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Debtor and Debtor-in-Possession

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF CALIFORNIA

In re

RSF 17872 Via De Fortuna LLC,

Debtor and
Debtor-in-Possession.

Case No. 16-04436-LA11

Chapter 11 Proceeding

**DISCLOSURE STATEMENT DESCRIBING
DEBTOR'S FIRST AMENDED CHAPTER 11
PLAN OF REORGANIZATION**

Disclosure Statement Hearing:

Date: June 28, 2018

Time: 2:30 p.m.

Place: Department 2 (Room 118)
325 West "F" Street
San Diego, CA 92101-6991

Judge: Honorable Louise DeCarl Adler

Plan Confirmation Hearing:

Date: [TO BE SET]

Time: [TO BE SET]

Place: Department 2 (Room 118)
325 West "F" Street
San Diego, CA 92101-6991

Judge: Honorable Louise DeCarl Adler

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I.

INTRODUCTION

RSF 17872 Via De Fortuna LLC, a California limited liability company (“Via Fortuna” or the “Debtor”), is the debtor and debtor-in-possession in the above-entitled Chapter 11 bankruptcy case. The Debtor filed a voluntary petition for relief under Chapter 11 of the United States Bankruptcy Code (the “Code”), 11 U.S.C. § 101 et seq., on July 22, 2016 (the “Petition Date”), in the United States Bankruptcy Court for the Southern District of California (the “Court”).

Chapter 11 allows the Debtor in a Chapter 11 bankruptcy case, and under some circumstances, creditors and others parties in interest, to propose a plan of reorganization (the “Plan” or “Plan of Reorganization”). The Plan may provide for the Debtor to reorganize by a variety of means such as by continuing to operate, liquidation of assets, additional borrowing and obtaining new investment.

Via Fortuna, the Debtor in this case, is a single purpose entity established for the purpose of holding title to an 11-acre property improved with a residence, guest house, large horse barn and office located at 17872 Via De Fortuna, Rancho Santa Fe, California (the “Property”). The Property is currently in the process of undergoing substantial renovations. Once these renovations are complete, the Property is intended to be utilized as a horse farm and part-time residence. The Debtor has no employees or ongoing operations. Steven Marshall, through various entities, is principally responsible for control of the Debtor and its operations.

Debtor Via Fortuna is the party proposing the Chapter 11 Plan of Reorganization (the “Plan” or “Plan of Reorganization”) sent to you in the same envelope as this document. THE DOCUMENT YOU ARE READING IS THE DISCLOSURE STATEMENT (“the Disclosure Statement”) FOR VIA FORTUNA’S ENCLOSED PLAN. (Hereafter, the Debtor [Via Fortuna] shall sometimes be referred to as the “Plan Proponent”).

The Debtor’s Plan is a reorganizing Plan. In other words, the Debtor intends to make payments under the Plan by restructuring its secured and unsecured debts, obtaining additional financing from a related entity, and thereafter using such additional financing fund the completion of the renovations on the Property and to make payments over time to its secured and unsecured

creditors to satisfy their claims in the amounts described herein and in the Plan.

The effective date (the “Effective Date”) of the Debtor’s Plan is 30 calendar days after the Court enters an Order confirming the Debtor’s Plan (the “Confirmation Order”), unless such day falls on a weekend or legal holiday, in which case the Effective Date shall be the first business day following such weekend or legal holiday.

A. Purpose of This Document

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

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

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

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

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

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

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

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

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

12 The hearing where the Court will determine whether or not to confirm the Plan will take
13 place on _____, 2018, at _____m., in Department 2 (Room 118) of the
14 United States Bankruptcy Court located at 325 West “F” Street, San Diego, California 92101-
15 6991, before the Honorable Louise DeCarl Adler, United States Bankruptcy Judge.

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

17 If you are entitled to vote, it is in your best interest to timely vote on the enclosed ballot
18 and return the ballot in the enclosed envelope to Ringstad & Sanders, LLP, 4343 Von Karman
19 Avenue, Suite 300, Newport Beach, CA 92660, attn: Ms. Becky Metzner. Ballots may also be
20 submitted by faxing the ballot to (949) 851-6926, attn: Ms. Becky Metzner, or by emailing the
21 ballot to becky@ringstadlaw.com.

22 Your ballot must be received by 5:00 p.m., on _____, 2018, or it will
23 not be counted.

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

25 Objections to the confirmation of the Plan must be filed with the Court and served upon
26 Todd C. Ringstad, Esq., of Ringstad & Sanders, LLP, 4343 Von Karman Avenue, Suite 300,
27 Newport Beach, CA 92660 no later than _____, 2018.
28

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

Any interested party desiring further information about the Plan should contact Todd C. Ringstad, Esq., or Christopher A. Minier, Esq., of Ringstad & Sanders, LLP, 4343 Von Karman Avenue, Suite 300, Newport Beach, CA 92660, telephone number (949) 851-7450.

C. Disclaimer

The financial data and other information contained in this Disclosure Statement and relied upon in formulating the Debtor's Plan is based on the Debtor's unaudited books and records, the estimates of future prospects, including availability of financing, costs and other expenses of the completion of the renovation of the Property, proofs of claim filed by creditors against Debtor's bankruptcy estate, the Debtor's liquidation analysis included with this Disclosure Statement, and the bankruptcy schedules and statements (and other documents) filed by the Debtor in its Chapter 11 case. The information contained in this Disclosure Statement has been provided by the Debtor and Steven Marshall, who is principally responsible for the operations of the Debtor.

The Debtor represents that everything stated in the Disclosure Statement is true to the best of the Plan Proponent's knowledge. The Court has not yet determined whether or not the Debtor's Plan is confirmable and makes no recommendation as to whether or not you should support or oppose the Plan.

II.

BACKGROUND

A. Description and History of the Debtor's Business and Events Leading to the Chapter 11 Filing.

The Debtor in this case, RSF 17827 Via De Fortuna LLC, is a California limited liability company. The Debtor's managing member and sole owner is Black Rock Thoroughbreds, LLLP, a Kentucky limited liability limited partnership. The Debtor is a single purpose entity established for the purpose of holding title to the Property, which is a property located at 17872 Via De Fortuna, Rancho Santa Fe, California. The Property is currently in the process of undergoing substantial renovations. The Debtor has no employees or ongoing operations.

1 Related entities have substantial equity in a number of different highly valuable assets,
2 including a thoroughbred farm in Kentucky, and a majority ownership interest in approximately
3 6,488 acres of land located in Colorado in close proximity to Denver International Airport.

4 Union Savings Bank (“USB”), the beneficiary under a first priority Deed of Trust
5 encumbering the Property. At the Petition Date, USB’s Deed of Trust was the only secured loan
6 encumbering the Property, although there were also a number of mechanics liens in varying
7 amounts that had also been recorded against the Property.

8 USB commenced non-judicial foreclosure proceedings against the Property, which
9 precipitated the Debtor’s bankruptcy filing. Related entities are currently in the process of
10 marketing and selling, and/or financially restructuring various assets in order to generate the cash
11 needed to complete the renovations on the Property, cure and reinstate the Debtor’s loan from
12 USB, and to propose a Plan that is anticipated to pay all creditors in full.

13 In addition to the foregoing, and as described in detail below, the Debtor owes secured
14 real property taxes on the Property to the County of San Diego, which the Debtor proposes to pay
15 in full over a period of time under the Plan.

16 The Debtor has a very substantial equity interest in the Property, which was acquired by
17 the Debtor in August 2012 for \$7.5 million with a down payment of \$4,000,000 cash and a \$3.5
18 million loan (the “USB Loan”). Before the bankruptcy case was commenced, over \$2,000,000 of
19 renovations were and paid by the Debtor. The Debtor’s cash investment in the property is thus not
20 less than \$6,000,000. The Debtor believes upon completion of the renovations, the Property will
21 have a fair market value in excess of \$14,000,000. Creditor claims, including the USB secured
22 claim of approximately \$3.8 million, real property taxes owing and all other claims total less than
23 the combined amount of \$6,000,000 and are substantially protected by the value of the Property.
24 The Debtor commenced post-petition monthly interest payments to USB in October 2016 and has
25 made each monthly payment since that time.

