

United States Bankruptcy
Court
Northern District of
California

In re Casa De Montgomery, Inc. Case No.17-53037-SLJ
Debtor

CASA DE MONTGOMERY, INC. DISCLOSURE STATEMENT DATED DEC. 28, 2107

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I. INTRODUCTION

This is the disclosure statement (the “Disclosure Statement”) in the single asset chapter 11 case of Casa de Montgomery, Inc. (the Debtor). This Disclosure Statement contains information about the Debtor and describes the Plan dated Dec. 28, 2017 (the “Plan”) filed by the Debtor on Dec. 28, 2017. A full copy of the Plan is attached to this Disclosure Statement as Exhibit A. ***Your rights may be affected. You should read the Plan and this Disclosure Statement carefully and discuss them with your attorney. If you do not have an attorney, you may wish to consult one.***

. The proposed distributions under the Plan are discussed at pages 7-8 of this Disclosure Statement. General unsecured creditors are Classified in Class 3 and will be paid in full together with interest at 1.75% per annum

A. Purpose of This Document

This Disclosure Statement describes:

1. The Debtor and significant events during the bankruptcy case,
2. How the Plan proposes to treat claims or equity interests of the type you hold (*i.e.*, what you will receive on your claim or equity interest if the plan is confirmed),
3. Who can vote on or object to the Plan,
4. What factors the Bankruptcy Court (the “Court”) will consider when deciding whether to confirm the Plan,
5. Why the Proponent believes the Plan is feasible, and how the treatment of your claim or equity interest under the Plan compares to what you would receive on your claim or equity interest in liquidation, and
6. The effect of confirmation of the Plan.

Be sure to read the Plan as well as the Disclosure Statement. This Disclosure Statement describes the Plan, but it is the Plan itself that will, if confirmed, establish your rights.

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

The Court has not yet confirmed the Plan described in this Disclosure Statement. This section describes the procedures pursuant to which the Plan will or will not be confirmed.

1. *A hearing on the approval of this Disclosure Statement will be held on Feb. 1, 2018 at 1:30 p.m. at the United States Bankruptcy Court, Northern District of California, San Jose Division at 280 So. First St., San Jose, CA 95113 in Courtroom 3099.*
2. *Deadline For Voting to Accept or Reject the Plan*

If you are entitled to vote to accept or reject the plan, vote on the enclosed ballot and return the ballot in the enclosed envelope to The Fuller Law Firm, P.C., 60 No. Keeble Ave. San Jose, CA 95126. See section IV.A. below for a discussion of voting eligibility requirements.

Your ballot must be received by insert date or it will not be counted.

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

Objections to this Disclosure Statement must be filed with the Court and served upon debtor, debtor's counsel, the Office of the United States Trustee and all parties requesting special notice by _____.

4. *Identity of Person to Contact for More Information*

If you want additional information about the Plan, you should contact The Fuller Law Firm, P.C. 60 No. Keeble Ave. San Jose, CA 95126 at 408 295-5595.

C. **Disclaimer**

This Disclosure Statement, if approved, does not constitute an endorsement of the Plan by the Court, or a recommendation that it be accepted.

II. **BACKGROUND**

A. **Description and History of the Debtor's Business**

Debtor was formed on March 30, 1984 as a Nevada Corporation and acquired title to the property at 4573 Branciforte Drive Santa Cruz, CA ["Property"] in 1984. The Property consists of approximately 12.68 acres with a 6,000 square foot residential building and a 10,000 square foot commercial building and some outbuildings. Other than nominal cash, this is Debtor's only asset.

An outbuilding is leased to Gerta Grindstaff for storage for \$585.00/month. Further, debtor has entered into a lease with Firearms, Inc. for \$19,000/month plus utilities.

Based on an appraisal dated August 2017, the Property has a value of \$3,200,000. It is encumbered as follows:

Delinquent property taxes (2016-2018)	\$ 13,512
1 st T.D. – Sequoia Mortgage Capital	\$2,118,175.78
2 nd T.D. Gerardo Soto	\$ 60,000.00

Total Encumbrances	\$2,191,697.78
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On August 29, 2017, Debtor, represented by David Symes, filed a prior Chapter 11 petition. Per filings by the Office of the United States Trustee, this was Mr. Smye's first Chapter 11 petition. Because he was debtor's corporate counsel and was owed fees, his application for employment was declined and he had to withdraw as counsel from the case. Debtor had difficulty finding counsel willing to substitute into the case because more than 3 months had already run and no plan had been proposed. At an Order to Show Cause hearing, the prior case was dismissed.

A foreclosure sale was set for Dec. 20, 2017. The herein petition was filed to stay the sale to allow for more time to complete financing.

Debtor has 3 loan applications pending to refinance the property:

1. Michael Halton, Broker

Funding available and debtor approved for \$2,000,000. However this is insufficient. With a new lease in place, the lender may increase the amount of the proposed loan.

2. Teresa Paradise, Broker

She is evaluating the appraisal

3. Jodie Martorell, Broker

She is evaluating application.

B. Insiders of the Debtor

The stockholders are:

Frank Podesta	48%
Johnny Podesta	46%
Chris Zocctelli	2%
Jake Ryan Lapp	2%
Micah M. Vandersteen	2%

C. Management of the Debtor Before and During the Bankruptcy

Frank Podesta is the Chairman of the Board and manages the Debtor. Frank Rosata is the treasurer.

After the effective date of the order confirming the Plan, the directors, officers, (collectively the “Post Confirmation Managers”), will remain unchanged.

D. Events Leading to Chapter 11 Filing

Sequoia Capital, the holder of the 1st trust deed, when initiating the loan, withheld six month of pre-paid interest. Misunderstandings arose as to among other things, advances for construction on withheld funds. Sequoia Capital initiated foreclosure proceedings precipitating the need for the bankruptcy filing.

