UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION

In re: Sixty Sixty Condominium Association, Inc.

Case No. 16-26187-RAM

Debtor-in-Possession.

Chapter 11

_____/

THIRD AMENDED DISCLOSURE STATEMENT IN SUPPORT OF THIRD AMENDED PLAN OF REORGANIZATION OF SIXTY SIXTY CONDOMINIUM ASSOCIATION, INC.

DATED: November 15, 2017

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SIXTY SIXTY CONDOMINIUM ASSOCIATION, INC., the Debtor and Debtor-in-Possession ("Debtor") in the above referenced bankruptcy case, files this amended disclosure statement ("Third Amended Disclosure Statement") pursuant to 11 U.S.C. §1125 and Bankruptcy Rule 3016(c), in conjunction with the *Third Amended Plan of Reorganization of Sixty Sixty Condominium Association, Inc.* filed by Debtor, dated September 25, 2017, for the reorganization of the association ("Third Amended Plan"). All capitalized terms not defined in the Third Amended Disclosure Statement shall have the definition set forth in the Third Amended Plan and Annexes thereto.

DEBTOR RESERVES THE RIGHT TO AMEND OR SUPPLEMENT THIS PROPOSED THIRD AMENDED DISCLOSURE STATEMENT AT OR BEFORE THE CONFIRMATION HEARING.

I. INTRODUCTION

Debtor filed for relief under Chapter 11, Title 11 of the United States Bankruptcy Code (the "Bankruptcy Code" or "Code") in the United States Bankruptcy Court for the Southern District of Florida, Miami-Dade Division on December 5, 2016 (the "Petition Date"). This bankruptcy case is presently pending before the United States Bankruptcy Court for the Southern District of Florida, Miami-Dade Division, the Honorable Robert A. Mark presiding (the "Bankruptcy Court").

A. Purpose of Third Amended Disclosure Statement:

Debtor's purpose in providing this Third Amended Disclosure Statement is to provide the holders of Claims and interests with adequate information about the Third Amended Plan to enable creditors and other parties-in-interest to make an informed judgment on the merits of the Third Amended Plan.

This Third Amended Disclosure Statement does not replace the Third Amended Plan and therefore creditors and parties-in-interest are urged to carefully read both the Third Amended Plan and this Third Amended Disclosure Statement and consult with counsel concerning the impact that these documents have upon their legal rights.

Debtor submits this Third Amended Disclosure to all known Creditors and Interest Holders of Debtor whose Claims are affected under the Third Amended Plan and certain other interested parties who may have claims related to the condominium located at located at 6060 Indian Creek Drive in Miami Beach, Florida (the "Condominium"). The purpose of this Third Amended Disclosure Statement is to present all information which the Bankruptcy Court has determined to satisfy the requirements of the Bankruptcy Code and to enable Creditors and Interest Holders to make and form prudent decisions in exercising their rights to accept or reject the Third Amended Plan. By approving this Third Amended Disclosure Statement, the Bankruptcy Court neither recommends acceptance nor rejection of the Third Amended Plan. The hearing on the Third Amended Disclosure Statement is to determine whether the Third Amended Disclosure Statement contains "adequate information" as that term is defined in 11 U.S.C. §1125(a)(1), and approval of same is not tantamount to a decision by the Bankruptcy Court on the merits of the Third Amended Plan. THIS THIRD AMENDED DISCLOSURE STATEMENT HAS NOT YET BEEN APPROVED BY THE BANKRUPTCY COURT, BUT WILL BE SUBJECT TO APPROVAL AT A HEARING.

B. Source of Information Contained in the Third Amended Disclosure Statement:

The information contained in this Third Amended Disclosure Statement has been developed based upon a thorough review and analysis of Debtor's financial condition based on books and records available to the Debtor as of the filing of this Third Amended Disclosure Statement. Certain information contained in this Third Amended Disclosure Statement has not been subject to audit by independent certified public accountants. Accordingly, the Debtor is unable to warrant or represent that the information concerning the Debtor or its financial condition is accurate or complete. The projected information contained in this Third Amended

Disclosure Statement has been presented for illustrative purposes only, and, because of the uncertainty and risk factors involved, the Debtor's actual results may not be as projected herein. Although an effort has been made to be accurate, the Debtor does not warrant or represent that the information contained in this Third Amended Disclosure Statement or its Exhibits is correct. Debtor believes the information contained in this Third Amended Disclosure Statement is substantially accurate and may be relied upon in formulating a decision to accept or reject the Third Amended Plan. The books and records of Debtor are not warranted or represented to be complete and historically accurate.

The Third Amended Plan filed in connection with this Third Amended Disclosure Statement is an integral part of the Third Amended Disclosure Statement and each Creditor and interested party is urged to review the Third Amended Plan prior to casting its vote.

All information herein is set forth as required pursuant to 11 U.S.C. §1125 and is not to be construed as a representation of management of Debtor or to be used as an admission in any litigation.

C. Explanation of the Chapter 11 Case and the Plan Confirmation Process:

The Third Amended Plan sets forth the means for satisfying Claims against a Debtor under Chapter 11 of the Bankruptcy Code. Chapter 11 does not require that each holder of a Claim against a Debtor vote in favor of the Third Amended Plan in order for a Bankruptcy Court to confirm the Third Amended Plan. The Third Amended Plan must be accepted, however, by the holders of at least one impaired Class without considering claims of an "insider" within the meaning of the Bankruptcy Code. A holder of an impaired Claim, as defined in 11 U.S.C. §1124, or Interest is entitled to vote to accept or reject the Third Amended Plan if such Claim or Interest has been allowed under §502 of the Bankruptcy Code. In order for an impaired Class of

Creditors or Class of Interest Holders to be deemed to have accepted a Third Amended Plan, a majority number of holders of Claims and two-thirds in dollar amount of the total Allowed Claims or Interests actually voting in the Class must vote in favor of the Third Amended Plan.

Even if all Classes of Claims and Interests accept Debtor's Third Amended Plan, the Court may not confirm it under certain circumstances. Section 1129 of the Bankruptcy Code sets forth the requirements for confirmation. Among other things, that section requires that the Third Amended Plan be in the best interest of Creditors and Interest Holders and that the value to be distributed to Creditors and Interest Holders be not less than the value those parties would receive if Debtor were liquidated under Chapter 7 of the Bankruptcy Code.

The Bankruptcy Court may confirm the Third Amended Plan even though less than all of the Classes of impaired Claims or Interests accept it, so long as one Class of impaired Claims or Interests (excluding insider Claims) accepts the Third Amended Plan. Confirmation of the Third Amended Plan over the objection of one or more Classes or Claims or Interests is generally referred to as *Cramdown.* The circumstances under which the Court may confirm Debtor's Third Amended Plan over the objection of a Class of Claims or Interests are set forth in §1129(b) of the Bankruptcy Code (the "Cramdown Provisions"). The Third Amended Plan may be confirmed under the Cramdown Provisions, if, in addition to satisfying the usual requirements of §1129 of the Bankruptcy Code, it (i) does not discriminate unfairly, and (ii) is fair and equitable with respect to each Class of Claims or Interests that is impaired under, and has not accepted, the Third Amended Plan. 11 U.S.C. §1129(b).

