

UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF COLORADO

In re: )  
)  
TERRY PAUL STIER, ) Case No. 15-18402 HRT  
) Chapter 11  
Debtor. )

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DISCLOSURE STATEMENT FOR DEBTOR’S CHAPTER 11 PLAN OF  
REORGANIZATION DATED JUNE 1 2016

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Terry Paul Stier, Debtor-in-Possession submits this Disclosure Statement to accompany his Chapter 11 Plan of Reorganization dated June 1, 2016 (“Plan”).

INTRODUCTION

This disclosure statement (the “Disclosure Statement”) is being provided to all known creditors in the Chapter 11 bankruptcy case of Terry Paul Stier, Debtor-in-Possession, (the “Debtor”). This Disclosure Statement contains information about the Debtor and describes the Debtor’s Chapter 11 Plan of Reorganization dated June 1, 2016, filed by the Debtor on June 1, 2016. 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 the Disclosure Statement carefully and discuss them with your attorney. If you do not have an attorney, you may wish to consult one.*

The proposed distribution under the Plan are discussed at page 11 of this Disclosure Statement.

A. Purpose of the Disclosure Statement

This Disclosure Statement is provided to disclose information which is deemed material, important and necessary for each creditor to arrive at a reasonable, informed decision in exercising the right to vote for acceptance or rejection of the Plan. The Disclosure Statement is subject to final approval pursuant to 11 U.S.C. §1125 by the United States Bankruptcy Court for the District of Colorado which requires the Disclosure Statement to contain adequate information for the purposes of voting. The Disclosure Statement describes:

- The Debtor and significant events during the bankruptcy case;
- 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);
- Who can vote or object to the Plan;
- What factors the Bankruptcy Court (the “Court”) will consider when deciding whether to confirm the Plan;

- Why the Debtor 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
- 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**

1. *Time and Place of Hearing to Confirm the Plan*

The hearing at which the Court will determine whether to confirm the Plan has been scheduled for \_\_\_\_\_, at \_\_\_\_\_ .m., in **Courtroom B, United States Bankruptcy Court, U.S. Custom House, 721 - 19<sup>th</sup> Street, Denver, Colorado 80202.**

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 same to **Kenneth J. Buechler, Buechler Law Office, L.L.C., counsel for the Debtor at 1621 - 18th Street, Suite 260, Denver, Colorado 80202. After June 10, 2016, return to Buechler & Garber, LLC, 999 18<sup>th</sup> Street, Suite 1230 S, Denver, Colorado 80202** See section IV.A. below for a discussion of voting eligibility requirements.

Your ballot must be received by \_\_\_\_\_, **2016** or it will not be counted.

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

Objections to the confirmation of the Plan must be filed with the Court and served upon Debtor's counsel, the Office of the United States Trustee and interested parties by \_\_\_\_\_ **2016.**

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

If you want additional information about the Plan, you should contact Kenneth J. Buechler, Buechler Law Office, L.L.C., counsel for the Debtor at 1621 - 18th Street, Suite 260, Denver, Colorado 80202.

### C. Disclaimer

NO REPRESENTATIONS ARE AUTHORIZED OTHER THAN AS SET FORTH IN THIS DISCLOSURE STATEMENT. ANY REPRESENTATIONS OR INDUCEMENTS MADE TO SECURE YOUR ACCEPTANCE WHICH ARE OTHER THAN AS CONTAINED IN THIS STATEMENT SHOULD NOT BE RELIED UPON BY YOU IN ARRIVING AT YOUR DECISION.

THIS DISCLOSURE STATE HAS NEITHER BEEN APPROVED NOR DISAPPROVED BY THE SECURITIES AND EXCHANGE COMMISSION. SIMILARLY, THE COMMISSION HAS NOT REVIEWED THE ACCURACY OR ADEQUACY OF THIS DISCLOSURE STATEMENT.

The information contained herein has not been subjected to a certified audit. The Debtor is not able to warrant or represent that the information contained herein is without error, although all reasonable efforts under the circumstances have been made to ensure accuracy. Much of the information contained herein is based upon statements of other persons and information contained in other documents, the accuracy of which may be subject to interpretation and/or challenge.

The information contained in this Disclosure Statement is information available as of May 1, 2016, except as noted otherwise herein. Changes may be necessary and any material changes may be considered by the Court at the hearing on confirmation of the Plan. Financial information supplied by the Debtor has not been subject to audit.

