount of Claim
Office of the United States Trustee	\$650.00

(c) Tax Claims. Debtor will pay allowed claims entitled to priority under section 507(a)(8) in full over time with interest (at the non-bankruptcy statutory interest rate) in equal amortizing payments in accordance with section 511 of the Bankruptcy Code. Payments will be made Monthly, due on the 15th day of the month, starting the first month following the Effective Date. To the extent amounts owed are determined to be other than as shown below, appropriate adjustments will be made in the number of payments.

Priority tax creditors may not take any collection action against Debtor so long as Debtor is not in material default under the Plan (defined in Part 6(c)). **Priority tax claimants are not entitled to vote on confirmation of the Plan.**

Name of Creditor	Estimated Amount of Claim	Statutory Interest Rate	Payment Amount	Number of Payments
Internal Revenue Service	\$1,646.61	3%	\$120.00	14
EDD	\$1,713.84	3%	\$125.00	14

PART 4: EXECUTORY CONTRACTS AND UNEXPIRED LEASES

(a) Executory Contracts/Unexpired Leases Assumed. Debtor assumes the following executory contracts and/or unexpired leases upon confirmation of this Plan and will perform all pre-confirmation and post-confirmation obligations thereunder. Post-confirmation obligations will be paid as they come due.

Name of Counter-Party	Description of Contract/Lease	Estimated Total Cure Amount	Installment Amount	Number of Installments
	NONE			

(b) Executory Contracts/Unexpired Leases Rejected. Debtor rejects the following executory contracts and/or unexpired

leases and surrenders any interest in the affected property, and allows the affected creditor to obtain possession and dispose of its property, without further order of the court. Claims arising from rejection of executory contracts have been included in Class 2 (general unsecured claims).

Name of Counter-Party	Description of Contract/Lease
BMW Financial Services	Auto Lease for 2014 BMW Z3

(c) Executory contracts and unexpired leases not specifically assumed or rejected above will be deemed rejected.

PART 5: DISCHARGE AND OTHER EFFECTS OF CONFIRMATION

(a) Discharge. Debtor shall not receive a discharge of debts until Debtor makes all payments to unsecured creditors due under the Plan or the court grants a hardship discharge.

(b) Vesting of Property. On the Effective Date, all property of the estate and interests of the Debtor will vest in the reorganized Debtor pursuant to § 1141(b) of the Bankruptcy Code free and clear of all claims and interests except as provided in this Plan, subject to revesting upon conversion to Chapter 7 as provided in Part 6(f) below.

(c) Plan Creates New Obligations. Except as provided in Part 6(d) and (e), the obligations to creditors that Debtor undertakes in the confirmed Plan replace those obligations to creditors that existed prior to the Effective Date of the Plan. Debtor's obligations under the confirmed Plan constitute binding contractual promises that, if not satisfied through performance of the Plan, create a basis for an action for breach of contract under California law. To the extent a creditor retains a lien under the Plan, that creditor retains all rights provided by such lien under applicable non-Bankruptcy law.

PART 6: REMEDIES IF DEBTOR DEFAULTS IN PERFORMING THE PLAN

(a) Creditor Action Restrained. The confirmed Plan is binding on every creditor whose claims are provided for in the Plan. Therefore, even though the automatic stay terminates on the Effective Date with respect to secured claims, no creditor may take any action to enforce either the pre-confirmation obligation or the obligation due under the Plan, so long as Debtor is not in material default under the Plan, except as provided in Part 6(e) below.

(b) Obligations to Each Class Separate. Debtor's obligations under the Plan are separate with respect to each class of creditors. Default in performance of an obligation due to members of one class shall not by itself constitute a default with respect to members of other classes. For purposes of this Part 6, the holders of all administrative claims shall be considered to be a single class, the holders of all priority claims shall be considered to be a single class, and each non-debtor party to an assumed executory contract or lease shall be considered to be a separate class.

(c) Material Default Defined. If Debtor fails to make any payment, or to perform any other obligation required under the Plan, for more than 10 days after the time specified in the Plan for such payment or other performance, any member of a class affected by the default may serve upon Debtor and Debtor's attorney (if any) a written notice of Debtor's default. If Debtor fails within 30 days after the date of service of the notice of default either: (i) to cure the default; (ii) to obtain from the court an extension of time to cure the default; or (iii) to obtain from the court a determination that no default occurred, then Debtor is in Material Default under the Plan to all the members of the affected class.

(d) Remedies Upon Material Default. Upon Material Default, any member of a class affected by the default: (i) may file and serve a motion to dismiss the case or to convert the case to Chapter 7; or (ii) without further order of the court has relief from stay to the extent necessary, and may pursue its lawful remedies to enforce and collect Debtor's pre-confirmation obligations.

(e) Claims not Affected by Plan. Upon confirmation of the Plan, and subject to Part 5(c), any creditor whose claims are left unimpaired under the Plan may, notwithstanding paragraphs (a), (b), (c), and (d) above, immediately exercise all of its contractual, legal, and equitable rights, except rights based on default of the type that need not be cured under section 1124(2)(A) and (D).