26 **B. Management of the Debtor Before and After the Bankruptcy**

27 As described above, Black Rock Thoroughbreds has been the managing member and sole
28 owner of the Debtor. During the pendency of the Debtor’s bankruptcy case, and after

confirmation of a Plan of Reorganization for the Debtor, the managing member and sole owner of the Debtor will continue to be Black Rock Thoroughbreds.

C. Significant Events During the Bankruptcy

1. Bankruptcy Proceedings

The following is a chronological list of significant events which have occurred during the Debtor's bankruptcy case:

On the Petition Date of July 22, 2017, the Debtor commenced its bankruptcy case.

On August 8, 2016, the Debtor filed and served its Ex Parte Application for an Order Authorizing it to Employ Ringstad & Sanders LLP (the "Firm") as General Insolvency Counsel [Docket No. 15] (the "Application"). The Firm's employment was approved by Order of the Court entered on September 27, 2016 as Docket No. 36.

On April 27, 2017, the Debtor filed its Motion for an Order Authorizing Debtor to Obtain Post-Petition Secured Financing in the Form of a Line of Credit from a Related Entity, etc. [Docket No. 100]. (the "Motion for Financing"). Pursuant to the Motion for Financing, the Debtor had arranged for a secured line of credit from Orb Capital, LLC ("Orb"), a related entity, of up to \$3,000,000 to be used for administrative expenses and construction costs to re-commence the stalled renovation project for the Debtor's Property.

The hearing on the Motion for Financing was held on May 25, 2017. The Court granted the Motion for Financing and an order authorizing the Debtor to borrow up to \$3,000,000 from Orb Capital was entered on June 15, 2017 [Docket. No. 115].

On or about August 9, 2017, Orb recorded its junior priority deed of trust against the Property and funding under the loan began. To date, Orb has funded approximately \$2,830,000 on the line of credit, which has been used to, among other things, pay contractors and subcontractors with mechanics liens against the Property, and to continue with the renovation project at the Property. The order authorizing the loan allowed the Debtor to use the loan proceeds to pay prepetition claims that are secured by a mechanic's lien, including but not limited to the mechanic's lien held by Greg Agee Construction. As a result, a substantial number of the prepetition claims of subcontractors have been satisfied. It is anticipated that completion of the

1 project will take at least another six to nine months. The Debtor has obtained Bankruptcy Court
2 approval of an increase in the Orb credit line to \$5,500,000 in order to fund the remaining cost of
3 constructions, administrative claims and certain plan-related expenditures.

4 The loan provided by Orb accrues simple interest at the rate of 3% per annum. No interest
5 payments are required during the first year following the initial advance under the loan. Interest
6 accrued during the first year following the initial advance under the loan shall be added to the
7 principal balance on the first anniversary of the initial advance under the loan and shall thereafter
8 bear interest as principal. Following the first-year anniversary, interest payments shall be due
9 monthly. The loan will mature and be fully due and payable on the tenth anniversary of the first
10 advance under the loan.

11 2. Other Legal Proceedings

12 On the Petition Date, the Debtor was involved in the following non-bankruptcy legal
13 proceedings:

14 a. *Greg Agee Construction v. Steven Marshall, RSF 17872 Via De Fortuna LLC, et*
15 *al.*, San Diego Superior Court, Case No. 37201500036059CUBCCTL.

16 b. *Probuild Company, dba Dixieline Probuild v. RSF 17872 Via De Fortuna LLC,*
17 *San Diego Superior Court, Case No. 37201500034047CUBCNC.*

18 c. *R. Montanez Construction dba, Mr. Demo v. Greg Agee Construction, Steven*
19 *Marshall, RSF 17872 Via De Fortuna LLC, et al.*, San Diego Superior Court, Case No.
20 372015000040953CUBCNC.

21 d. *Ferguson Fire & Fabrication v. RSF 17872 Vid De Fortuna LLC, San Diego*
22 *Superior Court, Case No. 37201500000622CLORNC.*

23 Each of the foregoing lawsuits brought against the Debtor was stayed by the
24 commencement of the Debtor's bankruptcy case. Each of the foregoing lawsuits against the
25 Debtor related to unpaid work at the renovation project on the property. All legitimate claims
26 relating to such work, to the extent such claims remain unpaid, will be paid in full under this plan
27 as described herein. Therefore, the Debtor believes that there is no longer a basis for any of the
28 plaintiff's in these actions to pursue the litigation, and that it is likely that each such action will be

dismissed.

3. Actual and Projected Recovery of Preferential or Fraudulent Transfers

The Debtor has not yet completed a full analysis of potential avoidance causes of action that its bankruptcy estate may hold pursuant to 11 U.S.C. §§ 554-550. However, because the Debtor's Plan proposes to pay all creditors in full, there is no need for the Debtor to commence any avoidance actions in order to recover funds to make payments to creditors of the bankruptcy estate.

4. Procedures Implemented to Resolve Financial Problems

To attempt to resolve the problems that led to its bankruptcy filing, the Debtor has implemented the following procedures:

As described above, the Debtor has obtained \$3 million of financing from Orb in order to have sufficient funds to make ongoing interest payments to USB, pay administrative expenses and make payments to its contractor and subcontractors to resolve their mechanics liens and resume the renovation work at the Property. In order to complete the renovation and fund its Plan (which provides for creditors to be paid in full), the Debtor has obtained Bankruptcy Court approval of an increase in the Orb credit line to \$5,500,000 in order to fund the remaining cost of constructions, administrative claims and certain plan-related expenditures. The plan further provides that following confirmation of the plan, the reorganized debtor may obtain further increases in the Orb line of credit and extensions of the maturity date of the Orb loan.

In light of the foregoing facts, the Debtor believes that confirmation and performance of its Plan, which will pay creditors in full from additional amounts to be obtained from related entity Orb, is an achievable objective.

5. Current and Historical Financial Conditions

Because the Debtor was not an income-producing entity, all of the Debtor's expenses have historically been paid by its managing member, Black Rock Thoroughbreds LLLP.

As set forth above, related entities have substantial equity in a number of different highly valuable assets, and they are engaged in an ongoing effort to sell, refinance or otherwise

1 financially restructure such assets which free up cash to fund the Debtor's Plan. The Debtor
2 anticipates that it will seek and obtain Court approval for the additional financing necessary to
3 perform its Plan, and that such funding will be available, prior to the hearing on confirmation of
4 the Debtor's Plan.

5 THE FINANCIAL PROJECTIONS SET FORTH IN THIS DISCLOSURE
6 STATEMENT REPRESENT AN ESTIMATE OF FUTURE PERFORMANCE BASED UPON
7 CERTAIN ASSUMPTIONS. THESE FUTURE EVENTS MAY OR MAY NOT OCCUR, AND
8 THE FINANCIAL PROJECTIONS MAY NOT BE RELIED UPON AS A GUARANTEE OR
9 OTHER ASSURANCE OF THE ACTUAL RESULTS WHICH WILL OCCUR. BECAUSE OF
10 THE UNCERTAINTIES INHERENT IN PREDICTIONS OF FUTURE EVENTS AND
11 EVENTS OUTSIDE OF THE DEBTOR'S CONTROL, THE REORGANIZED DEBTOR'S
12 ACTUAL CASH FLOW MAY BE DIFFERENT FROM THAT PREDICTED, AND SUCH
13 DIFFERENCE MAY BE MATERIAL AND ADVERSE TO THE INTERESTS OF
14 CREDITORS.

15 Significant assumptions underlying the Financial Projections include the following:

16 (A) That prior to the hearing on confirmation of the Debtor's Plan, the Court will have
17 approved the increase in the Debtor's line of credit from Orb that will enable the Debtor to
18 perform its Plan.

19 III.

20 SUMMARY OF THE PLAN OF REORGANIZATION

21 A. What Creditors and Interest Holders Will Receive Under the Proposed Plan

22 As required by the Bankruptcy Code, the Plan classifies claims and interests in various
23 classes according to their right to priority. The Plan states whether each class of claims or
24 interests is impaired or unimpaired. The Plan provides the treatment each class will receive.