For purposes of seeking confirmation under the Cramdown Provisions, should that alternative be necessary, Debtor reserves the right to modify or vary the treatment of any Class, as provided in the Third Amended Plan. Confirmation of Debtor's Third Amended Plan is

binding upon Debtor, all Creditors, all Interest Holders and all other parties in interest, regardless of whether or not they have accepted the Third Amended Plan.

D. Procedure for Filing Proof of Claim and Proof of Interest:

Except for a Governmental Unit, the Bar Date for filing a Proof of Claim or Proof of Interest was April 11, 2017. If a Creditor is listed in Debtor's bankruptcy schedules as holding non-contingent, liquidated and undisputed Claims in an amount certain, that Creditor was not required to file a Proof of Claim and may therefore have elected not to file such a Proof of Claim. Debtor's bankruptcy schedules are on file at the Bankruptcy Court and are available for inspection during regular business hours.

II. VOTING INSTRUCTIONS

The Third Amended Plan divides the Claims of Creditors and Interest Holders into **eleven (11) classes**. Only classes of Creditors and Interest Holders with claims or interests that are impaired under the Third Amended Plan are entitled to vote on a Third Amended Plan. Generally, and subject to the specific provisions of the Bankruptcy Code, this includes creditors and interest holders whose claims or interests, under a Third Amended Plan, may be modified in terms of principal, interest, length of time for payment, or a combination of the above. Each holder of a Claim in a class that is not impaired under the Third Amended Plan is conclusively presumed to have accepted the Third Amended Plan, and solicitation of the acceptances from the holders of such claims is not required. Certain Claims, in particular Administrative Claims, remain unclassified in accordance with section 1123(a)(1) of the Bankruptcy Code.

A. Unimpaired Classes:

Claims in classes 6 and 7 are unimpaired and therefore not entitled to vote.

B. Impaired Classes:

i. Impaired Voting Classes. Claims in Classes 1, 2, 3, 4, 5, 8, 9, 10, and 11 are impaired under the Third Amended Plan, and therefore, holders of Claims and Interests in such classes are entitled to vote to accept or reject the Third Amended Plan.

ii. Impaired Non-Voting Class.

After carefully reviewing the Third Amended Plan, this Third Amended Disclosure Statement and its exhibits, each holder of a Claim or Interest which has been impaired under the Third Amended Plan, may vote on acceptance or rejection by completing, dating and signing the ballot, which will be mailed to them after the Court approves this Third Amended Disclosure Statement, and returning it to the Clerk of the Bankruptcy Court at the following address:

CLERK OF THE COURT
UNITED STATES BANKRUPTCY COURT
C. Clyde Atkins U.S. Courthouse
301 North Miami Avenue
Miami, FL 33128

In order to be counted, ballots must be received by the Bankruptcy Clerk no later than 5:00 p.m. Eastern Time on _____, 2017.

PLEASE VOTE EVERY BALLOT YOU RECEIVE. Completed ballots for holders of all Claims and Interests should be returned and MUST BE RECEIVED BY THE DEADLINE SET FORTH IN THE ORDER SETTING CONFIRMATION HEARINGS AND OTHER DEADLINES. If you have Claims or Interests in more than one Class under the Third Amended Plan, you will receive multiple ballots.

IF A BALLOT IS DAMAGED OR LOST, OR IF YOU HAVE ANY QUESTIONS CONCERNING VOTING PROCEDURES, CALL:

Brett D. Lieberman
Messana, P.A.
954-712-7400

III. HISTORY OF DEBTOR

A. General Information:

In 1992 a waterfront Holiday Inn hotel was built in Miami Beach just east of Allison Island and located at 6060 Indian Creek Drive in Miami Beach, Florida. In 2006, the developer, Indian Creek Investors, Ltd., converted the hotel to a hybrid condominium/hotel; the Sixty Sixty Condominium (the "Condominium").

On or about April 10, 2006, the Condominium was officially created by recording its charter, the Declaration in the Official Records Book 24411, Page 1780 of the Public Records of Miami-Dade County, Florida (the "Declaration").

The Condominium is composed of 87 "units", which includes: (i) 82 residential units (the "Residential Units") that are privately owned by the Residential Unit owners (the "RUOs"); (ii) four commercial units (the "Commercial Units") presently owned by the Debtor (in this capacity, the "CUO"), and, (iii) generally speaking, all areas not within a Residential Unit or Commercial Unit are deemed to be a part of a hotel unit (the "HU") owned and operated by Schecher Group, Inc. (the "HUO"). The principal of the HUO is Richard Schecher ("Schecher").

The Declaration created a very unusual ownership, control and management structure that, absent complete transparency and good faith, created an opportunity for mismanagement and self-dealing by the HUO.

(i) The Association's Role, Authority, and Obligations

The Debtor is a not-for-profit corporation; a condominium association. It is responsible for, among other things, the management, operation, and maintenance of the Condominium's

"Common Elements" (as defined in the Declaration §2.12), the Commercial Units, Unit 505 (a Residential Unit within the Condominium), and other obligations imposed by state statute.

Under the Declaration, the Condominium has very few Common Elements. The principal Common Element is an easement of support in every portion of a unit which contributes to the support of the Condominium. See Declaration §2.12.

To fund the expenses of Debtor's operations (the "Common Expenses"), the Declaration empowers the Debtor to assess and specially assess the RUOs, the CUO, and the HUO (the "Association Assessments"). Declaration §2.13. The Association Assessments are allocated across all unit owners pursuant to Exhibit 3 of the Declaration (the "Common Expense Allocation"). Under the Declaration, the Association holds a lien against all units for unpaid Common Expenses dating back to the date of the Declaration and enjoys a priority over all other liens except for certain first position mortgage holders.

Under the Common Expense Allocation, the HUO is responsible for 64.5962%, the RUOs for 29.8763%, and the CUO for 5.5275% of the Common Expenses.

According to records available to the Debtor, the HUO has not paid its share of the Common Expenses for many years. The HUO appears to owe the Debtor nearly $900,000.

The Declaration also contains material nonstandard provisions that create an aberrant ownership, management and control structure of the Condominium.

(ii) The Hotel Unit's Role, Authority and Obligations

Under the Declaration, substantially all elements ordinarily comprising "common elements" (e.g., hallways, pool areas, staircases, life safety systems, HVAC, etc.) are part of the HU (the "Aberrational Ownership Structure"). Notwithstanding that such elements are owned exclusively by the HUO: (i) the Declaration defines these elements as "*Shared* Components"

(Declaration §2.32); and (ii) allocates 100% of the "costs incurred by the HUO in (or reasonably allocated to) the repair, replacement, improvement, maintenance, management, operation, ad valorem tad obligations and insurance of the Shared Components" (the "*Shared* Costs") to the RUOs and CUOs (the "Aberrational Cost Structure"). Declaration §12.1.

In addition to *Shared* Costs, the HU has also impermissibly imposed charges against the RUOs and CUOs for HUO costs that are not for "repair, replacement, improvement, maintenance, management, operation, ad valorem tax obligations and insurance of the Shared Components" (the "Impermissible Costs"). An affiliate of the HUO, Casablanca Rental Services, Inc. ("HM"), purports to operate a "Hotel Program" for the HUO and the RUOs who participate in the program.

The HU does not include a single inhabitable Residential Unit and has no authority to compel a RUO or CUO to participate in the Hotel Program. RUOs, including the Debtor, have every right to rent their properties to tenants without joining the Hotel Program.