**The Court has approved this Disclosure Statement as containing adequate information to enable parties affected by the Plan to make an informed judgment about its terms. The Court has not yet determined whether the Plan meets the legal requirements for confirmation, and the fact that the Court has approved the Disclosure Statement does not constitute an endorsement of the Plan by the Court, or a recommendation that it be accepted.**

### D. Recommendation of the Debtor

In the opinion of the Debtor, the Plan is the best available option for creditors. The Plan provides for substantial payment to creditors in excess of what would be received through a piecemeal liquidation of assets offering creditors a better alternative to liquidation.

## II. BACKGROUND

### A. Description and History of Debtor's Affairs

Prior to filing for relief, the Debtor was employed as an executive with Sinclair Oil in the oil and gas industry. The Debtor's occupation required him to work outside of Colorado, principally

in Wyoming. As a result, the Debtor commuted to his work sites in Wyoming. Due to the length of travel and job site locations, the Debtor rented an apartment near his work site.

The Debtor is formally married to Tamara L. Stier. During their marriage, the parties purchased a home known as 9423 Gray Court, Westminster, Colorado. As part of the dissolution of their marriage, the Debtor was awarded the marital home. There is a first mortgage on the home to JP Morgan Chase Bank and a second mortgage to American General Financial.

Due to various changes in his employment prior to filing for relief, the Debtor was not able to make all of the payments required under the two mortgages on his home. Likewise, the Debtor got behind in his personal credit card debt. Various creditors obtained judgments against the Debtor and recorded liens against his home. Similarly, the Debtor got behind in his payment on the homeowner's assessments owed to the HOA in his neighborhood.

#### **B. Events Leading to Chapter 11 Filing**

The Debtor's home went into foreclosure and was set for sale on July 29, 2015. Initially, the Debtor filed a Petition for Relief under Chapter 13 of the Bankruptcy Code. When it became apparent that the Debtor exceeded the debt limitation under Chapter 13, the case was converted to Chapter 11.

#### **C. Significant Events During the Bankruptcy Case**

As set forth above, the Debtor was required to convert his case to a case under Chapter 11 as he did not qualify as a debtor for a Chapter 13 case. In March of 2016, the Debtor received a bonus check from his employer. The after taxes receipt was \$43,990.40.

However, because of the volatility in the oil and gas market, Mr. Steir was laid off from his employment at Sinclair Oil in April of 2016. Notwithstanding this temporary unemployment, Mr. Stier has begun a consulting business to the oil and gas industry based upon his many years of experience. Mr. Stier has contacted many parties who are interested in his services. Based upon his projected work load going forward, Mr. Stier anticipates that his income will increase over time to the levels he earned when he filed for bankruptcy relief.

#### **D. Projected Recovery of Avoidable Transfers**

The Debtor is not aware of any pre-petition avoidable transfers and does not intend to pursue preference, fraudulent conveyances, or other avoidance actions.

#### **E. 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.

**F. Current and Historical Financial Condition**

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

The Debtor's most recent Monthly Operating Report since the commencement of the bankruptcy case is set forth in **Exhibit C**.

The Debtor's projected income and expenses are set forth in **Exhibit D**.

**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 interest 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 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:

| <b>Type</b>  | <b>Estimated Amount Owed</b> | <b>Proposed Treatment</b>   |
|--|------------------------------|---|
| Expenses Arising in the Ordinary Course of the Business After the Petition Date                        | \$0.00                       | Post-petition obligations incurred in the course of the Debtor's affairs have been timely paid pursuant to the terms of the respective obligations. To the extent that obligations are outstanding at the time of confirmation, they will be paid in full on the effective date of the Plan, or according to the terms of the obligation, if later. |
| The Value of Goods Received in the Ordinary Course of Business Within 20 Days before the Petition Date | \$0.00                       | No obligations of this nature exist   |
| Professional Fees approved by the Court (estimated)  | \$10,000.00                  | Paid in full on the effective date of the Plan, or according to separate written agreement, or according to court order if such fees have not been approved by the Court on the effective date of the Plan  |
| Clerk's Office Fees  | \$0.00                       | Paid in full on the effective date of the Plan  |
| Other Administrative Expenses  | \$0.00                       | Paid in full on the effective date of the Plan, or according to separate written agreement  |
| Office of the U.S. Trustee Fees  | \$0.00                       | Paid in full on the effective date of the Plan  |
| <b>TOTAL</b>   | <b>\$10,000.00</b>           |   |