E. Significant Events During the Bankruptcy Case

The case was just filed so few events have transpired.

F. Projected Recovery of Avoidable Transfers

The Debtor does not intend to pursue preference, fraudulent conveyance, or other avoidance actions.

G. Claims Objections

Except to the extent that a claim is already allowed pursuant to a final non-appealable order, the Debtor reserves the right to object to claims. Therefore, even if your claim is allowed for voting purposes, you may not be entitled to a distribution if an objection to your claim is later upheld. The procedures for resolving disputed claims are set forth in Article V of the Plan.

H. Current and Historical Financial Conditions

The identity and fair market value of the estate's assets are listed in Exhibit B.

No post-petition operating report has come due. However, debtor attaches the Nov. 2017 operating report from its prior case marked as Exhibit C.

III. SUMMARY OF THE PLAN OF REORGANIZATION AND TREATMENT OF CLAIMS AND EQUITY INTERESTS

A. What is the Purpose of the Plan of Reorganization?

As required by the Code, the Plan places claims and equity interests in various classes and describes the treatment each class will receive. The Plan also states whether each class of claims or equity interests is impaired or unimpaired. If the Plan is confirmed, your recovery will be limited to the amount provided by the Plan.

B. Unclassified Claims

Certain types of claims are automatically entitled to specific treatment under the Code. They are not considered impaired, and holders of such claims do not vote on the Plan. They may, however, object if, in their view, their treatment under the Plan does not comply with that required by the Code. As such, the Plan Proponent has *not* placed the following claims in any class:

1. *Administrative Expenses*

Administrative expenses are costs or expenses of administering the Debtor's chapter 11 case which are allowed under § 507(a)(2) of the Code. Administrative expenses also include the value of any goods sold to the Debtor in the ordinary course of business and received within 20 days before the date of the bankruptcy petition. The Code requires that all administrative expenses be paid on the effective date of the Plan, unless a particular claimant agrees to a different treatment.

The following chart lists the Debtor's estimated administrative expenses, and their proposed treatment under the Plan:

Type	Estimated Amount Owed	Proposed Treatment
Professional Fees, as approved by the Court.	\$20,000	Payable on the Effective Date but subject to an accounting and approval of an Application for Compensation
Office of the U.S. Trustee Fees	325	Paid in full on the effective date of the Plan
TOTAL	20,325	

2. *Priority Tax Claims*

Priority tax claims are unsecured income, employment, and other taxes described by § 507(a)(8) of the Code. Unless the holder of such a § 507(a)(8) priority tax claim agrees otherwise, it must receive the present value of such claim, in regular installments paid over a period not exceeding 5 years from the order of relief.

The following chart lists the Debtor's estimated § 507(a)(8) priority tax claims and their proposed treatment under the Plan:

Description (name and type of tax)	Estimated Amount Owed	Date of Assessment	Treatment
IRS	300.00	NA	Payable in full together with interest at 4.00% per annum, on the Effective Date.
FTB	2,798.40	NA	Payable in full together with interest at 4.00% per annum, on the Effective Date.

C. Classes of Claims and Equity Interests

The following are the classes set forth in the Plan, and the proposed treatment that they will receive under the Plan:

1. *Classes of Secured Claims*

Allowed Secured Claims are claims secured by property of the Debtor's bankruptcy estate (or that are subject to setoff) to the extent allowed as secured claims under § 506 of the Code. If the value of the collateral or setoffs securing the creditor's claim is less than the amount of the creditor's allowed claim, the deficiency will be classified as a general unsecured claim.

The following chart lists all classes containing Debtor's secured prepetition claims and their proposed treatment under the Plan:

Class #	<u>Description</u>	Insider? (Yes or No)	Impairment	Treatment
1	<p><i>Secured claim of:</i> Name = Santa Cruz Co. Tax Collector Collateral description = Property at 4573 Branciforte Dr. Santa Cruz, CA Allowed Secured Amount = \$ 13,512.00 Priority of lien: Senior to 1st trust deed _____</p>	No	impaired	Payable in full together with interest at 18% per annum on close of escrow on the refinance of the Property, but not later than 6 months from the Effective Date
2	<p><i>Secured claim of:</i> Name = Sequoia Mortgage Capital Collateral description = Property at 4573 Branciforte Dr. Santa Cruz, CA Allowed Secured Amount = \$ 2,118,185.78 _____</p>	No	impaired	Allowed Claim payable in full together with post-petition note interest , costs and fees on refinance of the Property but not later than 6 months from the Effective Date.

3	<i>Secured claim of:</i> Name = Gerardo Soto Collateral description = Property at 4573 Branciforte Dr. Santa Cruz, CA Allowed Secured Amount = \$ 60,000.00	No	Impaired	Allowed Claim payable in full together with post-petition note interest , costs and fees on refinance of the Property but not later than within 6 months from the Effective Date.
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2. *Classes of Priority Unsecured Claims*

Certain priority claims that are referred to in §§ 507(a)(1), (4), (5), (6), and (7) of the Code are required to be placed in classes. The Code requires that each holder of such a claim receive cash on the effective date of the Plan equal to the allowed amount of such claim. However, a class of holders of such claims may vote to accept different treatment.

The following chart lists all classes containing claims under §§ 507(a)(1), (4), (5), (6), and (a)(7) of the Code and their proposed treatment under the Plan:

Class #	Description	Impairment	Treatment
	None		

3. *Class of General Unsecured Claims*

General unsecured claims are not secured by property of the estate and are not entitled to priority under § 507(a) of the Code.

