

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF FLORIDA
FORT LAUDERDALE DIVISION
www.flsb.uscourts.gov

IN RE:

FRANK R. SEVERINO

CASE NO.: 15-30637-RBR

Debtor.

CHAPTER 11

FRANK R. SEVERINO'S AMENDED DISCLOSURE STATEMENT

I. INTRODUCTION

A. The Purpose of this Document

The Debtor, Frank R. Severino, submits this Disclosure Statement to his creditors and other parties in interest to provide information that is material and necessary to reach a reasonably informed decision as to whether to accept or reject the Debtor's Plan of Reorganization (the Plan). This Disclosure Statement should be read in conjunction with the accompanying Plan.

No representations concerning the Debtor, his future business operations, the value of his property or the value of any benefits offered to holders of claims or interests in connection with the Plan are authorized other than as set forth in this Disclosure Statement. Any representations or inducements made to secure acceptance of the Plan other than those contained in this Disclosure Statement should not be relied upon by a creditor or interest holder. Any such additional representations and inducements should be reported to counsel for the Debtor at the address below and to the United States Trustee.

The information contained in this Disclosure Statement has not been subject to certified audit and is based in large extent on information maintained and collected by the Debtor. While every effort has been made to provide the most accurate information available, the books and records of the Debtor are not warranted or represented to be completely and historically accurate. Further, much of the information contained herein consists of projections of future performance. While every effort has

been made to insure that the assumptions are valid and that the projections are as accurate as can be made under the circumstances, neither the Debtor nor his accountants undertake to certify or warrant the absolute accuracy of the projections.

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

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

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

The hearing at which the Court will determine whether to confirm the Plan will take place on Wednesday, September 28, 2016 at 9:30 a.m., in Courtroom 308, at the U.S. Courthouse, 299 E Broward Blvd., Ft. Lauderdale, FL 33301.

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 pursuant to the Local Rules the ballot must be filed directly with the Court and not sent to Debtors counsel for filing. See section IV.A. below for a discussion of voting eligibility requirements.

Your ballot must be received by **September 14, 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 the Debtor, attorney for the Debtor DAVID W. LANGLEY, 8551 W. Sunrise Blvd., Suite 303, Plantation, FL 33322, Damaris D. Rosich-Schwartz, Office of the US Trustee, 51 SW 1st Ave., Ste 1204, Miami, FL 33130 and all interested parties by **September 14, 2016**.

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

If you want additional information about the Plan, you should contact David W. Langley, Attorney for the Plan Proponent, 8551 W. Sunrise Blvd., Suite 303, Plantation, FL 33322.

C. **Disclaimer**

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

II. **NATURE AND HISTORY OF THE DEBTOR**

The Debtor-in-Possession, Frank R. Severino. The Debtor-in-Possession was involved in a foreclosure action at the time of filing of this Chapter 11 proceeding, CASE NO.: CACE-11-026576 pending in the Circuit Court of Broward County, Florida, (the "Foreclosure Case"). The Debtor proposes to pay off the mortgage judgment through his Plan. The Debtor filed for protection under Chapter 11 on November 24, 2015.

The Debtor has obtained Court authorization for the retention of the following professionals:

- a. David W. Langley as bankruptcy counsel.

David W. Langley, is representing the Debtor at no charge.

III. **FINANCIAL INFORMATION**

The Debtor has filed schedules of assets, liabilities, income and expenses, a Statement of Financial Affairs, and Monthly Operating Reports which contain the most accurate and current

information available to the Debtor.

A. Real Property

The Debtor owned a remainder interest in residential real property located **7507 NW 58th Street, Tamarac, FL 33321**. The Debtor's mother, Eileen M. Severino, holds a life estate in the Property. The Debtor's sister, Pamela Rohr, claims a one-half interest in the Property. The Debtor is residing in the Property.

The Debtor's interest in the subject property at the time of filing of this case was a remainder interest in a one-half share of the property. The Debtor's mother, Eileen Severino, held a life estate for that one-half interest. The remaining one-half interest is held by the Debtor's sister, Pamela Rohr. Since this Chapter 11 case was filed Eileen Severino, has passed away, leaving the Debtor with a one-half interest in the property. On completion of payment of the mortgage judgment through his Amended Chapter 11 Plan the Debtor will be seeking a partition of the subject property.