The Declaration also purports to empower the HUO to assess and specially assess the RUOs and CUOs for *Shared* Costs. *Shared* Costs are allocated to RUOs and the CUOs in percentages contained within Exhibit 7 of the Declaration (the "*Shared* Cost Allocation"). Presently, under the *Shared* Cost Allocation, the RUOs are responsible for 83.3599% and the Debtor is responsible for 16.6401% of the *Shared* Costs.

According to certain claims of lien filed by the HUO in the public record for Miami-Dade County, Florida, the HUO previously asserted that the Debtor owes it in excess $497,818 on account of its allocable share of the *Shared* Costs.[1]

[1] Attached as Exhibit "A" to the First Amended Disclosure Statement were copies of the claims of lien filed by the HUO against the Debtor.

The exclusive consideration given to the unit owners in exchange for the powers bestowed upon the HU are easement rights of passage across HU property (hallways, stairways, elevators, etc.) necessary to access their units (the "Easement Rights"). Declaration §§3.4 and 7.3.

B. Circular Assessment Problem

The HUO is responsible for paying approximately 64.596% of the Common Expenses. The HUO passes along 100% of its Common Expense obligations to RUOs and the Debtor/CUO as *Shared* Costs.

In that the Debtor is the owner of the Commercial Units and Unit 505, a certain portion of the Common Expenses matriculates through the HUO and is charged back against the Debtor in the form of *Shared* Costs (the "Circular Assessment").

The Circular Assessment can be demonstrated by the flow chart attached hereto as Attachment "1".

The same circuitous (and broken) formula applies to a budget of the HUO.[2]

To resolve the Circular Assessment issue, the Debtor must sell or other wise transfer is non-income producing property that is subject to assessments for Shared Costs.

C. Management of Debtor

From approximately March 2013 through at least the end of 2015, the Debtor was managed by an affiliate of the HUO; Condominium Hotel Management Corporation, Inc. ("CHMC").

[2] If the HUO creates a $100,000 budget, the *Shared* Cost Allocation would require the Debtor to pay the HUO approximately $16,640.10 and the other RUOs $83,359.90. The $16,640.10 *Shared* Cost borne by the Debtor would be considered a Common Expense. The Common Expense Allocation for that $16,640.10 would then require the HUO to pay the Debtor $10,748.87. In total, on a $100,000 Debtor budget, the most it could ever expect to recover in terms of real dollars, is $89,251.13 (or approximately 89.25% of the budget) assuming 100% collections from RUOs.

Upon formal termination in February of 2016, the Debtor's collection and accounting activities were managed by Oxygen Association Services, LLC ("Oxygen").

In connection with this bankruptcy case, the Debtor sought to engage Michael Marcusky and the accounting firm of Juda Eskew & Associates, PA (the "Accountant") as its accountant and to oversee the day-to-day collections of assessments. ECF #60.

Schecher objected to the Accountant's retention.

On January 23, 2017, the Bankruptcy Court overruled Schecher's objection and granted the Debtor's motion to employ the Accountant. ECF #88.

As to other matters, Debtor is managed by a Board of Directors comprised of: Maria Velez as President; Lionel Gossa as Vice President; Henryk Kwiatsowski a Director, and SE Velez-Giraldo as Secretary/Treasurer. None of the members of the Board of Directors receive compensation for their efforts.

D. Pre-Petition Events Leading up to Chapter 11 Filing

(i) 2011 Lawsuit Against Optima Hospitality, LLC and Introduction to HUO

The developer, Indian Creek Hotel Investors, Inc. (the "Developer") was the original HUO. Declaration §1.2. On October 4, 2007, public records reflect that the HU was transferred from the Developer to Optima Hospitality, LLC ("Optima").

On account of, among other things, the Debtor's position that the Declaration violated Florida condominium law by implementing the Aberrational Ownership and Cost Structures, on July 11, 2011, the Debtor commenced a lawsuit against Optima (the "Optima Lawsuit").

During the course of the litigation, on February 8, 2013, the Debtor and the HUO's affiliate, CHMC, entered into an agreement that would be effective if CHMC or an affiliate acquired the HU (the "Operations Agreement").

On or about March 20, 2013, an affiliate of CHMC, the HUO, acquired the HU.

That same day, the Debtor entered into: (i) a Condominium Management Agreement with CHMC to manage the Debtor; and (ii) an addendum to the Operations Agreement with CHMC through which the HUO agreed to be bound by the Operations Agreement. The Operations Agreement included, among other things, critical reporting obligations on behalf of the HUO in favor of the RUOs and Debtor.

The HUO did not satisfy its reporting requirements under the Operations Agreement.

After participating in mediation, the parties entered into a settlement agreement and stipulated to a dismissal of the Optima Lawsuit on March 26, 2013.

(ii) The $1,955,099 Emergency Special Assessment of 2014

As part of the discussions between the Debtor and HUO, there was consensus that the HUO would pass an emergency special assessment for building repairs to be paid by unit owners over a 9 month period (the "2013 ESA"). On May 8, 2013 it is believed the 2013 ESA was recalled and credited as prepayments of the Unit Owners.

In early 2014, the HUO unilaterally issued a second emergency assessment (the "2014 ESA"). This time, the HUO imposed a special assessment against the RUOs and Debtor in the amount of $1,955,000 purportedly to update, repair and renovate the HU. The 2014 ESA started to be invoiced on January 2014.

Most RUOs and the Debtor could not bear the expense. Tensions between the RUOs and the HUO began to rise. During this time, the Debtor was being managed by CHMC.

In addition to the unilateral actions taken by the HUO to implement incredibly expensive renovations at the expense of the RUOs and the Debtor, CHMC failed and refused to provide transparent accounting to the RUOs.

(iii) The June 2014 Flood Event

In June of 2014, a Residential Unit on the 9th floor under had a significant plumbing issue. The plumbing issue caused material water damage to floors 5-9 of the Condominium (the "Flood Event").

As a result of the Flood Event the Fire Marshall issued a Cease & Desist Order on August 21, 2014.

The Cease & Desist Order required evacuation of all units on floors 5, 6, 7, 8, and 9 through the end of October 2014. A 24 hour Fire Marshall watch was imposed by the City of Miami Beach.

After October 2014, the majority of the units on the floors affected by the Flood Event re-opened. Approximately ten units remained closed due to the damage.

(iv) *The Negligently Destroyed Fire Panel*

Upon information and belief, A-1 Fire & Security ("A-1") was engaged by CHMC to repair or update certain fire safety features.

Upon information and belief, on or about April 6, 2015, A-1 removed the custom smoke alarm panel and wrongfully discarded it (the "Fire Panel Event").

Only a few short months after being shut down for the Flood Event, on April 13, 2015, the Condominium was again shut down and closed in its entirety by the City of Miami Beach Building Department as an Unsafe Building due to the following reasons:

> Fire alarm panel was removed and new panel still not in service Corridor walls and unit demising wall have been removed on units from 5th to the 9th floor Interior demo of all units from 5 to 9, smoke control system not functioning, exhaust vents from baths not protected and no damper shown from floor to floor, penetrations between floor not properly fire stopped, water lines from floor to floor corroded.
>
> (emphasis added).