## 2. *Priority Tax Claims*

Priority tax claims are unsecured income, employment and other taxes described by §507(as)(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:

| <b>Claimant</b>  | <b>Tax Due</b> | <b>Interest</b> | <b>Allowed Amount</b> |
|--|----------------|-----------------|-----------------------|
| Internal Revenue Service<br>(2012, 2013 & 2014 taxes & interest) | \$3,380.00     | \$29.02         | \$3,409.02            |

|   |             |             |             |
|---|-------------|-------------|-------------|
| Colorado Department of Revenue<br>(2006, 2007, 2008 & 2009 taxes &<br>interest) | \$26,615.77 | \$15,024.00 | \$41,639.77 |
|---|-------------|-------------|-------------|

The Allowed Priority Claims of the IRS and Colorado Department of Revenue shall each be paid in full with monthly payments over a period of five years from the Petition Date. 11 U.S.C. §§1129(a)(9)(C) & 1129(a)(9)(D). Monthly payments shall commence on the first day of the first month after the Effective Date, and shall include annual interest at the rate of four percent (4%) per annum. The creditors shall retain its lien on the Debtor's assets, if any, pursuant to 11 U.S.C. §506(a), with the priority thereof, as existed on the Petition Date pursuant to § 1129(b)(2)(A)(i)(I), until the secured claim is paid.

### 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 secured by property of the Debtor's bankruptcy estate (or are subject to setoff) to the extent allowed as secured claims under §506 of the Code.

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

| Class   | Impairment      | Treatment  |
|---|-----------------|--|
| <p>Class 2<br/>Secured Claim of<br/>JP Morgan Chase Bank<br/>National Association<br/>(9423 Gray Court)</p> | <p>Impaired</p> | <p>The claim of JP Morgan Chase Ban, NA arises from a promissory note dated November 15, 2007 in the original principal amount of \$391,950.00 together with interest at the rate of 5.875% payable over a thirty year period with in the amount of \$2,318.54 per month with the first payment due on January 1, 2008. Upon information and belief, the outstanding principal amount as of the date of the filing was \$382,172.77. The claimant asserts pre-petition arrears in the amount of \$250,064.65. The Debtor disputes this amount. On the Effective Date, the Debtor will list and market the Property for sale. The Debtor shall have until December 31, 2016 to sell the Property. Should the Debtor not have the Property under contract by December 31, 2016, the Debtor shall surrender the Property to the Secured Creditor. If the Debtor obtains a contract for sale by December 31, 2016, the Debtor shall have 60 days to close the sale. After payment of customary closing costs and any superior liens, the Secured Creditor shall receive all net proceeds from the sale. Until sale or surrender, the Debtor shall continue to maintain the Property, including, but not limited to, payment of all post-petition real estate taxes, post-petition HOA fees, utilities, maintenance, etc. Any deficiency claim of the Secured Creditor shall be treated as a Class 6 Claim.</p> |
| <p>Class 3<br/>Secured Claim of<br/>American General<br/>Financial Services<br/>(9423 Gray Court)</p>       | <p>Impaired</p> | <p>The secured claim of American General Financial Services will be allowed in the amount of \$11,670.00. On the Effective Date, the Debtor will list and market the Property for sale. The Debtor shall have until December 31, 2016 to sell the Property. Should the Debtor not have the Property under contract by December 31, 2016, the Debtor shall surrender the Property to the Secured Creditor. If the Debtor obtains a contract for sale by December 31, 2016, the Debtor shall have 60 days to close the sale. After payment of customary closing costs and any superior liens, the Secured Creditor shall receive all net proceeds from the sale. Until sale or surrender, the Debtor shall continue to maintain the Property, including, but not limited to, payment of all post-petition real estate taxes, post-petition HOA fees, utilities, maintenance, etc. Any deficiency claim of the Secured Creditor shall be treated as a Class 6 Claim.</p>  |