The following chart identifies the Plan's proposed treatment of Class 3 which contain general unsecured claims against the Debtor:

Class #	Description	Impairment	Treatment
4	General Unsecured Class	Impaired	Payable in full together with interest at 1.75% per annum in equal monthly payments amortized over 5 years from the Effective Date. Payments shall be paid pro-rata as set forth in Exhibit "G".

4. *Class of Equity Interest Holders*

Equity interest holders are parties who hold an ownership interest (*i.e.*, equity interest) in the Debtor. In a corporation, entities holding preferred or common stock are equity interest holders. In a partnership, equity interest holders include both general and limited partners. In a limited liability company ("LLC"), the equity interest holders are the members. Finally, with respect to an individual who is a debtor, the Debtor is the equity interest holder.

The following chart sets forth the Plan's proposed treatment of the class of equity interest holders:

Class #	Description	Impairment	Treatment
5	Equity interest holders	Unimpaired	Retain stock; No payment of dividends before General Unsecured Creditors are paid

D. Means of Implementing the Plan

1. Source of Payments

Payments and distributions under the Plan will be funded by (1) refinance of the Property; (2) Rental income; (3) Frank Podesta's retirement earnings; (4) Frank Podesta's earnings from un-related business ventures

2. Post-confirmation Management

The Post-Confirmation Managers of the Debtor, and their compensation, shall be as follows:

Name	Affiliations	Insider (yes or no)?	Position	Compensation
Frank Podesta	None	Yes	Chairman of the Board	None

E. Risk Factors

The proposed Plan has the following risks:

The primary risk is that a lender will not close on the loan.

F. Executory Contracts and Unexpired Leases

Firearms, Inc. has a one year lease effective as of Jan. 1, 2018 and continuing for one year, subject to annual renewals for a maximum term of 5 years.

All executory contracts and unexpired leases that are not identified will be rejected under the Plan. Consult your adviser or attorney for more specific information about particular contracts or leases.

G. Tax Consequences of Plan

Creditors and Equity Interest Holders Concerned with How the Plan May Affect Their Tax Liability Should Consult with Their Own Accountants, Attorneys, And/Or Advisors.

None

IV. CONFIRMATION REQUIREMENTS AND PROCEDURES

To be confirmable, the Plan must meet the requirements listed in §§ 1129(a) or (b) of the Code. These include the requirements that: the Plan must be proposed in good faith; at least one impaired class of claims must accept the plan, without counting votes of insiders; the Plan must distribute to each creditor and equity interest holder at least as much as the creditor or equity interest holder would receive in a chapter 7 liquidation case, unless the creditor or equity interest holder votes to accept the Plan; and the Plan must be feasible. These requirements are not the only requirements listed in § 1129, and they are not the only requirements for confirmation.

A. Who May Vote or Object

Any party in interest may object to the confirmation of the Plan if the party believes that the requirements for confirmation are not met.

Many parties in interest, however, are not entitled to vote to accept or reject the Plan. A creditor or equity interest holder has a right to vote for or against the Plan only if that creditor or equity interest holder has a claim or equity interest that is both (1) allowed or allowed for voting purposes and (2) impaired.

In this case, the Plan Proponent believes that classes 1-3 are impaired and that holders of claims in each of these classes are therefore entitled to vote to accept or reject the Plan.

1. *What Is an Allowed Claim or an Allowed Equity Interest?*

Only a creditor or equity interest holder with an allowed claim or an allowed equity interest has the right to vote on the Plan. Generally, a claim or equity interest is allowed if either (1) the Debtor has scheduled the claim on the Debtor's schedules, unless the claim has been scheduled as disputed, contingent, or unliquidated, or (2) the creditor has filed a proof of claim or equity interest, unless an objection has been filed to such proof of claim or equity interest. When a claim or equity interest is not allowed, the creditor or equity interest holder holding the claim or equity interest cannot vote unless the Court, after notice and hearing, either overrules the objection or allows the claim or equity interest for voting purposes pursuant to Rule 3018(a) of the Federal Rules of Bankruptcy Procedure.

The non-governmental deadline for filing a proof of claim in this case 04/16/2018.

2. *What Is an Impaired Claim or Impaired Equity Interest?*

As noted above, the holder of an allowed claim or equity interest has the right to vote only if it is in a class that is *impaired* under the Plan. As provided in § 1124 of the Code, a class is considered impaired if the Plan alters the legal, equitable, or contractual rights of the members of that class.

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

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

- holders of claims and equity interests that have been disallowed by an order of the Court;
- holders of other claims or equity interests that are not “allowed claims” or “allowed equity interests” (as discussed above), unless they have been “allowed” for voting purposes.
- holders of claims or equity interests in unimpaired classes;

- holders of claims entitled to priority pursuant to §§ 507(a)(2), (a)(3), and (a)(8) of the Code; and
- holders of claims or equity interests in classes that do not receive or retain any value under the Plan;
- administrative expenses.

Even If You Are Not Entitled to Vote on the Plan, You Have a Right to Object to the Confirmation of the Plan [and to the Adequacy of the Disclosure Statement].

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

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

B. Votes Necessary to Confirm the Plan

If impaired classes exist, the Court cannot confirm the Plan unless (1) at least one impaired class of creditors has accepted the Plan without counting the votes of any insiders within that class, and (2) all impaired classes have voted to accept the Plan, unless the Plan is eligible to be confirmed by cram down on non-accepting classes, as discussed later in Section [B.2.].