25 B. Unclassified Claims

26 Certain types of claims are not placed into voting classes; instead they are unclassified.
27 They are not considered impaired and they do not vote on the Plan because they are automatically
28 entitled to specific treatment provided for them in the Bankruptcy Code. As such, the Proponent

has not placed the following claims in a class.

1. Administrative Expenses

Administrative expenses are claims for costs or expenses of administering the Debtor's Chapter 11 case which are allowed under Code section 507(a)(1). The Code requires that all administrative claims be paid on the Effective Date of the Plan, unless a particular claimant agrees to a different treatment.

The following chart lists all of the Debtor's § 507(a)(1) administrative claims and their treatment under the Plan.

The following chart lists all of the Debtor's § 507(a)(1) administrative claims and their treatment under the Plan:

Name	Amount Owed	Treatment
Ringstad & Sanders, LLP	\$200,000 (est.)	Payment in full on the later of the Effective Date or entry of an Order approving the Final Fee Application of the firm.
Clerk's Office Fees	\$50.00	Paid in full on Effective Date
Office of the U.S. Trustee Fees	\$4,875.00	Paid in full on Effective Date
TOTAL	\$204,925.00	

Court Approval of Fees Required:

The Court must rule on all fees listed in this chart before the fees will be owed. For all fees except Clerk's Office fees and U.S. Trustee's fees, the professional in question must file and serve a properly noticed fee application and the Court must rule on the application. Only the amount of fees allowed by the Court will be owed and required to be paid under this Plan.

As indicated above, the Debtor will need to pay approximately \$375.00 worth of administrative claims on the Effective Date of the Plan unless the claimant has agreed to be paid later or the Court has not yet ruled on the claim.

Additionally, the Court must hold a hearing and rule on the professional fees and costs of the Debtor's general insolvency counsel, Ringstad & Sanders, LLP (the "Firm"), following the service and filing of a properly noticed fee application by the Firm. Only the amount of fees allowed by the Court will be owed and required to be paid under the Plan. Such allowed fees and

costs of the Firm will need to be paid by the Debtor on the later of the Effective Date or entry of an Order approving the Firm's final fee application. It is estimated that the amount of fees and costs that will need to be paid to the Firm will total \$200,000.00, but this is only an estimate and unanticipated events may cause significant variation in the amount.

It is estimated that the Debtor will have immediate access to an available and unused line of credit from Orb on the Effective Date of the Plan in an amount of no less than \$1,000,000 which can be used to pay the administrative expenses which the Debtor will be required to pay on the latter of the Effective Date or entry of an Order of the Court approving the fees and costs of the Firm.

2. Priority Tax Claims

Priority tax claims are certain unsecured income, employment and other taxes described by Code Section 507(a)(8). The Code requires that each holder of such a 507(a)(8) priority tax claim receive payment of their claims in deferred cash payments, over a period not exceeding five years from the date of the entry of an order for relief under the Bankruptcy Code, i.e., the Petition Date.

Based on the Debtor's books and records, and upon claims filed by taxing authorities against the Debtor's bankruptcy estate, the Debtor believes that it has the following unpaid tax claim(s) of the type described in Bankruptcy Code Section 507(a)(8).

The Debtor believes that it has the following claims which are entitled to priority under Bankruptcy Code § 507(a)(8):

Name	Amount Owed	Treatment
California Franchise Tax Board	\$2,806.81	Payment in full of the total allowed priority claim, plus any statutory interest, within 90 days following the Effective Date of the Plan.
TOTAL	\$2,806.81	

The foregoing priority tax claim(s) of the type described in Bankruptcy Code Section

507(a)(8) will be paid by the Debtor in full, together with any accrued statutory interest, within 90 days following the Effective Date of the Plan.

C. Classified Claims and Interests

1. Classes of Secured Claims

Secured claims are claims secured by liens on property of the Debtor's bankruptcy estate. The following charts lists all classes containing Debtor's secured pre-petition claims and their treatment under the Debtor's Plan:

Class 1. Secured Claim of County of San Diego for Real Property Taxes.

The San Diego County Treasurer and Tax Collector has filed two proofs of claim against the Debtor's bankruptcy estate in the total combined amount of \$481,130.76 for unpaid real property taxes due on the Property for the years 2014, 2015, 2016 and 2017.

The secured claims of the County of San Diego for property taxes will be paid in full, together with all statutory interest and/or late fees or penalties, over a period of five years pursuant to the provisions of California Revenue and Taxation Code § 4126 et seq. Under such an installment payment plan, the Debtor will pay to the San Diego County Treasurer and Tax Collector annual installment payments by no later than April 10th of each year following the Effective Date of twenty percent (20%) of the redemption amount (i.e., total claim amount), plus all current year taxes, together with all statutorily accrued interest and fees associated with the setup and maintenance of the installment payment plan. Such installment payments shall be paid by the Debtor for a period of five (5) years, until such time as the above-described redemption amount and all interest, fees, costs and penalties thereon have been paid in full by the Debtor. The County of San Diego shall retain its lien against the Property, unmodified, until such time as the Class 1 secured claim has been paid in full and in accordance with the terms set forth herein. The County of San Diego shall retain its lien against the Property, unmodified, until such time as the Class 1 secured claim has been paid in full and in accordance with the terms set forth herein and in the Plan.

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<u>CLASS#</u>	<u>DESCRIPTION</u>	<u>INSIDER</u> (Y/N)	<u>IMPAIRED</u> (Y/N)	<u>TREATMENT</u>
1	Secured claim of: San Diego County Treasurer and Tax Collector Collateral description: The Property. Collateral value: \$13 million to \$15 million. Total secured claim amount: (Approx.) \$481,130.76	No	Yes	Pursuant Cal. Rev. and Tax Code § 4126 et seq., Debtor will pay to the Class 1 creditor annual installment payments by no later than April 10 th of each year following the Effective Date of 20% of the redemption amount (i.e., claim amount), plus all current year taxes, together with all statutorily accrued interest and all fees associated with the setup and maintenance of the installment payment plan. Installment payments shall be paid by the Debtor for a period of 5 years until the claim is paid in full. The San Diego County Treasurer and Tax Collector shall retain its lien on the Property, unmodified, until its claim is paid in full.

The payments to the San Diego County Treasurer and Tax collector on its Class 1 claim shall be made by the Debtor from the proceeds of the additional financing to be provided to it by Orb or additional contributions from its Interest Holder.

Class 2. Secured Claim of Union Savings Bank.

In September of 2013, Union Savings Bank made a loan to the Debtor in the amount of \$3.5 million (the “USB Loan”). The USB Loan is secured by a first priority deed of trust against the Property. The USB Loan requires the Debtor to make monthly payments of interest only through October of 2018. Commencing in November of 2018, the USB Loan requires the Debtor to make substantially equal monthly payments of principal and interest in an amount sufficient to

1 fully repay the loan by October 1, 2043. The USB Loan bears annual interest at the rate of 4.99%
2 per annum until October 1, 2018. The USB Loan further provides that the variable rate of interest
3 applicable to the loan shall be recalculated as of October 1, 2018, and on the same date every 12
4 months thereafter, to be equal to 3.750% plus the weekly average yield on United States Treasury
5 Securities adjusted to a constant maturity of one year, as made available by the Federal Reserve
6 Board.

7 The Debtor defaulted on the USB Loan by failing to pay the monthly interest payment
8 which came due on November 1, 2015. However, the Debtor resumed making the required
9 monthly interest payments to USB, at the non-default rate of interest, in October of 2016, and has
10 thereafter continued to make such payments for approximately the past 18 months. The Debtor
11 will continue to make such payments until the Effective Date of the Plan, at which point Debtor
12 will pay USB's claim as provided for under the Plan.

13 The total amount of USB's claim is currently approximately \$3,825,000.00. Under the
14 Plan, the Class 2 secured claim of USB will be paid as follows: All past due interest, charges,
15 attorney's fees and costs due to USB (the "PDB") by the Debtor will be added to outstanding
16 principal on the Effective Date (the "Revised Principal Balance"). The Revised Principal Balance
17 shall bear interest at the non-default contract rate provided in the note held by USB. The payment
18 terms of the Revised Principal Balance shall be as otherwise stated in the USB note, only as
19 modified herein and in the Plan. The monthly payments due on the Revised Principal Balance
20 shall be interest-only until the later to occur of November 1, 2020, or the first day of the twenty-
21 fifth full month following the Effective Date (the "Amortization Date"). Commencing on the
22 Amortization Date, the Debtor shall make substantially equal monthly payments of principal and
23 interest in an amount sufficient to fully repay the loan by October 1, 2045.