B. Personal Property

The total value of the non-exempt personal property of the Debtor as of the date of filing his Chapter 11 Petition was estimated to be \$15,840.00. The personal property of the Debtor consists of the following assets:

<u>Asset</u>	<u>Estimated Value</u>
Cash and accounts	\$1,494.50
Household goods and furnishings	\$ 735.00
Personal items	\$250.00
Dodge Ram wheelchair equipped truck (subject to lien)	<u>\$13,361.00</u>

Total Personal Property	\$15,840.50
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C. Ability to Fund and Complete Plan & Debtor's Income

The Debtor presently is unemployed. His only source of income is a monthly disability payment he receives from the Veterans Administration in the amount of \$3,003.00. He has received no other income during the course of this proceeding.

Based on an historical review of his last years earnings the Debtor believes he will be able to make the monthly payments required under his Plan.

IV. LIQUIDATION ANALYSIS

Estimated Total liquidation value of the present estate	\$15,840.50
Less secured lien on vehicle	\$17,097.00
Projected value of avoidable transfers	0.00
Total Amount Available for Distribution in a Chapter 7 Liquidation	\$0
Available for Distribution to General Unsecured Creditors in a liquidation	\$0

V. SPECIAL RISK FACTORS

Certain substantial risk factors are inherent in most plans of reorganization in Chapter 11 cases. If such Plans are accepted, it is usually because they represent a greater return in dividends than in a liquidating Chapter 7 case. This Plan bears the risk that the Debtor's income may be reduced or his expenses may increase, all of which may reduce the Debtor's ability to make payments under this Plan. However, any distribution to unsecured creditors will be greater than what would be realized in liquidation.

ALL THE RISK FACTORS INHERENT IN A PLAN OF REORGANIZATION UNDER

CHAPTER 11 ARE PRESENT IN THIS CASE. CREDITORS ARE URGED TO CAREFULLY READ THIS DISCLOSURE STATEMENT AND THE ACCOMPANYING PLAN OF REORGANIZATION SO THAT AN INFORMED JUDGMENT CAN BE MADE WITH RESPECT TO VOTING ON THE PLAN.

VI. SUMMARY OF NON-BANKRUPTCY LITIGATION

At the present time the Debtor is a party to the following litigation:

1. New York Community Bank vs. Eileen Severino, CASE NO.: CACE-11-026576 pending in the Circuit Court of Broward County, Florida,.

VII. SUMMARY OF PLAN OF REORGANIZATION

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

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

B. **Unclassified Claims**

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

1. *Administrative Expenses*

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

The Plan shall provide for the payment of all expenses of this proceeding, including fees due the Office of the U.S. Trustee. All fees required to be paid by 28 U.S.C. §1930(a)(6) (U.S. Trustee Fees) will accrue and be timely paid until the case is closed, dismissed, or converted to another Chapter of the Code. Any U.S. Trustee Fees owed on or before the Effective Date of this Plan will be paid on the Effective Date. The Debtor is current on all fees due the Office of the United States Trustee and anticipates paying quarterly payments of \$325.00 until the case is closed.

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

<u>Type</u>	<u>Estimated Amount Owed</u>	<u>Proposed Treatment</u>
Expenses Arising in the Ordinary Course of Business After the Petition Date	None	Paid in full on the effective date of the Plan, or according to terms of obligation if later
The Value of Goods Received in the Ordinary Course of Business Within 20 Days Before the Petition Date	None	Paid in full on the effective date of the Plan, or according to terms of obligation if later
Professional Fees, as	Estimated to	N/A

approved by the Court.	be \$0	
Clerk's Office Fees	None	Paid in full on the effective date of the Plan
Other administrative expenses	None	Paid in full on the effective date of the Plan or according to separate written agreement
Office of the U.S. Trustee Fees	Current	Paid in full on the effective date of the Plan
TOTAL		

2. *Priority Tax Claim*

The Debtor has no Priority tax claims.

C. **Classes of Claims and Equity Interests**

The Plan shall provide for the payment of all expenses of this proceeding, including fees due the Office of the U.S. Trustee. The accompanying Plan of Reorganization divides creditors into the following seven classes:

Class 1 - . The secured claim of New York Community Bank (NYCB) as to the real property located at 7507 NW 58th Street, Tamarac, FL 33321 (the "Property") to the extent allowed as a secured claim under §506 of the Code. At the time of filing the NYCB claim amount was \$41,835.07.

Class 2 - The secured claim of Chrysler Capital secured by a lien on Debtor's wheelchair equipped Dodge Ram. (\$13,800.00 per Proof of Claim 1-2).

Class 3 - The Priority real estate tax claim of Broward County, if any

Class 4 General Unsecured Claims

Class 5 - The interests of the individual Debtor in property of the estate.