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

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

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

2. *Treatment of Nonaccepting Classes*

Even if one or more impaired classes reject the Plan, the Court may nonetheless confirm the Plan if the nonaccepting classes are treated in the manner prescribed by § 1129(b) of the Code. A plan that binds nonaccepting classes is commonly referred to as a "cram down" plan. The Code allows the Plan to bind nonaccepting classes of claims or equity interests if it meets all the requirements for consensual confirmation except the voting requirements of § 1129(a)(8) of the Code, does not "discriminate unfairly," and is "fair and equitable" toward each impaired class that has not voted to accept the Plan.

You should consult your own attorney if a "cramdown" confirmation will affect your claim or equity interest, as the variations on this general rule are numerous and complex.

C. Liquidation Analysis

To confirm the Plan, the Court must find that all creditors and equity interest holders who do not accept the Plan will receive at least as much under the Plan as such claim and equity interest holders would receive in a chapter 7 liquidation. A liquidation analysis is attached to this Disclosure Statement as Exhibit D.

D. Feasibility

The Court must find that confirmation of the Plan is not likely to be followed by the liquidation, or the need for further financial reorganization, of the Debtor or any successor to the Debtor, unless such liquidation or reorganization is proposed in the Plan.

1. *Ability to Initially Fund Plan*

The Plan Proponent believes that the Debtor will have enough cash on hand on the effective date of the Plan to pay all the claims and expenses that are entitled to be paid on that date. Tables showing the amount of cash on hand on the effective date of the Plan, and the sources of that cash are attached to this disclosure statement as Exhibit E.

2. *Ability to Make Future Plan Payments And Operate Without Further Reorganization*

The Plan Proponent must also show that it will have enough cash over the life of the Plan to make the required Plan payments.

The Plan will be funded from three sources:

1. refinance of the Property
2. Rental income of the Property
3. Contributions from Frank Podesta from his retirement earnings or unrelated business ventures.

You Should Consult with Your Accountant or other Financial Advisor If You Have Any Questions Pertaining to These Projections.

V. EFFECT OF CONFIRMATION OF PLAN**A. DISCHARGE OF DEBTOR**

Discharge. On the effective date of the Plan, the Debtor shall be discharged from any debt that arose before confirmation of the Plan, subject to the occurrence of the effective date, to the extent specified in § 1141(d)(1)(A) of the Code, except that the Debtor shall not be discharged of any debt (i) imposed by the Plan, (ii) of a kind specified in § 1141(d)(6)(A) if a timely complaint was filed in accordance with Rule 4007(c) of the Federal Rules of Bankruptcy Procedure, or (iii) of a kind specified in § 1141(d)(6)(B). After the effective date of the Plan your claims against the Debtor will be limited to the debts described in clauses (i) through (iii) of the preceding sentence.

B. Modification of Plan

The Plan Proponent may modify the Plan at any time before confirmation of the Plan. However, the Court may require a new disclosure statement and/or revoting on the Plan.

The Plan Proponent may also seek to modify the Plan at any time after confirmation only if (1) the Plan has not been substantially consummated *and* (2) the Court authorizes the proposed modifications after notice and a hearing.

C. Final Decree

Once the estate has been fully administered, as provided in Rule 3022 of the Federal Rules of Bankruptcy Procedure, the Plan Proponent, or such other party as the Court shall designate in the Plan Confirmation Order, shall file a motion with the Court to obtain a final decree to close the case. Alternatively, the Court may enter such a final decree on its own motion.

VI. OTHER PLAN PROVISIONS

None

Dated: Dec. 28, 2017

/s/ Frank Podesta

/s/Lars T. Fuller

EXHIBITS

Exhibit A Copy of Proposed Plan of Reorganization

United States Bankruptcy Court
Northern District of California

In re CASE DE MONTGOMERY, INC... Case No. 17-53037-SLJ
Debtor
Chapter 11

CASA DE MONTGOMERY, INC's PLAN OF REORGANIZATION, DATED DEC. 15 2017

ARTICLE I
SUMMARY

This Plan of Reorganization (the “Plan”) under chapter 11 of the Bankruptcy Code (the “Code”) proposes to pay secured creditors of Case De Montgomery, Inc.. (the “Debtor”) from the refinance of the Property.

This Plan provides for three classes of secured, one class of unsecured and one class of equity security holders. Unsecured creditors holding allowed claims will be paid in full in monthly payments over 5 years together with interest at 1.75% per annum. The Plan also provides for the payment of administrative and priority claims.

All creditors and equity security holders should refer to Articles III through VI of this Plan for information regarding the precise treatment of their claim. A disclosure statement that provides more detailed information regarding this Plan and the rights of creditors and equity security holders has been circulated with this Plan. **Your rights may be affected. You should read these papers carefully and discuss them with your attorney, if you have one. (If you do not have an attorney, you may wish to consult one.)**

ARTICLE II
CLASSIFICATION OF CLAIMS AND INTERESTS

2.01 The claim of Santa Cruz County Property Tax Collector as a secured claim under § 506 of the Code [Class 1]

2.02 The claim of Sequoia Capital, as a secured claim under § 506 of the Code [Class 2].

2.03 The claim of Gerardo Soto, as a secured claim under § 506 of the Code [Class 3].

2.03 All unsecured claims allowed under §502 of the Code [Class 4].

ARTICLE III
TREATMENT OF ADMINISTRATIVE EXPENSE CLAIMS,
U.S. TRUSTEES FEES, AND PRIORITY TAX CLAIMS

3.01 Unclassified Claims. Under section §1123(a)(1), administrative expense claims, and priority tax claims are not in classes.

3.02 Administrative Expense Claims. Each holder of an administrative expense claim allowed under § 503 of the Code will be paid in full on the effective date of this Plan (as defined in Article VII), in cash, or upon such other terms as may be agreed upon by the holder of the claim and the Debtor.