24 The variable rate of interest applicable to the loan shall be recalculated as of October 1,
25 2018, and on the same date every 12 months thereafter, to be equal to 3.750% plus the weekly
26 average yield on United States Treasury Securities adjusted to a constant maturity of one year, as
27 made available by the Federal Reserve Board. If the applicable interest rate has changed from the
28 preceding year, the payments shall be recalculated at the adjusted rate to the amount required to

1 pay principal and interest in substantially equal monthly payments sufficient to fully repay the
2 loan by October 1, 2045. The revised payment amount shall be due on November 1 of each year
3 following the recalculation and shall continue in that amount until the monthly amount is
4 recalculated due to a change in the applicable interest rate, or the loan is paid in full.

5 USB shall retain its lien against the Property, unmodified, until such time as the Debtor
6 pays its approved Class 2 claim in full and in accordance with the terms set forth herein. The
7 Debtor reserves the right to object to any fees, costs and charges included in the USB loan,
8 including appraisal fees, attorney's fees, late charges or other costs.

9 Confirmation of this Plan shall be deemed to constitute a cure of all defaults under the
10 USB loan documents and reinstatement of the loan as modified by the terms of this Plan.

<u>CLASS#</u>	<u>DESCRIPTION</u>	<u>INSIDER</u> (Y/N)	<u>IMPAIRED</u> (Y/N)	<u>TREATMENT</u>

2	Secured claim of: Union Savings Bank	No	Yes	Summary description: Past due interest and charges shall be added to the principal balance of the loan on the Effective Date (the “Revised Principal Balance”).
	Collateral description: The Property.			
	Collateral value: \$13 million to \$15 million.			The monthly payments due on the Revised Principal Balance shall be interest-only until the later to occur of November 1, 2020, or the first day of the twenty-fifth full month following the Effective Date (the “Amortization Date”).
	Total secured claim amount: (Approx.) \$3,825,000.00			Commencing on the Amortization Date, the Debtor shall make substantially equal monthly payments of principal and interest in an amount sufficient to fully repay the loan by October 1, 2045.
				Interest and the payment amount shall be adjusted annually as described above.
				For complete terms of treatment of Class 2, see narrative description above.

The payments to USB on its Class 2 claim shall be made by the Debtor from the proceeds of the additional financing to be provided to it by Orb.

Class 3. Secured Claim of Greg Agee Construction, Inc.

The general contractor renovating the Property is Greg Agee Construction, Inc. (“Agee Construction”). On October 21, 2015, Agee Construction recorded a mechanics’ lien claim against the Property in the amount of \$1,415,656.28 for the “reasonable value of work, materials and services rendered towards the work of improvements” at the Property. On February 25, 2017, Agee Construction filed a secured proof of claim against the Debtor’s bankruptcy estate in the amount of \$1,415,656.28. A substantial portion of the secured claim of Agee has been

satisfied through payments made from the post-petition financing provided by Orb Capital, LLC to the Debtor. In addition to any amounts due for ongoing work and payment of subcontractors, Agee will be entitled upon completion of the project, issuance of a certificate of occupancy and presentation of final subcontractor invoices to a payment of accumulated profit, supervision and overhead of approximately \$400,000 (the "Completion Fees").

Under this Plan, Agee Construction will be paid in full no later than the later of 30 days after the Completion Fees come due.

Agee Construction shall retain its lien against the Property, unmodified, until such time as the Debtor pays its Class 3 claim in full and in accordance with the terms set forth herein.

<u>CLASS#</u>	<u>DESCRIPTION</u>	<u>INSIDER</u> (Y/N)	<u>IMPAIRED</u> (Y/N)	<u>TREATMENT</u>
3	Secured claim of: Greg Agee Construction, Inc. Collateral description: The Property. Collateral value: \$13 million to \$15 million Total secured claim amount: (Approx.) \$400,000	No	Yes	The Class 3 secured claim of Agee Construction shall be paid in full no later than the later of 30 days after the Completion Fees come due. Agee Construction shall retain its lien on the Property, unmodified, until claim is paid in full.

Agee Construction's Class 3 secured claim shall be satisfied in full from the proceeds of the additional financing to be provided to the Debtor by Orb.

Class 4. Secured Claim of Orb Capital, LLC.

Post-petition, the Court authorized the Debtor to obtain a \$3 million secured line of credit from Orb Capital, LLC, a related entity. The Debtor used the funds from this line of credit to pay administrative expenses, pay contractors and subcontractors (other than Age Construction) with

mechanics' liens against the Property, and to pay other expenses necessary to resume the stalled renovation project at the Property. The line of credit is evidenced by a promissory note (the "Orb Note") and is secured by a junior priority deed of trust against the Property. The loan provided by Orb accrues simple interest at the rate of 3% per annum. The Orb Note provides that no interest payments are required during the first year following the initial advance under the loan. Interest accrued during the first year following the initial advance under the loan shall be added to the principal balance on the first anniversary of the initial advance under the loan and shall thereafter bear interest as principal. Following the first-year anniversary, interest payments shall be due monthly. The loan will mature and be fully due and payable on the tenth anniversary of the first advance under the loan.

To date, Orb has funded approximately \$2,830,000 on the line of credit, and it is anticipated that the full \$3 million will have been funded by the time of any hearing on confirmation of the Debtor's Plan. Additionally, the Debtor has sought an increase in the line of credit provided by Orb to \$5,500,000. At full funding of the initial authorization of \$3,000,000, annual interest payments to Orb would total \$90,000. At full funding of the increased line resulting in \$5.5 million due, the interest payments would total \$165,000 annually.

The Debtor's obligation to Orb will be repaid pursuant to the terms of the Orb Note. From and after the Effective Date, the Debtor and Ord can agree to modified terms for repayment, but, prior to payment in full of the USB loan, the terms of the Orb loan shall not be modified to increase the interest rate thereof, or require payment in full sooner than the existing maturity date in the Orb note. The credit line provided by the Orb note may be modified from time to time to increase the amount of the available credit line, as agreed by Orb and the Debtor, and to extend the maturity date of the Orb loan.

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<u>CLASS#</u>	<u>DESCRIPTION</u>	<u>INSIDER</u> (Y/N)	<u>IMPAIRED</u> (Y/N)	<u>TREATMENT</u>
4	Secured claim of: Orb Capital, LLC Collateral description: The Property Collateral value: \$11 million to \$14 million Total secured claim amount: Approx. \$3,000,000.00 (as of March 15, 2018)	Yes	No	All amounts owed by the Debtor to Orb shall be repaid in accordance with the terms and conditions of the Orb Note. From and after the Effective Date, the Debtor and Ord can agree to modified terms for repayment, but, prior to payment in full of the USB loan, the terms of the Orb loan shall not be modified to increase the interest rate thereof, or require payment in full sooner than the existing maturity date in the Orb note.

2. Classes of Priority Unsecured Claims

Class 5. Priority Unsecured Claims.

Certain priority claims that are referred to in Code Sections 507(a)(3), (4), (5), (6), and (7) are required to be placed in classes. These types of claims are entitled to priority treatment as follows: the Code requires that each holder of such a claim receive cash on the Effective Date equal to the allowed amount of such claim. However, a class of unsecured priority claim holders may vote to accept deferred cash payments of a value, as of the Effective Date, equal to the allowed amount of such claims.

The Debtor does not believe that it has any priority claims of the types listed in Section 507(a)(3), (a)(4), (a)(5), (a)(6) or (a)(7). Nevertheless, to the extent that any such claims are determined to exist, the claims will be paid on the later of the Effective Date, or upon entry of an Order allowing each such claim, or at such later date as is agreed to by the holder of the claim.

3. Classes of General Unsecured Claims

Class 6. Nonpriority Unsecured Claims.

General unsecured claims in this class are allowed unsecured claims are not entitled to priority under Bankruptcy Code section 507(a). General unsecured claims in this class are estimated to currently total approximately \$30,000.