| <b>Class</b>   | <b>Impairment</b> | <b>Treatment</b>  |
|--|-------------------|---|
| Class 4<br>Secured Claim of<br>Tuscany Trails<br>Homeowners Association<br>(9423 Gray Court) | Impaired          | The secured claim of Tuscany Trails Homeowners Association will be allowed in the amount of \$2,332.81. On the Effective Date, the Debtor will list and market the Property for sale. The Debtor shall have until December 31, 2016 to sell the Property. Should the Debtor not have the Property under contract by December 31, 2016, the Debtor shall surrender the Property to the Secured Creditor. If the Debtor obtains a contract for sale by December 31, 2016, the Debtor shall have 60 days to close the sale. After payment of customary closing costs and any superior liens, the Secured Creditor shall receive all net proceeds from the sale. Until sale or surrender, the Debtor shall continue to maintain the Property, including, but not limited to, payment of all post-petition real estate taxes, post-petition HOA fees, utilities, maintenance, etc. Any deficiency claim of the Secured Creditor shall be treated as a Class 6 Claim. |
| Class 5 - Judgment Lien<br>Claims  | Impaired          | The holders of judgment lien claims will be reclassified and treated as Class 6 Claims as set forth in the Plan. The Debtor will file motions to avoid the liens with respect to each claim.  |

## 2. *Classes of Unsecured Priority 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 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 (7) of the Code and their proposed treatment under the Plan:

| <b>Class</b>              | <b>Impairment</b> | <b>Treatment</b>                      |
|---------------------------|-------------------|---------------------------------------|
| Class 1 - Priority Claims | Unimpaired        | No Class 1 claims are known to exist. |

## 3. *Classes 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 identity of the holders of claims in class 6 is set forth in Article II of the Plan.

The following chart identifies the Plan's proposed treatment of Class 6 which contain general unsecured claims against the Debtor:

| Class | Description        | Impairment | Treatment  |
|-------|--------------------|------------|--|
| 6     | Unsecured Claims   | Impaired   | Class 6 claimants will received distributions on account of the allowed claim over a period of 5 years as follows: commencing on each anniversary of the Effective Date, the Debtor will deposit \$8,000 for a period of 5 years months into a segregated account for the benefit of the Class 6 Claimants. The account will established at an institution insured by the FDIC and held in the Debtor's name. Creditors may request copies of statements for the account from the Debtor by written request with a copy of such request provided to the Debtor's attorney. The total amount of \$40,000.00 will be disbursed to unsecured creditors through the plan. Within fifteen (15) days after the anniversary of the Effective Date the Debtor shall make a pro rata distribution to Class 6 creditors. Funds used to make the deposits will be generated from post-petition earnings. To the extent that Class 6 claims are subject to an objection by the Debtor, or any other party in interest, the amount of the distribution the creditor would be entitled to receive if the claim was allowed in full shall be held in the segregated account until a final adjudication of the claim. In the event the claim is disallowed or allowed in a lesser amount, the balance of the held funds shall be distributed to allowed Class 6 claimants on a pro rata basis. Any distributions made to creditors that are unclaimed after 90 days, together with any additional distributions that the creditor would be entitled to receive, shall be distributed to other allowed Class 6 claimants on a pro rata basis. The student loan claim will share with other Class 6 creditors on a pro rata basis. |
| 7     | Tax Penalty Claims | Impaired   | Tax Penalty Claims will be treated as Class 6 general unsecured claims.  |

#### 4. *Classes 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 classes of equity interest holders:

| <b>Class</b> | <b>Description</b> | <b>Impairment</b> | <b>Treatment</b>  |
|--------------|--------------------|-------------------|---|
| 8            | Debtor             | Impaired          | Upon confirmation of the Plan, all exempt assets of the Debtor's shall be vested in the Reorganized Debtor as provided in this Plan, free and clear of all Claims and Interests, except as specifically provided in this Plan. If confirmation of this Plan is sought pursuant to 11 U.S.C. § 1129(b), all non-exempt property of the Debtor's bankruptcy estate as of the Effective Date of the Plan shall remain property of the estate during the term of the Plan. Upon completion of all payments under this Plan, and upon entry of discharge, the non-exempt property of the Debtor's bankruptcy estate shall be vested in the Reorganized Debtor. |

#### **D. Means of Implementing the Plan**

##### *1. Source of Payments*

Payments and distributions under the Plan will be funded by the Debtor's future earnings. A projection of the Debtor's income and expenses is set forth on **Exhibit D**.

#### **E. Risk Factors**

The most significant risk to the Plan is that the Debtor's future income may not be sufficient to make the required plan payments. The Debtor is confident that revenues will be sufficient to meet the required plan payments.