3.03 Priority Tax Claims. Each holder of a priority tax claim will be paid. The claim of the Franchise Tax Board in the amount of \$2,528.09 will be paid in full together with interest at 4% per annum on the Effective Date. The claim of the Internal Revenue Service in the amount of \$300.00 will be paid in full on the Effective date.

3.04 United States Trustee Fees. All fees required to be paid by 28 U.S.C. §1930(a)(6) (U.S. Trustee Fees) will accrue and be timely paid until the case is closed, dismissed, or converted to another chapter of the Code. Any U.S. Trustee Fees owed on or before the effective date of this Plan will be paid on the effective date.

ARTICLE IV
TREATMENT OF CLAIMS AND INTERESTS UNDER THE PLAN

4.01 Claims and interests shall be treated as follows under this Plan:

Class	Impairment	Treatment
Class 1 – Santa Cruz County Tax Collector	Impaired	Pay allowed claim in full together with interest at 18% per annum from the commencement date, on the closing of the refinance of the property at 4573 Branciforte Dr. Santa Cruz but in any event not later than 6 months from the Effective Date.
Class 2 – Sequoia Mortgage Capital	Impaired	Pay the allowed claim in full together with post-petition, interest costs and fees on the closing of the refinance of the property at 4573 Branciforte Dr. Santa Cruz property but in any event not later than 6 months from the Effective Date.
Class 3 – Gerardo Soto	Impaired	Pay the allowed claim together with post-petition, interest costs and fees on the closing of the refinance of the property at 4573 Branciforte Dr. Santa Cruz property but in any event not later than 6 months from the Effective Date.

Class 4 - General Unsecured Creditors	Impaired	The Class 4 Claimants shall receive 100% of their allowed claim together with interest at the rate of 1.75% in monthly payments over 60 months from the Effective Date. Payments shall be paid pro-rata as set forth in Exhibit attached.
Class 5 - Equity Security Holders of the Debtor	Unimpaired(also cannot vote because insider)	Shall retain all stock interests

ARTICLE V

ALLOWANCE AND DISALLOWANCE OF CLAIMS

5.01 Disputed Claim. A disputed claim is a claim that has not been allowed or disallowed [by a final non-appealable order], and as to which either: (i) a proof of claim has been filed or deemed filed, and the Debtor or another party in interest has filed an objection; or (ii) no proof of claim has been filed, and the Debtor has scheduled such claim as disputed, contingent, or unliquidated.

5.02 Delay of Distribution on a Disputed Claim. No distribution will be made on account of a disputed claim unless such claim is allowed.

5.03 Settlement of Disputed Claims. The Debtor will have the power and authority to settle and compromise a disputed claim with court approval and compliance with Rule 9019 of the Federal Rules of Bankruptcy Procedure.

ARTICLE VI
PROVISIONS FOR EXECUTORY CONTRACTS AND UNEXPIRED LEASES

6.01 Assumed Executory Contracts and Unexpired Leases.

(a) There are no executory contracts or unexpired leases.

(b) The Debtor will be conclusively deemed to have rejected all executory contracts and/or unexpired leases not expressly assumed under section 6.01(a) above, or before the date of the order confirming this Plan, upon the effective date of this Plan. A proof of a claim arising from the rejection of an executory contract or unexpired lease under this section must be filed no later than ninety (90) days after the date of the order confirming this Plan.

ARTICLE VII
MEANS FOR IMPLEMENTATION OF THE PLAN

7.01 The Plan will be funded as follows: (1) the secured claims shall be paid in full from the refinance of the property at 4573 Branciforte Drive Santa Cruz, CA; (2) the general unsecured creditors shall be paid from rental income of the Property and, if the rental income is insufficient, from capital infusions by Frank Podesta individually from his retirement income or from his unrelated business earnings.

ARTICLE VIII
GENERAL PROVISIONS

8.01 Definitions and Rules of Construction. The definitions and rules of construction set forth in §§ 101 and 102 of the Code shall apply when terms defined or construed in the Code are used in this Plan.

8.02 Effective Date of Plan. The effective date of this Plan is the first business day following the date that is fourteen days after the entry of the order of confirmation. If, however, a stay of the confirmation order is in effect on that date, the effective date will be the first business day after the date on which the stay of the confirmation order expires or is otherwise terminated.

8.03 If any provision in this 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 this Plan.

8.04 Binding Effect. The rights and obligations of any entity named or referred to in this Plan will be binding upon, and will inure to the benefit of the successors or assigns of such entity.

8.05 Captions. The headings contained in this Plan are for convenience of reference only and do not affect the meaning or interpretation of this Plan.

8.06 Controlling Effect. Unless a rule of law or procedure is supplied by federal law (including the Code or the Federal Rules of Bankruptcy Procedure), the laws of the State of California govern this Plan and any agreements, documents, and instruments executed in connection with this Plan, except as otherwise provided in this Plan.

8.07 Default. 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.

ARTICLE IX

DISCHARGE

Discharge. On the confirmation date of this Plan, the debtor will be discharged from any debt that arose before confirmation of this Plan, subject to the occurrence of the effective date, to the extent specified in § 1141(d)(1)(A) of the Code, except that the Debtor will not be discharged of any debt: (i) imposed by this Plan; (ii) of a kind specified in § 1141(d)(6)(A) if a timely complaint was filed in accordance with Rule 4007(c) of the Federal Rules of Bankruptcy Procedure; or (iii) of a kind specified in § 1141(d)(6)(B).