On February 20, 2017, the HUO and HM filed a complaint against A-1 in the Circuit Court of the 11th Judicial Circuit in and for Miami-Dade County, Case No. 2016 CA 029937 alleging, among other things, A-1's negligence with respect to the smoke alarm panel, breach of contract and other causes of action (the "A-1 Complaint"). Contrary to the March 8, 2016 mediation agreement, the A-1 Complaint does not appear to seek remedies for the RUOs or CUOs for the damages they incurred on account of A-1's wrongful actions.

(v) The $375,000 Emergency Special Assessment of 2015

Shortly after the Fire Panel Event, the HUO issued an additional emergency special assessment in the amount of $375,000 (the "2015 ESA") to be paid by the RUOs and Debtor "in one lump sum payment due and payable by June 1, 2015."

(vi) The Insider Loan of August 2015 and Schecher Self Dealing

On August 20, 2015, it appears that the HUO borrowed $650,000 at 18% interest (the "Insider Loan") from APO Annuity Manager, LLC ("APO").

Relevant here, the Insider Loan provides for payments to:

- $137,432 to the HM
- $208,249.47 to CHMC; and
- $155,864 for "Management Discretion from List Approved"

Schecher is the CEO of the HUO. Schecher is the Manager/Director of APO. Schecher is the CEO of the HM. Schecher is the Director of CHMC.

On August 26, 2015, Bridgeport Capital Funding, LLC ("Bridgeport") recorded a UCC-1 claiming a security interest in all assets of the Debtor. Schecher is a director of Bridgeport Capital Services, Inc. The address of Bridgeport on its UCC-1 filing is the same as Schecher's address on APO's 2016 Annual Report.

(vii) *The $975,000 Emergency Special Assessment of 2016*

On February 26, 2016, the HUO sent another notice of an emergency special assessment to RUOs and the Debtor in the amount of $975,000 due by March 1, 2016 for, among other things, costs allegedly associated with the closing of the building, the repairs needed to open the building and for legal fees and other miscellaneous costs (the 2016 ESA").

(ix) The 2015-2016 Lawsuit Against HUO

On August 28, 2015, the Debtor commenced a lawsuit against CHMC, the HUO, and A-1 claiming, among other things, the appointment of a receiver, an injunction, an accounting, negligence, breach of fiduciary duty, breach of contract, and breach of good faith and fair dealing (the "HUO Lawsuit").

On October 12, 2015, the Court in the HUO Lawsuit compelled the "audit of the Hotel Unit's financial statements of the Shared Costs for the remainder of 2013 and for 2014 will be completed by November 10, 2015." HUO Lawsuit, Order on October 9, 2015 Status Conference.

The HUO failed to deliver an audit of the HU's financial statements by the November 10, 2015 deadline. To date, Debtor has not received an audit of HU's financial statements of Shared Costs for 2013 or 2014.

On March 8, 2016, the parties to the HUO Lawsuit participated in mediation and came to a resolution (the "Agreement"). Among other things, the HUO and CHMC agreed to: (i) provide open and transparent financial information; (ii) to allow RUOs a payment plan with respect to the charges of the HU; and (iii) to pursue a lawsuit against A-1. The Debtor agreed to dismiss the HUO Lawsuit without prejudice.

The Agreement also provides that all of the parties to the HUO Lawsuit, including the

HUO (the "HUO Legal Fees"), were to bear their own legal fees and costs. However, the HUO included the HUO Legal Fees in its calculation of *Shared* Costs and assessed same against the RUOs and the Debtor.

(x) The Florida Building and Supply Lawsuits (the "FB&S Lawsuits")

In December 2014, at the direction of CHMC it appears that the Debtor executed a contract (the "Disputed Contract") with Florida Building & Supply, Inc. ("FB&S") for certain repairs to the HU. The Debtor denies that the signatory to the Disputed Contract had the authority to sign same and further disputes, among other things, the validity and enforceability of the Disputed Contract.

On or about February 4, 2015, FB&S claims to have furnished labor, services and materials for the benefit of the HU pursuant to the Disputed Contract. On or about April 6, 2016, FB&S filed a claim of lien against all units in the Condominium purporting to secure its claim of approximately $83,799.64 for unpaid goods and services rendered to the HU on an oral contract with the Debtor (the "FB&S Disputed Lien #1"). Then on April 20, 2016, FB&S filed a claim of lien against all units in the Condominium purporting to secure its claim of approximately $963,334.19 for unpaid goods and services rendered to the HU pursuant to the Disputed Contract (the "FB&S Disputed Lien #2", together with FB&S Disputed Lien #1, the "FB&S Disputed Liens").

On June 20, 2016, FB&S filed two lawsuits against the Debtor.

The first lawsuit claims that the Debtor breached an oral contract with FB&S and claims damages in the amount of approximately $83,799 and to foreclose upon FB&S Disputed Lien #1. The second lawsuit claims, among other things, that Debtor breached the Disputed Contract with FB&S and claims damages in the amount of approximately $963,334 and to foreclose FB&S

Disputed Lien #2.

On September 1, 2016, the Debtor filed Motions to Dismiss both FB&S Lawsuits.

On October 19, 2016, the Court in the 'oral contract' FB&S Lawsuit entered an order abating said lawsuit until the HUO was made a party and compelled all parties to mediation.

Also, on October 19, 2016, the Court in the 'Disputed Contract' FB&S Lawsuit entered an order of dismissal for failing to join an indispensable party; the HUO.

(xi) Building Closure and Prohibited Access

Until late December 2016, the Condominium was closed.

The RUOs and Debtor had no access to the Condominium, or their units, and were prevented from exercising their Easement Rights. The Declaration makes clear that the Easement Rights are the sole consideration provided to RUOs and CUOs by the HUO.

D. <u>Post Petition Events:</u>

Debtor commenced this Chapter 11 bankruptcy case on the Petition Date, December 5, 2016.[3] Debtor's *Plan of Reorganization of Sixty Sixty Condominium Association, Inc.* (ECF #149) (the "Plan") and *Disclosure Statement in Support of Plan of Reorganization of Sixty Sixty Condominium Association, Inc.* (ECF #150) (the "Disclosure Statement") were filed on March 17, 2017 in compliance with the deadlines established by the Bankruptcy Code. Debtor's First Amended Plan (ECF #245) and First Amended Disclosure Statement (ECF #246) were filed in compliance with the deadlines established by the Bankruptcy Code and applicable Bankruptcy Court orders on May 26, 2017. Debtor's Third Amended Plan and Third Amended Disclosure Statement are being filed in compliance with the deadlines established by the Bankruptcy Code and applicable Bankruptcy Court orders. ECF ## 351, 367, and 375.

[3] Debtor's counsel will furnish any creditor upon written request a copy of any document filed in Court and specifically referenced herein.

(i) Retention of Debtor's Professionals

Throughout the Bankruptcy Case, Debtor, as a not-for-profit Florida corporation, relied upon the assistance of professionals to assist it with the bankruptcy process, including the filing of the bankruptcy petition and bankruptcy schedules, following additional accounting requirements incumbent upon a debtor in bankruptcy, filing monthly Debtor-in-Possession Operating Reports, negotiating with creditors, developing an exit strategy, and formulating a plan.