Class 6 unsecured creditors holding allowed claims will each receive payment in full of their claims on the later of 90 days following the Effective Date of the Plan or 30 days after allowance of the claim if an objection is filed to the claim before the payment date. Payment in full includes interest thereon from the Effective Date of the Plan to the date of payment at the interest rate prescribed by 28 U.S.C. § 1961 for post-judgment interest, or such other rate as may be described in the order confirming the plan. It should be noted that a significant number of the proofs of claim filed against the Debtor's bankruptcy estate as show on the Claims Register, as well as the debts listed in the Debtor's "Schedule F – Creditors Holding Nonpriority Unsecured Claims," consist of the claims held by contractors and subcontractors that had provided services of materials at the Property. Many of these creditors had recorded mechanics' liens against the Property prepetition (and were therefore actually secured creditors). As mechanics lienholders, many of these creditors have now been paid in full, with Court approval, from the initial \$3 million line of credit that the Debtor obtained from Orb. Any creditors that have received payment of their claims no longer hold claims in this class and are not entitled to vote on the Plan. Attached hereto as Exhibit "A" is a list prepared by the Debtor of all creditors that the Debtor believes currently hold Class 6 unsecured nonpriority claims, and the outstanding amount of each creditor's claim.

The Debtor will file objections to any Class 6 claims that it disputes within 60 days following the Effective Date of the Plan. Any disputed Class 6 claim that is allowed by the Court will be paid in full on the later of 90 days following the Effective Date of the Plan or 30 days after allowance of the claim. If a disputed Class 6 claim has not been finally resolved on the date of distribution to allowed Class 6 claims, the Debtor shall draw sufficient funds to pay the disputed claim in full from the Orb line of credit and reserve such funds until the disputed claim has been finally allowed or disallowed.

<u>CLASS #</u>	<u>DESCRIPTION</u>	<u>IMPAIRED</u> (Y/N)	<u>INSIDER</u> (Y/N)	
6	General nonpriority unsecured claims Total combined amount of claims: (Approx.) = \$30,000	Yes. Impaired; claims in this class are entitled to vote on the Plan.	No.	Class 6 unsecured creditors holding allowed claims will each receive payment in full of their claims on the later of 90 days following the Effective Date of the Plan or 30 days after allowance of the claim if an objection is filed to the claim before the payment date. Payment in full includes interest thereon from the Effective Date of the Plan to the date of payment at the interest rate in effect on the Effective Date as prescribed by 28 U.S.C. § 1961 for post-judgment interest, or such other rate as may be described in the order confirming the plan.

The funds that will be used to make the above-described payments to Class 6 unsecured creditors will be derived from the additional financing to be provided to the Debtor by Orb.

4. Class(es) of Interest Holders

Class 7. Equity Interests in the Debtor.

Interest holders are the parties who hold ownership interest (i.e., equity interest) in the Debtor. If the Debtor is a corporation, entities holding preferred and/or common stock in the Debtor are interest holders. If the Debtor is a partnership, the interest holders include both general and limited partners. If the Debtor is an individual, the Debtor is the interest holder. In this case, the Debtor is a California limited liability company and the interest holders are its members. Black Rock Thoroughbreds, LLLP, is the owner of 100% of the membership interest in the Debtor.

The following chart identifies the Plan's treatment of the class of interest holders:

<u>CLASS #</u>	<u>DESCRIPTION</u>	<u>IMPAIRED (Y/N)</u>	<u>TREATMENT</u>
7	Interest holders	No.	The prepetition member of the Debtor will retain its membership interest in the Debtor.

D. Means of Effectuating the Plan

1. Funding for the Plan

The Plan will be funded by the following:

This is a reorganizing plan. In other words, the Debtor intends to make payments under the Plan by obtaining Court approval to increase its line of credit from Orb by the amount of approximately \$1.8 million and it will use these funds to complete the renovation of the Property and to pay secured and unsecured creditors in full under the Plan as described herein and in the Plan. (See Section IV.C. of the Disclosure Statement, below, for more detailed information regarding the feasibility of, and means of effectuating, the Plan).

2. Post-Confirmation Management

Black Rock Thoroughbreds, LLC, a Kentucky limited liability limited partnership, has been the sole member and managing member of the Debtor, and the entity in control of the Debtor, prior to the filing of the Debtor's bankruptcy case, and will continue to be the managing member in control of the Debtor during the pendency of the Debtor's bankruptcy case and after confirmation of a Plan of Reorganization for the Debtor. The manager of Black Rock Thoroughbreds is Black Rock Equine Management, Inc., a Nevada corporation ("Black Rock Equine"). The President of Black Rock Equine is Mr. Steven Marshall. Thus, indirectly Mr. Marshall has been, and shall remain following confirmation of the Debtor's Plan, the individual principally responsible for control of the Debtor and its operations. Neither Mr. Marshall, Black

Rock Thoroughbreds nor Black Rock Equine will receive any compensation from the Debtor.

3. Disbursing Agent

Except as described in Section II.D.4. of the Plan, Black Rock Thoroughbreds shall act as the disbursing agent for the purpose of making all distributions provided for under the Plan. Black Rock Thoroughbreds shall serve as disbursing agent without bond and shall receive no compensation for distribution services rendered and expenses incurred pursuant to the Plan.

4. Effect of Default under this Plan.

a. Default.

The Plan provides that the reorganized Debtor shall be in default of the Plan if the Debtor has failed to meet an obligation of the reorganized Debtor under the Plan, including monetary and non-monetary obligations, within 30 days following the date on which such obligation became due (a "Default"). Upon occurrence of a Default, a creditor or the Office of the United States Trustee can provide a written demand to the reorganized Debtor for prompt cure of the Default. The reorganized Debtor shall have 30 days from the receipt of the written demand to cure the Default. If the reorganized Debtor fails to timely cure the Default, then the Debtor shall be deemed to be in Material Default until such time as the Default has been cured.

b. Appointment of Liquidating Plan Agent.

Upon the occurrence of a Material Default, a creditor, the Office of the United States Trustee, or the Debtor may file a motion for appointment of the Liquidating Plan Agent ("LPA"). If the Material Default remains uncured at the time of the hearing on such a Motion, the Court may appoint the LPA. The LPA shall be _____, or, if _____ is unwilling or unable to perform the duties as LPA, any qualified person selected by Debtor and approved by the Office of the United States Trustee as qualified.

c. Duties of Liquidating Plan Agent.

The LPA shall be authorized to market and sell the Debtor's Property for its fair market value. The LPA may employ a qualified real estate broker and must use commercially reasonable efforts to achieve a sale of the property at its fair market value. Upon the closing of a sale of the

Property, the LPA shall be responsible for distribution of the net proceeds of sale following payment of all perfected liens encumbering the Property. The LPA shall file a motion with the Bankruptcy Court, on notice to the Office of the United States Trustee and all creditors, to approve the proposed distributions of the net proceeds of sale in accordance with the priorities set forth in sections 503, 507 and 726 of the Bankruptcy Code. Upon completion of distributions, the LPA shall file a final report and account of all distributions with the Bankruptcy Court and file a motion to close the case.

d. Compensation of Liquidating Plan Agent.

The LPA shall be compensated for his or her efforts at the lesser of the limitation on compensation of a trustee set forth in Section 326(a) of the Bankruptcy Code, or the hours reasonably incurred by the LPA in the performance of his or her duties multiplied by the usual hourly rate of the LPA. The LPA must file a fee application and obtain Bankruptcy Court approval of the fees and costs incurred before payment thereof. A real estate agent employed by the Plan Agent is not required to file a fee application and may be paid a commercially reasonable commission upon the closing of a sale arranged by the real estate agent from the proceeds of the sale.

e. Effect of Cure upon Liquidating Plan Agent's Duties.

Following appointment of the LPA, and so long as the LPA has not entered into a binding contract with a third party for a purchase and sale of the Property, the Debtor may tender a full cure of any Material Default together with reasonable compensation to the LPA and to any real estate agent engaged by the LPA. Upon payment of such cure and such compensation, the LPA shall be discharged from the LPA's duties and the reorganized Debtor allowed to resume continued performance of its duties under the Plan thereafter. The Bankruptcy Court may determine such reasonable compensation upon motion by the reorganized Debtor, the LPA or the real estate agent.