ARTICLE X

OTHER PROVISIONS

Dated: Dec. 28, 2017

Respectfully submitted,

By: /s/ Frank Podesta

The Plan Proponent

By:/s/ Lars T. Fuller

Attorney for the Plan Proponent

Exhibit B Identity and Value of Material Assets of Debtor

Real Property at 4573 Branciforte Dr. Santa Cruz, CA		\$3,200,000 ¹
Hypothetical costs of sale at 6%		192,000.00
Property taxes		
	\$ 13,512	
1 st T.D.	\$2,118,185.78	
2 nd T.D.	\$ 60,000	
		<u>\$2,191,697.78</u>
Net equity after costs of sale		\$816,302.22
Cash		<u>\$ 230</u>
TOTAL NET ASSETS		\$816,532.22

¹ Based on 2017 appraisal.

Exhibit C Most Recently Filed Post-petition Operating Report

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA

FILED
NOV 21 2017
United States Bankruptcy Court
San Jose, California

EXHIBIT C

In re: Casa De Montgomery, Inc

Case No. 17-52075 SLJ
CHAPTER 11
MONTHLY OPERATING REPORT
(SMALL REAL ESTATE/INDIVIDUAL CASE)

SUMMARY OF FINANCIAL STATUS

MONTH ENDED: 10/31/17

PETITION DATE: 08/28/17

1. Debtor in possession (or trustee) hereby submits this Monthly Operating Report on the Accrual Basis of accounting (or if checked here the Office of the U.S. Trustee or the Court has approved the Cash Basis of Accounting for the Debtor).
Dollars reported in \$1

	End of Current Month	End of Prior Month	As of Petition Filing
2. Asset and Liability Structure			
a. Current Assets	\$230	\$185	
b. Total Assets	\$3,200,230		\$3,200,027
c. Current Liabilities	\$2,096,331		
d. Total Liabilities	\$2,222,331		\$1,914,000
3. Statement of Cash Receipts & Disbursements for Month	Current Month	Prior Month	Cumulative (Case to Date)
a. Total Receipts	\$1,696		\$4,943
b. Total Disbursements	\$1,511		\$4,573
c. Excess (Deficiency) of Receipts Over Disbursements (a - b)	\$185	\$0	\$370
d. Cash Balance Beginning of Month	\$45		\$45
e. Cash Balance End of Month (c + d)	\$230	\$0	\$415
4. Profit/(Loss) from the Statement of Operations	Current Month	Prior Month	Cumulative (Case to Date)
5. Account Receivables (Pre and Post Petition)	N/A	N/A	N/A
6. Post-Petition Liabilities	\$0		
7. Past Due Post-Petition Account Payables (over 30 days)	\$2,096,331		

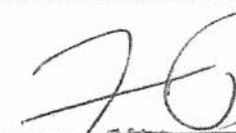
At the end of this reporting month:

- | | <u>Yes</u> | <u>No</u> |
|--|------------|-----------|
| 8. Have any payments been made on pre-petition debt, other than payments in the normal course to secured creditors or lessors? (if yes, attach listing including date of payment, amount of payment and name of payee) | | X |
| 9. Have any payments been made to professionals? (if yes, attach listing including date of payment, amount of payment and name of payee) | | X |
| 10. If the answer is yes to 8 or 9, were all such payments approved by the court? | | n/a |
| 11. Have any payments been made to officers, insiders, shareholders, relatives? (if yes, attach listing including date of payment, amount and reason for payment, and name of payee) | | X |
| 12. Is the estate insured for replacement cost of assets and for general liability? | X | |
| 13. Are a plan and disclosure statement on file? | | X |
| 14. Was there any post-petition borrowing during this reporting period? | | X |
| 15. Check if paid: Post-petition taxes <u> </u> ; U.S. Trustee Quarterly Fees <u>X</u> ; Check if filing is current for: Post-petition tax reporting and tax returns: <u> </u> .
(Attach explanation, if post-petition taxes or U.S. Trustee Quarterly Fees are not paid current or if post-petition tax reporting and tax return filings are not current.) | | |

Awaiting Federal Income tax returns from Block Advisors/Accountant

I declare under penalty of perjury I have reviewed the above summary and attached financial statements, and after making reasonable inquiry believe these documents are correct.

Date: 11/13/2017 0:00


Responsible Individual

Revised 1/1/98

BALANCE SHEET
(Small Real Estate/Individual Case)
For the Month Ended 10/31/17

		<u>Check if Exemption Claimed on Schedule C</u>	<u>Market Value</u>
Assets			
Current Assets			
1	Cash and cash equivalents (including bank accts., CDs, etc.)	_____	\$230
2	Accounts receivable (net)	_____	\$0
3	Retainer(s) paid to professionals	_____	\$0
4	Other: _____	_____	\$0
5	_____	_____	_____
6	Total Current Assets		<u>\$230</u>
Long Term Assets (Market Value)			
7	Real Property (residential)	_____	_____
8	Real property (rental or commercial)	_____	\$3,200,000
9	Furniture, Fixtures, and Equipment	_____	_____
10	Vehicles	_____	_____
11	Partnership interests	_____	_____
12	Interest in corporations	_____	_____
13	Stocks and bonds	_____	_____
14	Interests in IRA, Keogh, other retirement plans	_____	_____
15	Other: _____	_____	_____
16	_____	_____	_____
17	Total Long Term Assets		<u>\$3,200,000</u>
18	Total Assets		<u><u>\$3,200,230</u></u>
Liabilities			
Post-Petition Liabilities			
Current Liabilities			
19	Post-petition not delinquent (under 30 days)	_____	_____
20	Post-petition delinquent other than taxes (over 30 days)	_____	\$2,088,000
21	Post-petition delinquent taxes	_____	\$8,331
22	Accrued professional fees	_____	_____
23	Other: _____	_____	_____
24	_____	_____	_____
25	Total Current Liabilities		<u>\$2,096,331</u>
26	Long-Term Post Petition Debt	_____	_____
27	Total Post-Petition Liabilities		<u>\$2,096,331</u>
Pre-Petition Liabilities (allowed amount)			
28	Secured claims (residence)	_____	_____
29	Secured claims (other)	_____	_____
30	Priority unsecured claims	_____	_____
31	General unsecured claims	_____	\$126,000
32	Total Pre-Petition Liabilities		<u>\$126,000</u>
33	Total Liabilities		<u>\$2,222,331</u>
Equity (Deficit)			
34	Total Equity (Deficit)		<u>\$977,899</u>
35	Total Liabilities and Equity (Deficit)		<u><u>\$3,200,230</u></u>