On December 21, 2016, the Bankruptcy Court considered the applications of Brett D. Lieberman of Messana, P.A. ("Messana") as general bankruptcy counsel[4] and Alessandra Stivelman of Eisinger, Brown, Lewis, Frankel & Chaiet, P.A. ("Eisinger Law") as its special condominium counsel. ECF ## 9 & 10. The day prior to the hearing on the applications, the Schecher Group, Inc. (the "Hotel Owner" or "HUO"), filed an objection to the applications of Eisinger Law. ECF #30. During the hearing on the application of Messana, the Hotel Owner voiced an oral objection to the application of Messana.

On December 29, 2016, the Bankruptcy Court entered its order authorizing Debtor to hire Brett D. Lieberman and the law firm of Messana, P.A. ("Messana") as its general bankruptcy counsel on an interim basis. ECF #41. The hearing on the final approval of Messana as general bankruptcy counsel and for Eisinger Law as special counsel was held on January 12, 2017. On January 23, 2017, this Court entered final orders approving the retention of Messana and Eisinger Law as general and special counsel to the Debtor over Schecher's objection. ECF ## 89 & 90.

[4] On April 7, 2017, Messana filed its *Notice of Filing Updated Declaration of Thomas M. Messana, Esq., Managing Shareholder of Attorney for Debtor in Possession, Messana, P.A.* ECF #176.

Messana is entitled to an administrative claim for services performed. To date, Messana has not received an interim distribution for legal services rendered or costs incurred during the Bankruptcy Case. Messana anticipates asserting an administrative claim in the amount of its fees and costs. To date, and pending the preparation of a formal fee application, the Debtor estimates Messana's current fees and costs earned and incurred are approximately $375,000.

On October 27, 2017, Messana filed its first interim fee application for the time period of December 6, 2016 through June 30, 2017. ECF #402. Total fees and costs earned and incurred during that time period are approximately $253,300.86. Recognizing the resources presently available to the Debtor, Messana is seeking an interim distribution of $76,750.00 for fees and $15,062.86 in costs. Messana reserved all rights to seek all fees and costs.

Immediately thereafter, counsel for the HUO advised that the HUO would be objecting to Messana's fee application.

Likewise, Eisinger Law is entitled to an administrative claim for services performed. To date, Eisinger has not received an interim distribution for legal services rendered or costs incurred during the Bankruptcy Case. Eisinger anticipates asserting an administrative claim in the amount of its fees and costs. To date, and pending the preparation of a formal fee application, the Debtor estimates Eisinger Law's current fees and costs earned and incurred are approximately $42,000.

On January 9, 2017, debtor filed its motion to retain the Accountant as its accountant. ECF #60. The Court entered an order approving the retention of the Accountant over the HUO's objection on January 23, 2017. ECF #88. Accountant anticipates asserting an administrative claim in the amount of its unpaid fees and costs.

(ii) Access to Condominium

On December 12, 2016, Debtor filed a motion for sanctions against the HUO and Schecher for (i) violating the automatic stay; and (ii) to compel the HUO to provide the RUOs and Debtor access to the Condominium (the "First Sanctions Motion"). ECF #13. On December 20, 2016, the HUO and Schecher filed their verified response to the First Sanctions Motion denying, among other things, that they had prohibited RUOs and the Debtor from accessing their property (the "Response"). ECF #35.

On December 22, 2016, the Court granted the First Sanctions Motion "to the extent it seeks to compel access." ECF #38 (the "Access Order"). The Access Order generally provided, among other things, that the HUO must provide access to RUOs and the Debtor to their units.

However, the HUO willfully violated the Access Order.

On January 12, 2017, certain RUOs file their *Unit Owners' Motion for Sanctions Against Schecher Group, Inc. and Richard Schecher* (the "Second Sanctions Motion"). ECF #68.

The Second Sanctions Motion alleged, among other things, that the HUO had violated the Access Order by preventing certain RUOs from accessing their units.

On January 19, 2017, the HUO filed its response to the Second Sanctions Motion denying, among other things, that it had violated the Access Order. ECF #83.

On January 23, 2017, the Debtor filed its *Joinder in and Supplement to* [the Second Sanctions Motion] ECF #92 (the "Joinder"). The Joinder alleged that in addition to the HUO denying access, the HUO was denying the Debtor and RUOs use and enjoyment of their units by implementing unreasonable restrictions upon RUOs outside of the Hotel Program through the HUO's Rules and Regs. On January 24, 2017, the HUO filed a response to the Joinder denying, among other things, that the Rules and Regs were unreasonable. ECF #101.

On February 1, 2017, the Bankruptcy Court (i) set an evidentiary hearing on the Second Sanctions Motion and clarified the Access order (ECF #108); and (ii) denied the Joinder without prejudice on procedural grounds and directed that Debtor must seek the requested relief through an adversary proceeding (ECF #107).

Then, after an evidentiary hearing, on March 2, 2017, the Bankruptcy Court entered an order granting the Second Sanctions Motion (the "Sanctions Order"). ECF #140.

The Sanctions Order found that the HUO and HM willfully violated the Access Order and sanctioned the HUO and HM the amount of $10,000 and awarded the applicable RUOs $20,911.87 in legal fees. The Sanctions Order also imposed disclosure requirements upon the HUO and HM and reserved ruling on compensatory damages.

On March 20, 2017, the HUO filed certain disclosures with the Bankruptcy Court (the "Court Ordered Disclosures"). ECF #153.[5]

After the filing of the Court Ordered Disclosures, certain RUOs filed papers with the Bankruptcy Court contesting the representations made by the HUO in its Court Ordered Disclosures. *See* ECF #167 (alleging that Residential Unit 605 has "not signed a hotel agreement with Schecher or Casablanca … We have not had any statements or checks from any hotel group since or before the building was closed"); ECF #168 (alleging that unit 1207 is being "rented out, even though it has never ever been under a rental contract since [] bought, with anyone"); ECF #170 (alleging that "I cancelled my Hotel-Rental-program Contract on July 7th, 2015. Nevertheless, the Hotel Rental Program is now renting my Unit without my permission."); ECF #173 (alleging that Residential Unit 708 is being used as the HUO's "dump site"); and ECF #198

[5] The HUO requested that the disclosures related to the Sanctions Order be kept confidential and, after filing such Court Ordered Disclosures in the public record with same being delivered to all those registered to receive service electronically in this case,, the Bankruptcy Court granted the HUO's request and sealed ECF #153. *See* ECF ## 151, 155, 156, and 157.

(alleging that "it has come to my attention that the Hotel Owner at Sixty Sixty is renting my unit [905] without our permission… I have not had any payments made to me or credited to me for the use of my Unit at the Sixty Sixty Condominium"))

In connection with the Sanctions Order, the HUO filed a motion for reconsideration and the RUOs who filed the Second Sanctions Motion filed a responsive pleadings. *See* ECF ##147, 180, 181, 194, and 195.

Ultimately, on April 18, 2017, the Bankruptcy Court entered its *Order Liquidating Compensatory Damages and Granting In Part Motion for Reconsideration of Sanctions Order* (ECF #206) (the "Damages Order"). Among other things, the Damages Order fixed compensatory damages against the HUO in the amount of $1,316.08; fixed the attorney fees and cost award against the HUO at $20,911.87; fixed the punitive damages award against the HUO in the amount of $7,000, and denied the HUO's "set-off" request.