E. Risk Factors

The proposed Plan has the following risks:

As was described above, the Debtor has already taken substantial steps to obtain financing and make payments to its creditors. However, the Debtor's ability to perform its Plan is partially dependent on it being able to obtain additional financing from Orb. Orb has already funded almost the entirety of the initial \$3 million line of credit that was approved by the Court, thereby demonstrating its ability to continue to fund the Debtor's efforts to complete the renovation project and pay its creditors in full. The Debtor therefore believes that it is substantially likely that the foregoing prerequisite to its ability to perform its Plan will occur. However, it cannot be said with certainty that this event will occur. If Orb Capital is unable to fund the line of credit, the Debtor would not be able to perform its Plan because it would not be able to make the payments to creditors required by the Plan.

F. Other Provisions of the Plan

1. Executory Contracts and Unexpired Leases

a. Assumptions

On the Effective Date, the following are the unexpired leases and executory contracts to be assumed as obligations of the reorganized Debtor under this Plan:

1. All current policies of insurance.
2. Debtor's Construction Remodel Agreement with Greg Agee Construction, Inc.
3. Debtor's Interior Design Agreement with Kern & Co.

b. Rejections

On the Effective Date, the following executory contracts and unexpired leases will be rejected:

1. None.

2. Changes in Rates Subject to Regulatory Commission Approval

This Debtor is not subject to governmental regulatory commission approval of its rates.

3. Retention of Jurisdiction.

The Court will retain jurisdiction to the extent provided by law and as described in the Plan.

G. Tax Consequences of Plan

CREDITORS AND INTEREST HOLDERS CONCERNED WITH HOW THE PLAN MAY AFFECT THEIR TAX LIABILITY SHOULD CONSULT WITH THEIR OWN ACCOUNTANTS, ATTORNEYS, AND/OR ADVISORS. The following disclosure of possible tax consequences is intended solely for the purpose of alerting readers about possible tax issues this Plan may present to the Debtor. The Proponent CANNOT and DOES NOT represent that the tax consequences contained below are the only tax consequences of the Plan because the Tax Code embodies many complicated rules which make it difficult to state completely and accurately all the tax implications of any action.

The following are the tax consequences which the Debtor anticipates from the Plan:

The Debtor is a California limited liability company and is an accrual-based taxpayer. The Debtor, which has no operations and no income (other than the proceeds of financing provided to the Debtor from related entities), believes that there will be no tax consequences as the result of the Plan. Therefore, the Debtor does not anticipate that it will need to pay any taxes in connection with its Plan. The Debtor incurs an annual fee of \$800 to the California Franchise Tax Board which the Debtor will pay with funds provided by its member in the ordinary course of business.

There may be other tax consequences of the Debtor's Plan that are presently unanticipated, or incapable of being known. Moreover, the Debtor cannot advise creditors as to the tax effect of the Plan upon creditors. Each creditor is, therefore, urged to contact their own tax advisors regarding the tax impacts of the Plan.

IV.

CONFIRMATION REQUIREMENTS AND PROCEDURES

PERSONS OR ENTITIES CONCERNED WITH CONFIRMATION OF THIS PLAN SHOULD CONSULT WITH THEIR OWN ATTORNEYS BECAUSE THE LAW ON CONFIRMING A PLAN OF REORGANIZATION IS VERY COMPLEX. The following discussion is intended solely for the purpose of alerting readers about basic confirmation issues, which they may wish to consider, as well as certain deadlines for filing claims. The proponent CANNOT and DOES NOT represent that the discussion contained below is a complete summary

of the law on this topic.

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

A. Who May Vote or Object

1. Who May Object to Confirmation of the Plan

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

2. Who May Vote to Accept / Reject the Plan

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

a. What Is an Allowed Claim / Interest

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

THE BAR DATE FOR FILING A PROOF OF CLAIM IN THIS CASE WAS FEBRUARY 27, 2017. A creditor or interest holder may have an allowed claim or interest even if a proof of claim or interest was not timely filed. A claim is deemed allowed if (1) it is scheduled on the Debtor's schedules and such claim is not scheduled as disputed, contingent, or unliquidated, and (2) no party in interest has objected to the claim. An interest is deemed allowed if it is scheduled and no party in interest has objected to the interest.

b. What Is an Impaired Claim / Interest

As noted above, an allowed claim or interest only has the right to vote if it is in a class that is impaired under the Plan. A class is impaired if the Plan alters the legal, equitable, or contractual rights of the members of that class. For example, a class comprised of general unsecured claims is impaired if the Plan fails to pay the members of that class 100% of what they are owed, or if the Plan delays a creditor in receiving what it is owed.

In this case, the Proponent believes that Classes 1, 2, 3 and 6 are impaired and that holders of claims in each of these classes are therefore entitled to vote to accept or reject the Plan. The Proponent believes that the Class 4 claims and Class 7 interests are not impaired, and therefore parties in these classes are not entitled to vote on the Plan. The Proponent believes that there are no holders of claims in Class 5 (priority unsecured claims). Parties who dispute the Debtor's characterization of their claim or interest as being impaired or unimpaired may file an objection to the Plan contending that the Debtor has incorrectly characterized the class.

3. Who is Not Entitled to Vote

The following four types of claims are not entitled to vote: (1) claims that have been disallowed; (2) claims in unimpaired classes; (3) claims entitled to priority pursuant to Code sections 507(a)(1), (a)(2), and (a)(8); and (4) claims in classes that do not receive or retain any value under the Plan. Claims in unimpaired classes are not entitled to vote because such classes are deemed to have accepted the Plan. Claims entitled to priority pursuant to Code sections 507(a)(1), (a)(2), and (a)(8) are not entitled to vote because such claims are not placed in classes and they are required to receive certain treatment specified by the Code. Claims in classes that do not receive or retain any value under the Plan do not vote because such classes are deemed to have rejected the Plan. EVEN IF YOUR CLAIM IS OF THE TYPE DESCRIBED ABOVE, YOU MAY STILL HAVE A RIGHT TO OBJECT TO THE CONFIRMATION OF THE PLAN.

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 is entitled to accept or reject a Plan in both capacities by casting one ballot for the secured part of the claim and another ballot for the unsecured claim.

5. Votes Necessary to Confirm the Plan

If impaired classes exist, the Court cannot confirm the Plan unless (1) at least one impaired class 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 “cramdown” on non-accepting classes, as discussed later in Section IV.A.8. of this Disclosure Statement.

6. Votes Necessary for a Class to Accept the Plan

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

7. Treatment of Nonaccepting Classes

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

8. Request for Confirmation Despite Nonacceptance by Impaired Class(es)

The Debtor will ask the Court to confirm this Plan by cramdown on impaired Classes 1, 2, 3 and 6 if any of these classes do not vote to accept the Plan.

B. Liquidation Analysis

Another confirmation requirement is the “Best Interest Test”, which requires a liquidation analysis. Under the Best Interest Test, if a claimant or interest holder is in an impaired class and

1 that claimant or interest holder does not vote to accept the Plan, then that claimant or interest
2 holder must receive or retain under the Plan property of a value not less than the amount that such
3 holder would receive or retain if the Debtor were liquidated under Chapter 7 of the Bankruptcy
4 Code.

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

12 For the Court to be able to confirm this Plan, the Court must find that all creditors and
13 interest holders who do not accept the Plan will receive at least as much under the Plan as such
14 holders would receive under a Chapter 7 liquidation. The Plan Proponent maintains that this
15 requirement is met here for the following reasons:

16 The Plan provides for payment in full of all allowed claims of creditors.

17 Under a Chapter 7 liquidation, if the Chapter 7 trustee were to attempt to market and sell
18 the Debtor's Property, it is anticipated that the trustee would be able to obtain a sufficiently high
19 sale price to satisfy all secured and unsecured claims against the bankruptcy estate. Thus, all
20 creditors would receive payment in full of their claims under a Chapter 7 liquidation, although it
21 is likely that payment of such claims would be significantly delayed during the administration of
22 the chapter 7 case and the marketing and sale of the property.

23 Thus, since both the Plan and a Chapter 7 would likely result in payment in full of all
24 creditor claims, it is evident that all creditors will receive as much under the Debtor's Plan than
25 they would receive under a Chapter 7 liquidation.