NOTE:

Indicate the method used to estimate the market value of assets (e.g., appraisals; familiarity with comparable market prices, etc.) and the date the value was determined. APPRAISAL 7/26/2017

SCHEDULES TO THE BALANCE SHEET

Schedule A Rental Income Information

List the Rental Information Requested Below By Properties (For Rental Properties Only)

	<u>Property 1</u>	<u>Property 2</u>	<u>Property 3</u>
1 Description of Property	Storage Rental		
2 Scheduled Gross Rents	\$585		
Less:			
3 Vacancy Factor	\$0		
4 Free Rent Incentives	\$0		
5 Other Adjustments	\$0		
6 Total Deductions	\$0	\$0	\$0
7 Scheduled Net Rents	\$585	\$0	\$0
8 Less: Rents Receivable (2)			
9 Scheduled Net Rents Collected (2)	\$585	\$0	\$0

(2) To be completed by cash basis reporters only.

Schedule B Recapitulation of Funds Held at End of Month

	<u>Account 1</u>	<u>Account 2</u>	<u>Account 3</u>
10 Bank	Wells Fargo		
11 Account No.	3057		
12 Account Purpose	Operations		
13 Balance, End of Month	\$230		
14 Total Funds on Hand for all Accounts	\$230		

Attach copies of the month end bank statement(s), reconciliation(s), and the check register(s) to the Monthly Operating Report.

STATEMENT OF CASH RECEIPTS AND DISBURSEMENTS

Increase/(Decrease) in Cash and Cash Equivalents

For the Month Ended 10/31/17

		Actual Current Month	Cumulative (Case to Date)
Cash Receipts			
1	Rent/Leases Collected	\$585	\$1,170
2	Cash Received from Sales	\$0	\$0
3	Interest Received	\$0	\$0
4	Borrowings	\$0	\$0
5	Funds from Shareholders, Partners, or Other Insiders	\$0	\$0
6	Capital Contributions		
7	Frank Podesta	\$1,111	\$2,644
8	Frank E. Rosado		\$1,129
9			
10			
11			
12	Total Cash Receipts	\$1,696	\$4,943
Cash Disbursements			
13	Selling	\$0	\$0
14	Administrative	\$0	\$0
15	Capital Expenditures	\$0	\$0
16	Principal Payments on Debt	\$0	\$0
17	Interest Paid	\$0	\$0
	Rent/Lease:		
18	Personal Property	\$0	\$0
19	Real Property	\$0	\$0
	Amount Paid to Owner(s)/Officer(s)		
20	Salaries	\$0	\$0
21	Draws	\$0	\$0
22	Commissions/Royalties	\$0	\$0
23	Expense Reimbursements	\$0	\$0
24	Other - Prepaid Property Insurance	\$0	\$1,933
25	Salaries/Commissions (less employee withholding)	\$0	\$0
26	Management Fees	\$0	\$0
	Taxes:		
27	Employee Withholding	\$0	\$0
28	Employer Payroll Taxes	\$0	\$0
29	Real Property Taxes	\$0	\$0
30	Other Taxes	\$0	\$0
31	Other Cash Outflows:		
32	Utilities	\$1,111	\$2,240
33	Cash to complete the Property Insurance Payment	\$400	\$400
34			
35			
36			
37	Total Cash Disbursements:	\$1,511	\$4,573
38	Net Increase (Decrease) in Cash	\$185	\$370
39	Cash Balance, Beginning of Period	\$45	\$45
40	Cash Balance, End of Period	\$230	\$415

Wells Fargo Simple Business Checking

Account number: 3057 ■ October 1, 2017 - October 31, 2017 ■ Page 1 of 3



CASA DE MONTGOMERY, INC
DEBTOR IN POSSESSION
CH 11 CASE# 17-52075 (NCA)
4573 BRANCIORTE DR
SANTA CRUZ CA 95065-9620

Questions?

Available by phone 24 hours a day, 7 days a week:

Telecommunications Relay Services calls accepted

1-800-CALL-WELLS (1-800-225-5935)

TTY: 1-800-877-4833

En español: 1-877-337-7454

Online: wellsfargo.com/biz

Write: Wells Fargo Bank, N.A. (114)
P.O. Box 6995
Portland, OR 97228-6995

Your Business and Wells Fargo

Cash flow is a key indicator of the financial health of your business. Find tips and strategies for effective cash flow management at wellsfargoworks.com.

Account options

A check mark in the box indicates you have these convenient services with your account(s). Go to wellsfargo.com/biz or call the number above if you have questions or if you would like to add new services.

Business Online Banking	<input checked="" type="checkbox"/>
Online Statements	<input checked="" type="checkbox"/>
Business Bill Pay	<input type="checkbox"/>
Business Spending Report	<input checked="" type="checkbox"/>
Overdraft Protection	<input type="checkbox"/>

Activity summary

Beginning balance on 10/1	\$45.19
Deposits/Credits	585.00
Withdrawals/Debits	- 400.00
Ending balance on 10/31	\$230.19

Average ledger balance this period \$229.06

Account number: 3057

**CASA DE MONTGOMERY, INC
DEBTOR IN POSSESSION**

California account terms and conditions apply

For Direct Deposit use

Routing Number (RTN): 121042882

For Wire Transfers use

Routing Number (RTN): 121000248

Overdraft Protection

This account is not currently covered by Overdraft Protection. If you would like more information regarding Overdraft Protection and eligibility requirements please call the number listed on your statement or visit your Wells Fargo store.