(f) Effect of Conversion to Chapter 7. If the case is at any time converted to one under Chapter 7, property of the Debtor shall vest in the Chapter 7 bankruptcy estate to the same extent provided for in section 348(f) of the Bankruptcy Code upon the conversion of a case from Chapter 13 to Chapter 7.

(g) Retention of Jurisdiction. The bankruptcy court may

exercise jurisdiction over proceedings concerning: (i) whether Debtor is in Material Default of any Plan obligation; (ii) whether the time for performing any Plan obligation should be extended; (iii) adversary proceedings and contested matters pending as of the Effective Date or specifically contemplated in this Plan to be filed in this court (see Part 7(f)); (iv) whether the case should be dismissed or converted to one under Chapter 7; (v) any objections to claims; (vi) compromises of controversies under Fed. R. Bankr. Pro. 9019; (vii) compensation of professionals; and (viii) other questions regarding the interpretation and enforcement of the Plan.

PART 7: GENERAL PROVISIONS

(a) Effective Date of Plan. The Effective Date of the Plan is the fifteenth day following the date of the entry of the order of confirmation, if no notice of appeal from that order has been filed. If a notice of appeal has been filed, Debtor may waive the finality requirement and put the Plan into effect, unless the order confirming the Plan has been stayed. If a stay of the confirmation order has been issued, the Effective Date will be the first day after that date on which no stay of the confirmation order is in effect, provided that the confirmation order has not been vacated.

(b) Disputed Claim Reserve. Debtor will create a reserve for disputed claims. Each time Debtor makes a distribution to the holders of allowed claims, Debtor will place into a reserve the amount that would have been distributed to the holders of disputed claims if such claims had been allowed in the full amount claimed. If a disputed claim becomes an allowed claim, Debtor shall immediately distribute to the claimant from the reserve an amount equal to all distributions due to date under the plan calculated using the amount of the allowed claim. Any funds no longer needed in reserve shall be returned to Debtor.

(c) Cramdown. Pursuant to section 1129(b) of the Bankruptcy Code, Debtor reserves the right to seek confirmation of the Plan despite the rejection of the Plan by one or more classes of creditors.

(d) Severability. If any provision in the Plan is determined to be unenforceable, the determination will in no way limit or affect the enforceability and operative effect of any other provision of the Plan.

(e) Governing Law. Except to the extent a federal rule of

decision or procedure applies, the laws of the State of California govern the Plan.

(f) Lawsuits.

Debtor believes that causes of action for fraudulent transfers, voidable preferences, or other claims for relief exist against the following parties:

Party	Creditor Y/N	Nature of Claim	Amount of Claim	Will Debtor Prosecute Action? Y/N
Fang Da USA, LLC	Y	Sanctions / Malicious Prosecution	\$5,000.00	N
Fang Da USA, LLC	Y	Voidable Preference Under 11 U.S.C. 547 for recordation of judgment lien	NA	N - Parties have resolved via stipulation [Docket # 45]

(g) Notices. Any notice to the Debtor shall be in writing, and will be deemed to have been given three days after the date sent by first-class mail, postage prepaid and addressed as follows:

Sagaria Law, PC 2033 Gateway Place, Fifth Floor San Jose, CA 95110	Floyd Elmer McClung 25510 Crestfield Circle Castro Valley CA 94552
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(h) Post-Confirmation United States Trustee Fees. Following confirmation, Debtor shall continue to pay quarterly fees to the United States Trustee to the extent, and in the amounts, required by 28 U.S.C. § 1930(a)(6). So long as Debtor is required to make these payments, Debtor shall file with the court quarterly reports in the form specified by the United States Trustee for that purpose.

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(i) Deadline for § 1111(b) Election. Creditors with an allowed secured claim can make a timely election under section 1111(b) no later than 14 days before the first date set for the hearing on confirmation of the Plan.

Dated: September 27, 2016

/s/ Floyd Elmer McClung, III
Debtor

/s/ Scott M. Johnson
Attorney for Debtor

Attorney Certification

I, Scott M. Johnson, am legal counsel for the Debtor(s) in the above-captioned case and hereby certify the following: (i) the foregoing plan is a true and correct copy of the Individual Chapter 11 Combined Plan and Disclosure Statement promulgated by the Northern District of California, San Francisco Division, on July 30, 2012 (the "Standard-Form Plan"); and (ii) except as specified below, there have been no alterations or modifications to any provision of the Standard-Form Plan.

The following provisions of the Standard-Form Plan have been altered or otherwise modified.

Page 3 - Added Footnote 1 with respect to BWM claim.

Page 4 - Added Footnote 2 regarding administrative payments.

Page 6 - Change Part 5(a) to provide for Debtor to receive a discharge upon completion of payments to unsecured creditors.

I declare that the foregoing is true and correct. Executed this 27 day of September, 2016.