26 Below is a demonstration, in balance sheet format, that all creditors and interest holders
27 will receive at least as much under the Plan as such creditor or interest holder would receive under
28 a Chapter 7 liquidation.

ASSETS VALUE AT LIQUIDATION VALUES:

ASSETS

a. The Property \$12,500,000 (est).

TOTAL ASSETS AT LIQUIDATION VALUE

\$12,500,000

=====

Less:

Secured creditors' recovery (R.E. Taxes, USB & Orb) \$7,400,000 (est.)

Less:

Costs of Sale \$750,000 (est.)

Less:

Chapter 7 Trustee fees and professional fees \$300,000 (est.)

Less:

Chapter 11 administrative expenses:
(UST & Court Clerk) \$4,925 (est.)

Ringstad & Sanders LLP (professional fees) \$200,000 (est.)

Less:

Priority claims,
excluding administrative expense claims..... \$2,807

(1) Balance remaining for unsecured claims \$3,842,268

=====

(2) Total amount of unsecured claims \$30,000 (approx.)

(3) Percentage payment of unsecured claims 100%

**% OF THEIR CLAIMS WHICH UNSECURED CREDITORS WOULD RECEIVE
OR RETAIN IN A CH. 7 LIQUIDATION: = 100%
% OF THEIR CLAIMS WHICH UNSECURED CREDITORS WILL RECEIVE
OR RETAIN UNDER THIS PLAN: = 100%)**

C. Feasibility

Another requirement for confirmation involves the feasibility of the Plan, which means 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 under the Plan, unless such liquidation or reorganization is proposed in the Plan.

There are at least two important aspects of a feasibility analysis. The first aspect considers whether the Debtor will have enough cash on hand on the Effective Date of the Plan to pay all the

1 claims and expenses which are entitled to be paid on such date. The Plan Proponent maintains
2 that this aspect of feasibility is satisfied as described above. Accordingly, the Debtor will have
3 sufficient cash on hand on the Effective Date to make all required payments to creditors on that
4 date.

5 It is estimated that a total of \$4,925.00 will need to be paid on the Effective Date,
6 consisting of Clerk's Office fees and fees payable to the Office of the United States Trustee.
7 During the first year following the Effective Date of the Plan, the Debtor will be required to pay
8 the flowing approximate amounts:

9	\$ 4,925	Administrative expenses (UST and Clerk's Office)
10	\$ 200,000	Allowed Fees and Costs Owed to Ringstad & Sanders LLP
	\$ 2,802	Priority Tax Claim of Franchise Tax Board
11	\$ 325,000	Real estate taxes, annual and first installment of 5-year plan. (Class 1)
	\$ 191,000	Twelve Monthly Payments to USB (Class 2)
12	\$ 400,000	Completion Fees to Agee Constr. (Class 3)
	\$ 90,000	Twelve Monthly Payments to Orb (Class 4)
13	\$ 0	Priority Unsecured Creditors (Class 5)
14	\$ 30,000	Nonpriority Unsecured creditors (Class 6)
	\$ 0	Interest Holders (Class 7)
15	\$1,213,727	Total

16 The Court has recently approved an increase in the line of credit provided by Orb to the
17 Debtor in the amount of \$2,500,000. It is estimated that on the Effective Date the Debtor will
18 have access to a Court approved line of credit from Orb with unfunded availability in the amount
19 of approximately \$1,400,000 which can be used to pay all of the claims described above during
20 the first year period following the Effective Date.

21 The Debtor has demonstrated an ability to fund regular payments to its secured creditors,
22 having funded interest payments to USB consistently since October 2016, which total \$174,650
23 annually without accessing its line of credit for that purpose.

24 Additionally, Orb has demonstrated its ability to fund additional amounts to the Debtor per
25 the court-approved line of credit provided by Orb. Commencing in August, 2017 and continuing
26 through February, 2018, Orb funded approximately \$2,830,000 in advances to the Debtor on its
27 \$3 million line of credit.

28 Based upon the demonstrated performance of the Debtor and its lender, Orb, it is probable

1 that the Debtor will be able to make the payments required by the plan. The Plan also provides
2 that the Debtor may obtain increases in the line of credit from Orb as necessary and extensions of
3 the maturity date of the Orb loan, if required.

4 In light of the foregoing facts, the Debtor believes that confirmation and performance of
5 its Plan, which will pay all secured and unsecured creditors in full, is an achievable objective, and
6 that the Plan is feasible.

7 The Plan also provides an alternative mechanism to achieve payment in full of all
8 creditors if the Debtor is unable to meet the obligations of the plan. As described above and in
9 section II.D.4. of the Plan, if the Debtor is in Material Default of the Plan (defined as a default
10 that remains uncured more than 30 days after receipt by the Debtor of a written demand for cure),
11 then the Debtor, a creditor or the Office of the United States Trustee may move for the
12 appointment of the Liquidating Plan Agent (LPA). The LPA will be charged with the duty to
13 market and sell the Debtor's Property for its fair market value and may engage a qualified real
14 estate broker and must use commercially reasonable efforts to achieve the sale.

15 The Debtor intends to present evidence of the value of the Property at the Plan
16 confirmation hearing, and estimates that the current fair market value is approximately
17 \$12,500,000. The estimated amount of all creditor claims is less than \$8,000,000. Thus a sale at
18 fair market value should easily pay all creditors in full, with interest as prescribed in the Plan.

19 Because of the robust default provisions included in the Plan, it appears highly likely that
20 all creditors will be paid in full with interest in accordance with the Plan, either because the
21 Debtor successfully met its obligations under the Plan, or because the Property was sold by the
22 LPA and creditors paid in full from the proceeds of sale.

23 **D. Compliance with Absolute Priority Rule**

24 The so-called "absolute priority rule" is set forth in Section 1129(b)(2)(B) of the
25 Bankruptcy Code. The absolute priority rule applies only when all of the requirements for
26 confirmation set forth in Section 1129(a) of the Code are met except the requirement of section
27 1129(a)(8) that with respect to each class of claims or interests - (A) such class has accepted the
28 plan; or (B) such class is not impaired under the plan.

1 The absolute priority rule provides that where a impaired class of unsecured claims has
2 not accepted the plan, in order for the plan to be confirmed it must provide (i) that each holder of
3 a claim of such class receive or retain on account of such claim property of a value, as of the
4 effective date of the plan, equal to the allowed amount of such claim; or, (ii) the holder of any
5 interest that is junior to the interests of such class will not receive or retain under the plan on
6 account of such junior interest any property. These provisions mean that if a class of unsecured
7 creditors has voted against the plan, all unsecured creditors of the dissenting class must be paid in
8 full in order for the debtor to retain any property under a plan. *See, e.g., Norwest Bank*
9 *Worthington v. Ahlers*, 485 U.S. 197, 108 S. Ct. 963 (1988).

10 Under this plan, there is only one class of unsecured creditors, *i.e.*, Class 6 under the Plan.
11 The Debtor anticipates that Class 6 will vote in favor of the plan, which would render the absolute
12 priority rule moot. However, in the event that the class votes against the plan, the plan clearly
13 provides that the creditors holding claims in Class 6 will receive payment in full with interest,
14 thereby satisfying the absolute priority rule.

15 **V.**
16 **EFFECT OF CONFIRMATION OF PLAN**

17 **A. Discharge**

18 The Plan provides that upon consummation of the Plan, Debtor shall be discharged of
19 liability for payment of debts incurred before confirmation of the Plan, to the extent specified in
20 11 U.S.C. § 1141. However, the discharge will not discharge any liability imposed by the Plan.

21 **B. Revesting of Property in the Debtor**

22 Except as provided elsewhere herein and in the Plan, the confirmation of the Plan revests
23 all of the property of the estate in the Debtor.

24 **C. Modification of Plan**

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

27 The Proponent of the Plan may also seek to modify the Plan at any time after confirmation
28 only if (1) the Plan has not been substantially consummated and (2) the Court authorizes the

proposed modifications after notice and a hearing.

D. Exclusion of other Remedies.

The remedies described herein are the sole remedies available to creditors and other parties, including the United States Trustee, for enforcement of this plan.