On October 30, 2017, Wells Fargo (as defined in FN 1 of ECF #409) filed its *Wells Fargo's Opposition to Schecher Group, Inc.'s Motion to Compel, For Entry of Final Judgment and Sanctions, and for Allowance of Additional Administrative Expense (ECF #389)* (ECF 409).

In it, Wells Fargo alleges, among other things, that "[u]pon information and belief, on several occasions Schecher, its agents or representative denied Wells Fargo's agents access to its units. More critically, for purposes of this opposition, there is undiputed evidence Schecehr rented units 1106 and 1107 from January to July 2017. This is especially concerning considering Wells Fargo never entered into an agreement with Schecher, or anyone else, to place units in the hotel rental program."

On November 2, 2017, the Bankruptcy Court entered its *Order Denying in Part Motion to Compel Utility Payments and Setting Further Hearing* (ECF 428). In it, among other things,

the Bankruptcy Court determined not to exercise further jurisdiction over the Access Order or Schecher's alleged violations of same with respect to the non-debtor RUOs.

(iii) Investigatory Efforts

Debtor owns the CUs and Residential Unit 505.

From March of 2013 through at least December 2015, CHMC was the manager of the Debtor and held all of is books and records. Upon termination, Debtor demanded CHMC to deliver all of its books and records. However, CHMC failed and refused to do so and only delivered certain items to Oxygen. On December 12, 2016, Debtor filed its *Debtor's Motion to Compel Turnover of Books and Records from Hotel Condominium Management Corporation, Inc.* ("Motion to Compel"). ECF #11. On December 20, 2016, CHMC filed a response to the Motion to Compel alleging, among other things, that CHMC had delivered all of Debtor's books and records to Oxygen on or before February 2016 and CHMC did not retain any copies ("CHMC Response"). ECF #33. On December 20, 2016, Debtor filed an Affidavit of Mirko Morales, vice president of CHMC, stating, among other things, that as of April 2016, CHMC continued to hold many documents of Debtor. ECF #36. During the December 21, 2016 hearing on the Motion to Compel, counsel to CHMC proffered that all Debtor documents had been delivered to Debtor. Based on said proffer, the Bankruptcy Court denied the Motion to Compel.

On December 15, 2016, Debtor filed its *Notice of Service of Subpoena* directed to Richard J. Schecher, Jr., Florida Building and Supply, Inc., and the Hotel Owner. ECF #22.

On December 16, 2016, Debtor filed its *Notice of Service of Subpoena* directed to CHMC. ECF #23.

Hotel Owner's deadline to produce responsive documents to Debtor was originally January 5, 2016. Debtor voluntarily extended a 10-day period for Hotel Owner to provide

responsive documents. However, on January 6, 2017, Hotel Owner filed a motion requesting an additional 45-day period to provide Debtor responsive documents (the "HUO Motion to Extend"). ECF #52. The HUO Motion to Extend was granted in-part by the Court's January 16, 2017 entry of the *Order Granting Extension of Time and Setting Production Deadlines.* (ECF #72).

On January 19, 2017, Debtor filed its *Motion to Compel Production of Documents from [CHMC] Responsive to Subpoena and for Sanctions.* ECF #82.

According to CHMC, the HUO was in possession of all documents that would have been responsive to the subpoena served upon CHMC. ECF # 98.

Accordingly, on February 1, 2017, the Court entered its *Order Granting, in-part, Debtor's Motion to Compel Production of Documents from Condominium Hotel Management Corporation Responsive to Subpoena and For Sanctions* directing the HUO to deliver all documents responsive to discovery requests to Debtor's counsel on or before February 9, 2017. ECF #109.

The HUO did not timely comply. The HUO did not provide access to hardcopies until February 13, 2017 and did not deliver electronic documents until February 15, 2017. Nevertheless, the HUO filed a misleading *Schecher Group Inc.'s Second Notice of Compliance with Order [DE #72]* alleging that it had timely satisfied its discovery obligations. ECF #117.

In connection with the Adversary Proceeding against the HUO,[6] the HUO delivered additional responsive documents.

[6] Adversary proceeding Case No. 16-26187-RAM.

(iv) Exclusive Period to File Third Amended Plan and Solicit Acceptances Thereof

In accordance with Section 1121 of the Bankruptcy Code, Debtor is given the exclusive right to file a plan for 120 days following the Petition Date and 60 additional days to solicit acceptances of that plan by the Classes ("Exclusivity Period").

During the Exclusivity Period, the HUO sought support for his own plan relating to the Debtor (the "Schecher Plan"). On February 2, 2017, the Debtor filed a *Motion for Contempt and Sanctions for Violating 11 U.S.C. §§ 1121 and 1125 Against Schecher Group Inc. and Richard Schecher* (the "Exclusivity Violation Motion"). ECF #112. The Exclusivity Violation Motion was set for hearing on February 22, 2017. ECF #113.

On February 19, 2017, the HUO and Schecher filed their response to the Exclusivity Violation Motion denying the allegations therein. ECF #122.

On March 3, 2017, the Bankruptcy Court entered an Order granting in-part and denying in-part the Exclusivity Violation Motion (the "Exclusivity Violation Order"). ECF #142. The Bankruptcy Court did not award monetary sanctions.

However, the Bankruptcy Court found that, "The Bankruptcy Code prohibits Schecher from proposing a plan of reorganization for the Debtor unless and until exclusivity expires and also prohibits it from soliciting approval of a plan unless and until its plan is sent out to vote after approval of a disclosure statement." ECF #142 at p. 3.

Accordingly, the Bankruptcy Court granted prospective relief prohibiting Schecher from proposing a plan or plan structure and from soliciting same during the Exclusivity Period and imposing other requirements including requiring Schecher to include a particular disclaimer on his "budget" proposals (the "Disclaimer").

On March 17, 2017, within the Exclusivity Period, the Debtor filed its Plan and Disclosure Statement.

Objections to the Disclosure Statement were filed by FB&S (ECF #216) and by the HUO (ECF #218).

The Debtor filed its reply to the objections on April 28, 2017. ECF #224.

On May 2, 2017, the Bankruptcy Court held a hearing to, among other things, consider approval of the Disclosure Statement and the objections to same.

On May 3, 2017, the Bankruptcy Court entered an order continuing consideration of the Debtor's disclosure statement (ECF #230) (the "Order on First DS") and requiring Debtor to make certain amendments to the Disclosure Statement.

On May 8, 2017, the Debtor filed a motion to extend the Exclusivity Period pursuant to 11 U.S.C. §1121(d). ECF #235.

On May 15, 2017, the Bankruptcy Court entered an order granting the Debtor's request for an extension of the Exclusivity Period through and including August 2, 2017. ECF #237.

On July 27, 2017, the Debtor filed its *Debtor's Emergency Motion For Further Extension Of Exclusivity*. ECF #336. On August 4, 2017, the HUO filed its *Secured Creditor, Schecher Group, Inc.'s Objection To Debtor's Emergency Motion For Further Extension Of Exclusivity*. ECF #344.

On August 9, 2017, the Court entered its *Order Extending The Exclusivity Period Through August 18, 2017 And Setting Hearing On Debtor's Emergency Motion For Further Extension Of Exclusivity (ECF #336)*. ECF #351.