The Plan proposes to pay all costs and expenses of administration within thirty days of the date of confirmation of the Plan including all fees due the Office of the U.S. Trustee, or within such additional time as the administrative claimants may allow. The total amount of administrative expenses has not yet been determined, but will be set by the Court at the hearing on the confirmation of the Plan.

The classes of claims shall be treated as follows:

Class	Impairment	Treatment
Class 1 - Secured Claim of NYCB	impaired.	The Debtor will pay the full amount of the claim with interest at 5.25% in equal monthly payments over six years
Class 2 ó Secured Claim of Chrysler Capital	impaired.	The Debtor will pay the full amount of the claim with interest at 5.25% in equal monthly payments over six years
Class 3 ó Priority claim of Broward County	unimpaired	The Debtor will pay the full amount of the claim with interest at 5.25% in equal monthly payments over six years
Class 4 ó General unsecured Claims	impaired.	The Debtor shall pay \$100.00 per month for 36 months beginning in month 37 of this six year Plan which payments shall be distributed by the Debtor pro-rata to all approved unsecured claims resulting in a distribution of approximately 75% of the allowed claims.
Class 5 ó The interests of the individual Debtor in property of the estate	impaired.	The Debtor shall retain all personal and real property of the Estate upon receipt of his discharge.

The Plan will be funded by the income of the Debtor. The Plan of Reorganization is deemed

by the Debtor to be feasible.

VIII. CONFIRMATION REQUIREMENTS AND PROCEDURES

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

A. **Who May Vote or Object**

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

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

In this case, the Plan Proponent believes that classes are impaired and that holders of claims in each of these classes are therefore entitled to vote to accept or reject the Plan. The Plan Proponent believes that classes are unimpaired and that holders of claims in each of these classes, therefore, do not have the right to vote to accept or reject the Plan.

1. *What Is an Allowed Claim?*

Only a creditor with an allowed claim has the right to vote on the Plan. Generally, a claim

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, unless an objection has been filed to such proof of claim. When a claim is not allowed, the creditor holding the claim cannot vote unless the Court, after notice and hearing, either overrules the objection or allows the claim for voting purposes pursuant to Rule 3018(a) of the Federal Rules of Bankruptcy Procedure.

The deadline for filing a proof of claim in this case is 3/21/16.

2. *What Is an Impaired Claim?*

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

3. *Who is Not Entitled to Vote*

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

- holders of claims and equity interests that have been disallowed by an order of the Court;
- holders of other claims or equity interests that are not "allowed claims" or "allowed equity interests" (as discussed above), unless they have been "allowed" for voting purposes.
- holders of claims or equity interests in unimpaired classes;
- holders of claims entitled to priority pursuant to §§507(a)(2), (a)(3), and (a)(8) of

the Code; and

- holders of claims or equity interests in classes that do not receive or retain any value under the Plan;
- administrative expenses.

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

4. Who Can Vote in More Than One Class

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

B. Votes Necessary to Confirm the Plan

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

1. Votes Necessary for a Class to Accept the Plan

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

2. Treatment of Nonaccepting Classes

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

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

IX. EFFECT OF CONFIRMATION

9.01 Binding Effect of Confirmation. In accordance with § 1141(a) of the Bankruptcy Code, the provisions of a confirmed plan bind the Debtor, any entity acquiring property under the Plan, and any Creditor, whether or not the Claim or Interest of such Creditor is impaired under the Plan and whether or not such Creditor has accepted the Plan.

9.02 Credit Against Ownership Interest of Co-Owner Pamela Rohr. The Debtor will be satisfying the outstanding mortgage against the subject Property which is co-owned by the Debtor's sister, Pamela Rohr. No action shall be taken to partition the Property until substantial completion of this Plan. On completion of this Plan, the Debtor, Frank R. Severino, shall be allowed a credit in any subsequent partition action for the funds he expends in satisfying the subject mortgage, including all attorney's fees and costs incurred in this action.

X FUTURE EARNINGS AND DISCHARGE

Pursuant to §1141(d)(5)(A) of the Code the Debts contained herein will be discharged after all plan payments have been made. Debtor submits all future earnings or other future income

to such supervision and control of the Court as is necessary for the execution of the Plan. Property of the estate shall vest in the Debtor upon dismissal, conversion or discharge under 11 U.S.C. 1112 or 1141 except as the Court for cause may order otherwise while the case is pending.

XI. CONCLUSION

The Plan of Reorganization is feasible and offers a substantial benefit to the creditors over a Chapter 7 liquidation. The Plan offers 75% to unsecured creditors. Based on the liquidation analysis, a Chapter 7 liquidation would provide a 0% dividend.

Dated this 12th day of August, 2016.

By: s:/ Frank R. Severino
Frank R. Severino

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