/s/Scott M. Johnson
Attorney for Debtor(s)

Exhibit 1 - Events That Led To Bankruptcy

Debtor started an advanced materials polishing business in 2009 called CV Nanotechnology based in Livermore, CA to develop and manufacture advanced polishing materials for applications such as lasers, electronics and smartphones. This business required investment for operating expenses, R&D, inventory and working capital. Debtor used his 401K retirement account and other personal assets in addition to taking out loans to finance start up and operations of the business. Unfortunately, after several years of trying, Debtor was not able to generate enough sales at high enough profit margin to cover the costs of operating the business and to generate positive cash flow to pay back the debt. Debtor eventually sold the business, but was still personally responsible for a substantial amount of the debt, including a debt which was reduced to judgment and recorded against Debtor's real property prior to the filing of this case.

Debtor is currently employed as a salaried employee and has a stable source of income from which to fund payments under the plan.

Exhibit 2 - What Creditors Would Receive if the Case Were Converted to a Chapter 7

Real Property #1: 25510 Crestfield Circle, Castro Valley CA

Fair Market Value	Liens	Cost of Sale	Resulting Income Tax	Amt of Exemption	Net Proceeds To Estate (50%)
\$1,001,659	1 st \$539,260	\$80,132.00	\$0.00	\$75,000	\$116,133

Personal Property:

Description	Liquidation Value	Secured Claim	Amt of Exemption	Net Proceeds
Cash	1,200.00	0.00	0.00	1,200.00
Automobile #1 (2004 Z4)	3,750.00	0.00	2,900.00	850.00
Household Furnishings	4,400.00	0.00	4,400.00	0.00
Equipment	300.00	0.00	0.00	300.00
TOTAL				2,350.00

Net Proceeds of Real Property and Personal Property	118,483.00
Recovery from Preferences / Fraudulent Conveyances [ADD]	18,000.00 ³
Chapter 7 Administrative Claims [SUBTRACT]	
Chapter 11 Administrative Claims [SUBTRACT]	5,650.00
Priority Claims [SUBTRACT]	6,363.84
Chapter 7 Trustee Fees [SUBTRACT]	25,000.00 ⁴
Chapter 7 Trustee's Professionals [SUBTRACT]	10,000.00
NET FUNDS AVAILABLE FOR DISTRIBUTION TO UNSECURED CREDITORS	89,472.16

Estimated Amount of Unsecured Claims	918,753.35
Percent Distribution to Unsecured Creditors Under Proposed Plan	12.50%
Percent Distribution to Unsecured Creditors Under Liquidation Analysis	9.74%

³ The "Recovery from Preferences" represents pre-petition support / gifts made by Debtor. Debtor makes no representation as to whether or not a hypothetical trustee could successfully pursue the transferees.

⁴ If a chapter 7 trustee were to liquidate the Debtor's assets, including the sale of his primary residence, he or she would be entitled to payment of fees in accordance for disbursements made on the claims secured against debtors residence. In that event the likely trustee fees under 11 USC § 326 would be \$31,586.90. Hypothetical fees excluding payment on the secured claim would be \$9,174.00. For the purposes of this analysis, Debtor assumes that the hypothetical chapter 7 trustee would cap his or her fees in the interests of creditors.

Individual Chapter 11

Combined Plan & Disclosure Statement

(Version: 7/30/12)

September 27, 2016

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Exhibit 3 - Monthly Income and Expenses

Income	Amount
Gross Employment Income	11,433.00
Gross Business Income	0.00
Other Income	0.00
Positive Cash Flow on Investment Property (Exhibit 5, Line A)	0.00
A. Total Monthly Income	11,433.00

Expenses	Amount
Includes Plan Payments on Secured Claims for Residence and Car	
Payroll Taxes and Related Withholdings	4,032.00
Retirement Contributions (401k, IRA, PSP)	0.00
Shelter Expenses (rent/mortgage, insurance, taxes, utilities) (Total Arrearages on Principal Residence are \$0.00)	2,078.00
Household Expenses (food)	800.00
Transportation Expenses (car payments, insurance, fuel)	600.00
Personal Expenses (e.g. recreation, clothing, laundry, medical)	1,000.00
Alimony / Child Support	0.00
Support to Family	250.00
Negative Cash Flow on Investment Property (Exhibit 5, Line B)	0.00
B. Total Monthly Expenses	8,760.00

C. Disposable Income (Line A - Line B)	\$2,673.00
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Plan Payments	Amount
Plan Payments Not Included in Calculating Disposable Income	
Administrative Claims	500.00
Priority Claims	245.00
General Unsecured Creditors	1,914.35
D. Total Plan Payments	2,659.35

E. Plan Feasibility (Line C - Line D) (Not feasible if less than zero)	13.65
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Exhibit 4 - Effective Date Feasibility

Can the Debtor Make the Effective Day Payments?

	Amount	Amount
A. Projected Total Cash on Hand on Effective Date		2,000.00
Payments on Effective Date		
Unclassified Claims	0.00	
Administrative Expense Claims	0.00	
Priority Claims	0.00	
Small Claims (Class 2(a))	0.00	
U.S. Trustee Fees	650.00	
B. Total Payments on Effective Date		650.00
C. Net Cash on Effective Date (Line A - Line B) (Not feasible if less than zero)		1,350.00