Transaction history

Date	Check Number	Description	Deposits/ Credits	Withdrawals/ Debits	Ending daily balance
10/12		Mobile Deposit : Ref Number :014120403930	585.00		630.19
10/17		Cash eWithdrawal in Branch/Store 10/17/2017 10:37 Am 74 River St Santa Cruz CA 8463		400.00	230.19
Ending balance on 10/31					230.19
Totals			\$585.00	\$400.00	

The Ending Daily Balance does not reflect any pending withdrawals or holds on deposited funds that may have been outstanding on your account when your transactions posted. If you had insufficient available funds when a transaction posted, fees may have been assessed.

Monthly service fee summary

For a complete list of fees and detailed account information, see the Wells Fargo Account Fee and Information Schedule and Account Agreement applicable to your account (EasyPay Card Terms and Conditions for prepaid cards) or talk to a banker. Go to wellsfargo.com/feefaq for a link to these documents, and answers to common monthly service fee questions.

Fee period 10/01/2017 - 10/31/2017 Standard monthly service fee \$10.00 You paid \$0.00

We waived the fee this fee period to allow you to meet the requirements to avoid the monthly service fee. This is the final period with the fee waived. For the next fee period, you need to meet the requirement(s) to avoid the monthly service fee.

How to avoid the monthly service fee

Have any **ONE** of the following account requirements

- Average ledger balance

C1/C1

Minimum required

\$500.00

This fee period

\$229.00 ☐

Account transaction fees summary

Service charge description	Units used	Units included	Excess units	Service charge per excess units (\$)	Total service charge (\$)
Cash Deposited (\$)	0	3,000	0	0.0030	0.00
Transactions	1	50	0	0.50	0.00
Total service charges					\$0.00

Exhibit D – Liquidation Analysis***Plan Proponent's Estimated Liquidation Value of Assets*****Assets**

a. Cash on hand	\$ 1,802.00
b. Accounts receivable	\$0
Lease Deposit	\$0
Pre-paid FTB tax	\$0
c. Inventory	\$0
d. Office furniture & equipment	\$0
e. Machinery & equipment	\$0
f. Automobiles	\$ 0
g. Building & Land	\$ 3,200,000
h. Customer list	\$0
i. Investment property (such as stocks, bonds or other financial assets)	\$0
j. Lawsuits or other claims against third-parties	\$0
k. Other intangibles (such as avoiding powers actions)	\$0
 Total Assets at Liquidation Value	 3,201,802.00

Less:

Secured creditors=	\$2,191,697.78
--------------------	----------------

Less:

Chapter 7 trustee fees and expenses	\$ 44,065.11 ²
-------------------------------------	---------------------------

Less:

Chapter 11 administrative expenses	\$ 20,000
------------------------------------	-----------

Less:

Priority claims, excluding administrative expense claims	\$ 3,098.40
--	-------------

[Less:

Debtor's claimed exemptions]	\$0
------------------------------	-----

(1) Balance for unsecured claims	\$ 942,940.71
----------------------------------	---------------

(2) Total dollar amount of unsecured claims	\$ 152,200
---	------------

Percentage of Claims Which Unsecured Creditors Would Receive Or Retain in a***Chapter 7 Liquidation: 100%******Percentage of Claims Which Unsecured Creditors Will Receive or Retain under the Plan:******100%***

² Based on statutory fees on the net proceeds of sale after 6% cost of sale.

Exhibit E – Cash on hand on the effective date of the Plan

Cash on hand on effective date of the Plan: \$1,802

Less B

Amount of administrative expenses payable on effective date of the Plan	-
	- 325
Amount of statutory costs and charges	0
	-
Amount of cure payments for executory contracts	0
	-
Other Plan Payments due on effective date of the Plan	3,098.40

Balance after paying these amounts..... -\$1621.40

The sources of the cash Debtor will have on hand by the effective date of the Plan are estimated as follows:

\$1,802	Cash in Debtor's bank account now
+0	Additional cash Debtor will accumulate from net earnings between now and effective date of the Plan ³
+0	Borrowing [separately state terms of repayment]
+5,0000	Capital Contributions
+0	Other
\$6,802	Total

³ The amount available from rents will depend on whether debtor is able to enter into a cash collateral stipulation with the secured creditors.

Exhibit F Projections of Cash Flow and Earnings to Demonstrate Feasibility

Debtor's existing rents are \$585.00/month from Gerta Grindstaff and \$19,000/month plus utilities from Firearms, Inc. commencing mar. 1, 2018.

Income:

Rental Income

Gerta	\$ 585
Firearms, Inc.	\$19,000

Capital contributions from Frank Podesta

\$7,500

\$27,085

Expenses:

Insurance	\$ 467
Property Taxes	\$ 717
P.O. Box	\$ 12
Dumpster	\$ 400
Misc.	\$ 500

\$ 2,096

New loan (\$2,300,000 @11.5% est.)

\$22,041

General unsecured

\$2,650

\$26,787

General Unsecured Creditors

Creditor	Claim Amt	Monthly Pmt.
Facility Management Services	22,000	383
Law Offices of David M,. Syme	5000	87
Law Offices of Robert Ehrenworth	125,000	2177
FTB	200	3
TOTAL	152,200	2650