#### **F. Executory Contracts and Unexpired Leases**

Article XI of the Plan lists all executory contracts and unexpired leases that the Debtor will assumed under the Plan. Assumption means the Debtor has elected to continue to perform the obligations under such contracts and unexpired leases, and to cure defaults of the type that must be cured under the Code, if any. Article XI of the Plan also lists how the Debtor will cure and compensate the other party to such contract or lease for any such defaults.

If you object to the assumption of your unexpired lease or executory contract, the proposed cure of any defaults, or the adequacy of assurance of performance, you must file and serve your objection to the Plan within the deadline for objecting to confirmation of the Plan, unless the Court has set an earlier time.

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

If you object to the rejection of your contract or lease, you must file and serve your objection to the Plan within the deadline for objecting to confirmation of the Plan.

***Under the terms of the Plan, the Deadline for Filing a Proof of Claim Based on a Claim Arising from the Rejection of a Lease or Contract is no later than thirty (30) days after the date of the order confirming this Plan.*** Any claim based on the rejection of a contract or lease will be barred if the proof of claim is not timely filed, unless the Court orders otherwise.

**G. Tax Consequences of the 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.***

**F. Effect of Conversion to Chapter 7.**

Should the Debtor not be able to confirm a plan and be required to convert his case to a case under Chapter 7, the Debtor's post-petition, pre-conversion wages are not property of the Estate. *In re Evans*, 464 B.R. 429 (Bankr. D. Colo. 2011) (holding that the legislative history of Section 348(f)(1)(A) shows that Congress intended Section 348(f)(1)(A) to apply with equal force to cases under Chapter 11 and Chapter 13 despite the language in Section 1115(a)(2)). The thrust of Section 348(f)(1)(A) and *Evans* is to put creditors in the same position they would be in if the Debtor initially filed the case under Chapter 7. *Id.* at 441.

**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 the 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. The 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 the purposes of voting and (2) impaired.

In this case, the Plan Proponent believes that Classes 2, 3, 5, 6, 7 and 8, are impaired and that holders claims in each of these classes are therefore entitled to vote to accept or reject the Plan. The Plan Proponent believes that Classes 1 is not impaired and that holders of claims in this Class, therefore, do not have the right to vote to accept or reject the Plan.

1. *What is an Allowed or an Allowed Equity Interest?*

Only a creditor or equity interest holder with an allowed claim or 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.

On January 21, 2016, the Court entered an order establishing **March 15, 2016 the deadline for filing proofs of claim** (Docket No. 55).

2. *What is an Impaired Claim of 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 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 interest 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), (3) and (8) of the Code;
- holders of claims or equity interests that do not receive or retain any value under the Plan; and
- 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.***

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 holds 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 ( $\frac{1}{2}$ ) 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 ( $\frac{2}{3}$ ) 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 ( $\frac{2}{3}$ ) 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 in the nonaccepting classes are treated in a 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 “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 “cram down” 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 or equity interest holders would receive in a chapter 7 liquidation. A liquidation analysis is attached to this Disclosure Statement as **Exhibit B**.

**D. Feasibility**

The Court must find that confirmation of the Plan is not likely to be followed by 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 the Debtor will have enough cash on hand on the effective date of the Plan to pay all claims and expenses that are entitled to be paid on that date.

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.

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

**V. EFFECT OF CONFIRMATION OF PLAN**

**A. DISCHARGE OF DEBTOR**

Discharge. Confirmation of the Plan does not discharge any debt provided for in the Plan until the Court grants a discharge on completion of all payments under the Plan, or as otherwise provided in §1141(d)(5) of the Code. Debtor will not be discharged from any debt excepted from discharge under §523 of the Code except as provided in Rule 4007(c) of the Federal Rules of Bankruptcy Procedure.

**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.

Upon request of the Debtor, the United States trustee, or the holder of an allowed unsecured claim, the Plan may be modified at any time after confirmation of the Plan but before completion of payments under the Plan, to (1) increase or reduce the amount of payments under the Plan on claims of a particular class, (2) extend or reduce the time period for such payments, or (3) alter the amount of distribution to a creditor whose claim is provided for by the Plan, to the extent necessary to take account of any payment of the claim made other than under the Plan.

**C. Status of the Case Upon Confirmation**

Upon confirmation of the Plan, the case shall remain open until all payments have been made under the Plan. The Debtor will pay the United States Trustee fees that accrue from the Creditor Fund.

**D. 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.

Dated: June 1, 2016.

*/s/ Terry Paul Stier*  
By: \_\_\_\_\_  
Terry Paul Stier

APPROVED AS TO FORM:

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