Then, on August 23, 2017, the Court entered its *Further Order Extending The Exclusivity Period,* which extended the exclusivity period to file a plan through September 18, 2017, and to solicit acceptances through November 17, 2017. ECF #367.

On September 18, 2017, Debtor filed, **with the consent and input of the HUO's counsel** and the RUOs, its *Agreed Motion for Extension of Exclusivity Pending Documenting Settlement Agreement with Schecher Group, Inc.* (ECF #373) (the "Agreed Extension Motion"), **which included the material terms of the settlement contemplated between the Debtor, HUO, RUOs and MRC (the "MRC Settlement").**

On September 22, 2017, the Court entered its *Further Order Extending The Exclusivity Period Pending Documenting Settlement Agreement With Schecher Group, Inc.*, which extended the exclusivity period to file a plan through September 25, 2017, and to solicit acceptances through November 24, 2017. ECF #375.

On September 26, 2017, Debtor filed its Second Amended Plan (ECF #380) and Second Amended Disclosure Statement in Support of Second Amended Plan (ECF #381), that incorporated the terms of the MRC Settlement.

On November 2, 2017, for reasons that are more fully explained below, the Court denied the Second Amended Disclosure Statement and set a deadline for the Debtor to file this Third Amended Disclosure Statement on November 15, 2017. ECF #425.

(v) Bulk Sale and Rental Program Negotiations

Throughout this case, in an effort to maximize value, the Debtor has been negotiating with potential purchasers and/or managers of virtually all of its assets through an organized process which would permit residential unit owners to "opt-in" to a sale or management program for their units. The Third Amended Plan advances a bulk sale reorganization strategy.

(A) Bulk Sale Process

1) The Beginning

During its bankruptcy case, Debtor received several offers for the purchase and sale of all of its property, including offers to purchase all residential units (the "Bulk Offers").

As of the filing of the original Plan, the highest and best Bulk Offer had been submitted by Kingfisher Island, Inc. ("KFI"), at a purchase price of approximately $120,000 per unit minus customary prorations.[7]

On April 7, 2017, the Debtor filed its *Debtor's Expedited Motion for Entry of an Order: (I) Approving Jason Welt and Trustee Realty, Inc. As Debtor's Real Estate Professional; (ii) Approving Proposed Bidding Procedures; (III) Approving Form And Notice Thereof; And (Iv) Scheduling Hearing To Consider Approval Of "Highest And Best" Bid* on April 7, 2017 (ECF #174) (the "Motion to Employ Broker and Approve Bid Process").

The Motion to Employ Broker and Approve Bid Process sought, among other things, authority to: (i) engage Jason Welt of Trustee Realty, Inc. (together, the "Broker") as the Debtor's broker to help facilitate a bulk sale; (ii) approve a process to submit bids and approve the notice to Proposed Purchasers of the instructions detailing the proposed process (the "Bulk Sale Bid Process"); and (iii) setting a final hearing to approve a Proposed Purchaser.

The Motion to Employ Broker and Approve Bid Process was supported by several groups of unit owners (*See* ECF ##185 and 190), by FB&S (ECF #199), and others.

2) Overcoming the HUO's "Right of First Refusal" Objection

The HUO filed its objection to the Motion to Employ Broker and Approve Bid Process on April 12, 2017 (the "Bulk Sale Objection"). ECF #200. The HUO Bulk Sale Objection

[7] KFI's letter of intent was attached as Exhibit "B" to the First Amended Disclosure Statement.

argues, among other things, that the proposed Bulk Sale Bid Process violates the HUO's right of first refusal provided in the Declaration (the "RoFR Issue").

KFI filed a limited objection to the Bulk Sale Bid Process and requested an opportunity to outbid any highest and best bid achieved through the Bulk Sale Bid Process. ECF #201.

On April 21, 2017, the Bankruptcy Court approved the Motion to Employ Broker and Approve Bid Process **in-part** and continued the hearing on the balance of the relief sought in the Motion to Employ Broker and Approve Bid Process (the "In-Part Broker Order"). ECF #212.

The In-Part Broker Order authorized the Debtor to engage Broker as its "real estate broker to explore Potential Purchasers for the opportunity to submit an LOI in the contemplated Bulk Sale of the Commercial Units and Residential Units" and approved the compensation structure of the Broker. In-Part Broker Order at ¶1(A) & (B).

The In-Part Broker Order continued the Motion To Employ Broker and Approve Bid Process with respect to the Bulk Sale Bid Process to May 2, 2017. In-Part Broker Order at ¶3.

During the May 2, 2017 hearing on the Motion To Employ Broker and Approve Bid Process the Bankruptcy Court further continued the hearing on same to June 21, 2017 at 2:00 pm and required additional briefing from the Debtor and HUO with respect to, among other things, the RoFR Issue. ECF #230.

On May 31, 2017, the HUO filed its *Schecher Group, Inc.'s Objection to Application to Employ Broker and Approve Bid Procedures and for Enforcement of Hotel Unit Owner's Right of First Refusal Under Declaration.* ECF #251. On June 14, 2017, Debtor filed its response thereto. ECF #260.

On June 23, 2017, the Bankruptcy Court entered its *Order Reserving Ruling on Right of First Refusal*. ECF #285. In it, among other things, the Bankruptcy Court reserved ruling on

several of the ROFR Issues but determined that the Debtor's units were not subject to the HUO's ROFR and could not be packaged with units that are subject to the HUO's ROFR.

On June 23, 2017, the Bankruptcy Court also entered its *Order Approving Employment of Manager*. ECF #280.[8]

On June 23, 2017, the Bankruptcy Court also entered its *Order Denying Approval of Disclosure Statement* without prejudice to the Debtor conducting a sale process and continuing to negotiate with creditors. ECF #281.

On June 27, 2017, the Bankruptcy Court entered its *Order Granting Debtor's Expedited Motion For Entry Of An Order: (i) Approving Jason Welt And Trustee Realty, Inc. as Debtor's Real Estate Professional; (ii) Approving Proposed Bidding Procedures; (iii) Approving Form And Notice Thereof; and (iv) Scheduling Hearing To Consider Approval of "Highest And Best" Bid* (ECF #289) (the "Final Sale Procedures Order").

Among other things, the Final Sale Procedures Order approved the sale process proposed by Debtor and permit Debtor to seek buyers to acquire a bulk of the Residential and Commercial Units in the Condominium (the "Sale Process").

Subsequently, the Debtor and its professionals conducted the Sale Process and obtained, among other things, an offer from Marc Realty Capital, LLC ("MRC") for the purchase and sale of the Commercial Units and all Residential Units (who were willing to sell).

On July 27, 2017, the Bankruptcy Court entered its *Order (1) Setting Deadline For Execution Of Amended Contract; And (2) Setting Final Hearing On Contract Approval.* ECF #334.

[8] On April 7, 2017, in preparation for the potential Rental Alternative, the Debtor filed its *Debtor's Motion for Authority To Engage Property Manager and Approve Management Terms*. ECF #175. The HUO filed its objection to the motion to employ property manager on April 28, 2017. ECF #223.

On August 7, 2017, the Debtor filed its *Notice Of Filing Amended Contract For Purchase And Sale* (ECF #250) which attached the *Contract for Purchase and Sale* (the "MRC Contract") as an exhibit.