E. Post-Confirmation Status Report

Within 120 days of the entry of the order confirming the Plan, Plan Proponent shall file a status report with the Court explaining what progress has been made toward consummation of the confirmed Plan. The status report shall be served on the United States Trustee, the twenty largest unsecured creditors, and those parties who have requested special notice. Further status reports shall be filed every 180 days and served on the same entities. Additionally, the Plan Proponent shall file quarterly reports with the United States Trustee no later than twenty calendar days after the end of each calendar quarter until entry of a final decree in accordance with section C.7. of the Operating and Reporting Requirements for chapter 11 Cases issued by the United States Trustee, Southern District of California.

F. Quarterly Fees

Quarterly fees accruing under 28 U.S.C. § 1930(a)(6) to date of confirmation shall be paid to the United States Trustee on or before the Effective Date of the plan. Quarterly fees accruing under 28 U.S.C. § 1930(a)(6) after confirmation shall be paid to the United States Trustee in accordance with 28 U.S.C. § 1930(a)(6) until entry of a final decree, or entry of an order of dismissal or conversion to Chapter 7.

G. Final Decree

Once the estate has been fully administered as referred to in Bankruptcy Rule 3022, the Debtor, or 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.

H. Retention of Jurisdiction.

Notwithstanding the entry of a final decree closing this case, the Bankruptcy Court will retain jurisdiction for the purposes of interpretation of the plan, resolution of any disputes that may arise under the plan, enforcement of the plan and implementation of the default provisions of

1 Section II.D.4 of the Plan concerning the effect of a Material Default. The case may be reopened
2 upon motion of a creditor, the reorganized Debtor or the United States Trustee to allow the Court
3 to exercise such jurisdiction.

4
5 DATED: _____, 2018

RSF 17872 VIA DE FORTUNA LLC

6 By: Black Rock Thoroughbreds, LLP,
7 a Kentucky limited liability limited partnership
Its: Manager

8 By: Black Rock Equine Management, Inc.,
9 a Nevada corporation
Its: General Partner

10
11 By: _____
12 Steven Marshall
Its: President

13
14
15 Dated: _____, 2018

RINGSTAD & SANDERS LLP

16 By: _____ /s/ Todd C. Ringstad
17 Todd C. Ringstad
18 General Insolvency Counsel for
19 RSF 17872 Via De Fortuna LLC, Debtor and
20 Debtor-in-Possession
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DECLARATION OF STEVEN MARSHALL

I, Steven Marshall, declare as follows:

1. The following matters are true and correct and within my own personal knowledge. If called as a witness, I could and would competently testify thereto.

2. The Debtor filed a voluntary petition for relief under Chapter 11 of the Bankruptcy Code on July 22, 2016 (the "Petition Date"), with the United States Bankruptcy Court for the Southern District of California (the "Court"). I am the principal of the Debtor through various entities that I own and control. The Debtor is a single purpose entity established for the purpose of holding title to an 11-acre property improved with a main residence, a guest residence, a large horse barn and office located at 17872 Via De Fortuna, Rancho Santa Fe (the "Property"). The Property is currently in the process of undergoing substantial renovations. Once these renovations are complete, the Property is intended to be utilized as a horse farm and part-time residence. The Debtor has no employees or ongoing operations.

3. I aided in the preparation of the attached Disclosure Statement, and I have read the attached Disclosure Statement in its entirety. Everything stated in the Disclosure Statement is true and correct to the best of my knowledge.

4. I have reviewed the Claims Register for the Debtor's bankruptcy case, and compared the claims reflected therein with the post-petition payments that have been made by the Debtor and Black Rock Thoroughbreds, LLLP, to the Debtor's creditors. Based on this analysis, I believe that a substantial portion of the claims filed against the estate have already been fully paid by the Debtor. Attached hereto as Exhibit "A" is a list prepared by the Debtor of all creditors that the Debtor believes currently hold Class 6 unsecured nonpriority claims, and the outstanding amount of each creditor's claim. Other than as shown on Exhibit "A," the Debtor believes that all prepetition nonpriority unsecured claims have been paid from the proceeds of the post-petition financing obtained by the Debtor from Orb Capital, LLC ("Orb").

//

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1 I declare under penalty of perjury under the laws of the United States of America that the
2 foregoing is true and correct. Executed this _____ day of _____, 2018, at Rancho Santa Fe,
3 California.

4
5 _____
6 Steven Marshall
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Ringstad & Sanders

LLP
4343 Von Karman Avenue, Suite 300
Newport Beach, CA 92660
949.851.7450

Exhibit A

Remaining unpaid general unsecured claims:

<u>Creditor</u>	<u>Amount</u>	<u>Comment</u>
Ossentjuk & Botti	\$24,299.33	
Travelers Indemnity Ins.	\$3,838.50	
Stone Installers, Inc.	\$64,917.88	Disputed

CSD 3010 [12/01/15]

Name, Address, Telephone No. & I.D. No.

Todd C. Ringstad, SBN 97345
todd@ringstadlaw.com
RINGSTAD & SANDERS LLP
4343 Von Karman Avenue, Suite 300
Newport Beach, Ca 92660
Telephone: 949 851-7450

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF CALIFORNIA
325 West F Street, San Diego, California 92101-6991

In Re

RSF 17872 Via De Fortuna, LLC.

Debtor.

BANKRUPTCY NO. 16-04436-LA11

Plaintiff(s)

ADVERSARY NO.

v.

Defendant(s)

PROOF OF SERVICE

I, Becky Metzner am a resident of the State of California, over the age of 18 years, and not a party to this action.

On June 11, 2018, I served the following documents:

DISCLOSURE STATEMENT DESCRIBING DEBTOR'S FIRST AMENDED CHAPTER 11 PLAN OF REORGANIZATION

1. To Be Served by the Court via Notice of Electronic Filing ("NEF"):

Under controlling Local Bankruptcy Rules(s) ("LBR"), the document(s) listed above will be served by the court via NEF and hyperlink to the document. On June 11, 2018, I checked the CM/ECF docket for this bankruptcy case or adversary proceeding and determined that the following person(s) are on the Electronic Mail Notice List to receive NEF transmission at the e-mail address(es) indicated and/or as checked below:

- Gary B. Elmer gelmer@ciardilaw.com, gelmertri@yahoo.com
- Haeji Hong Haeji.Hong@usdoj.gov, USTP.Region15@usdoj.gov, tiffany.l.carroll@usdoj.gov
- Penelope Parmes penelope@parmeslaw.com, anabel.pineda@troutmansanders.com
- Todd Ringstad todd@ringstadlaw.com, becky@ringstadlaw.com
- Kelly Ann Mai Khanh Tran ktran@mulvaneybarry.com, nrafiei@mulvaneybarry.com

☐

Chapter 7 Trustee:

☒

For Chpt. 7, 11, & 12 cases:

UNITED STATES TRUSTEE
ustp.region15@usdoj.gov

☐

For ODD numbered Chapter 13 cases:

THOMAS H. BILLINGSLEA, JR., TRUSTEE
Billingslea@thb.coxatwork.com

☐

For EVEN numbered Chapter 13 cases:

DAVID L. SKELTON, TRUSTEE
admin@ch13.sdcoxmail.com
dskelton13@ecf.epiqsystems.com

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2. Served by United States Mail or Overnight Mail:

On _____, I served the following person(s) and/or entity(ies) at the last known address(es) in this bankruptcy case or adversary proceeding by placing a true and correct copy thereof in a sealed envelope in the United States Mail via 1) first class, postage prepaid, 2) certified mail with receipt number or 3) overnight mail service, addressed as follows:

3. Served by Personal Delivery, Facsimile Transmission or Electronic Mail:

Under Fed.R.Civ.P.5 and controlling LBR, on _____, I served the following person(s) and/or entity(ies) by personal delivery, or (for those who consented in writing to such service method), by facsimile transmission and/or electronic mail as follows:

I declare under penalty of perjury under the laws of the United States of America that the statements made in this proof of service are true and correct.

Executed on June 11, 2018
(Date)

/s/ Becky Metzner
(Typed Name and Signature)

4343 Von Karman Avenue, Suite 300
(Address)

Newport Beach, CA 92660
(City, State, ZIP Code)