Also on August 7, 2017, after extensive additional briefing (*see* ECF ## 299, 300, 301, 302), the Bankruptcy Court entered its *Order Interpreting Right of First Refusal* (ECF #349) (the "ROFR Order").

In the ROFR Order, the Court ruled in favor of the Debtor and, among other things, determined that: (i) the Bankruptcy Court had jurisdiction over the ROFR Issue; and (ii) the HUO cannot exercise its ROFR on a unit-by-unit basis against an outside offer that includes a bulk-sale term.

After further briefing,[9] oral argument, and a multi-day evidentiary hearing taking place on July 13, 14, and 21, 2017, and a final hearing on August 18, 2017 (the "Sale Hearings"), this Court entered its *Final Order Approving Bulk Sale Contract Including 363 Sale Of Debtor's Property Free And Clear Of Claims, Liens And Interests And Awarding Broker Real Estate Commission* on August 22, 2017 (the "Final Sale Order").[10] ECF #336.

The Final Sale Order, among other things, approved MRC as the bulk buyer pursuant to the MRC Contract and authorized the Debtor to take and any all steps necessary to effectuate the sale of its Debtor Units to MRC.

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[9] Prior to the entry of the Final Sale Order (defined herein), many pleadings were filed and orders entered. *See e.g.*, (a) objections to the Sale Motion (ECF ##200, 251, 300, 307 and 355); (b) the Debtor's responses thereto, memorandum in support of the Sale Motion, and other related filings (ECF ##260, 299, 308, 309, 350 and 356); (c) other parties-in-interest filings relating to the Sale Motion (ECF ##185, 190, 199, 201, 301, 302, 304, 312, and 313); and (e) the Court's prior rulings on the Sale Motion, and related filings (ECF #212, 230, 247, 285, 289, 318, 319, 333, 334, and 349).

[10] On August 21, 2017, the HUO filed its *Motion by Schecher Group, Inc. to Alter, Amend, And/Or For Reconsideration And/Or Relief from Order Interpreting Right of First Refusal and Incorporated Memorandum of Law*. ECF #365. On September 12, 2017, this Court entered its *Order Denying Schecher Group, Inc.'s Motion for Reconsideration*. ECF #371.

Under the MRC Contract, it was contemplated that the due diligence period would terminate on October 23, 2017 and closing would occur on or before December 22, 2017.

Organizing the Adversary Proceeding on a parallel track, the Court entered its *Order (1) Granting in Part and Denying in Part Motion to Dismiss, and (2) Setting Deadlines and Filing Requirements; and (3) Setting Status Conference* (the "AP Scheduling Order") on August 7, 2017. (AP ECF #43).

The AP Scheduling Order preliminarily set the hearing on disputed issues of law for October 4, 2017 and trial for October 11, 12, and 13, 2017 (the "October Bankruptcy Trial").

Around this time, approximately 30 RUOs subject to foreclosure actions pursued by the HUO were set for trial on November 14, 2017 (the "November Foreclosure Trial").

It was understood by the parties that (i) during the October Bankruptcy Trial the Court was going to consider all of the disputed legal issues (the "Disputed Legal Issues")[11] and the baseline number; and (ii) at the later November Foreclosure Trial the individual claims against particular RUOs would be determined.

Accordingly, the Disputed Legal Issues were not properly framed, briefed or presented to the state court in connection with the foreclosure litigation against RUOs.

With trials on the horizon and having lined up the potential buyer on an approved contract, Debtor moved *ore tenus* to compel the HUO to mediation or a judicial settlement conference.

3) The Judicial Settlement Conference

On August 7, 2017, the Bankruptcy Court entered its *Order Referring Proceeding To Judge Hyman To Conduct A Judicial Settlement Conference.* Ad. Pro. ECF #44.

[11] The Disputed Legal Issues include, among others, those described in the Debtor and HUO's *Preliminary Pretrial Stipulation* (AP ECF #60).

On August 18, 2017, the Honorable Paul G. Hyman, Bankruptcy Judge, filed his *Notice to Parties Participating in Judicial Settlement Conference*. ECF # 361, Adv. Pro. ECF #51.

On September 15, 2017, the Debtor, HUO, certain constituencies of RUOs, and MRC (the "Settlement Parties") engaged in the Judicial Settlement Conference (the "Settlement Conference").

As a result of their settlement discussions, it was believed that the MRC Settlement had been achieved with certain deal points to be finally negotiated between MRC and the HUO.

On September 22, 2017, Honorable Judge Hyman filed his *Report of Mediator* indicating that the Settlement Parties had resolved all issues during the Settlement Conference (AP ECF #75).

As described and disclosed in the Agreed Extension Motion **with all comments of HUO's counsel incorporated and the filing of the Agreed Extension Motion agreed upon by counsel to the HUO**,[12] the material terms of the MRC Settlement were stated as follows:

A. All Parties will work cooperatively to facilitate the sale approved by this *Court's Final Order Approving Bulk Sale Contract Including 363 Sale Of Debtor's Property Free And Clear Of Claims, Liens And Interests And Awarding Broker Real Estate Commission* (the "MRC Sale").

B. At the closing of the MRC Sale, in satisfaction of its claims and liens against the Commercial Units and Residential Units being sold in connection with the MRC Sale, the Schecher Group shall receive $4,100,000, as follows:

   i. MRC shall deliver and pay to Schecher Group $1,650,000 in cash and $1,000,000 (the "Closing Balance") in the form of a promissory note or other mechanism as agreed to by MRC and Schecher Group (the specific terms and conditions of the Closing Balance shall be memorialized by the Schecher Group and Buyer).

[12] In certain recent pleadings it appears that the HUO does not recall that these settlement terms were made public by agreement.

ii. An aggregate of $1,450,000 shall be paid to Schecher Group from the MRC Sale proceeds of the sale of Residential Units from the Residential Unit Owners participating in the MRC Sale.

C. The claims between the Schecher Group and the Debtor shall be offset in their entirety and the Debtor Units shall be transferred to MRC free and clear of any and all claims, liens, interests and encumbrances of Schecher Group. The amounts of the offsetting claims are in dispute but in the interests of this settlement, Schecher Group and Debtor agree to mutually offset their claims.

D. Schecher Group shall have an allowed claim in the bankruptcy case that shall be satisfied in full by the Debtor's release of its claim against the Schecher Group.

E. Schecher Group shall support a plan of reorganization consistent with the settlement between the Parties.

On September 26, 2017, Debtor, HUO and the RUOs filed their *Joint Agreed Motion for Extension of Time to Comply with All Pretrial Deadlines and to Extend the Pretrial Conference and Trial* (AP ECF #80).

On September 27, 2017, the Bankruptcy Court entered its *Order Cancelling Trial and Pretrial Conference* (AP ECF #82). This Order cancelled the October Bankruptcy Trial. However, the November Foreclosure Trial had not likewise been cancelled.

Two days later, on September 29, 2017 the HUO unilaterally declared an impasse of the Settlement Conference and withdrew all of its settlement offers.

Counsel for the RUOs sought to continue the November Foreclosure Trial to allow, among other things, time for the Bankruptcy Court to consider the Disputed Legal Issues. The HUO objected to same. The state court denied all such motions to continue.

On October 23, 2017, Debtor received an e-mail correspondence from MRC attaching MRC's notice of termination of the MRC Contract.[13]

[13] Debtor disputes the appropriateness of MRC's termination and reserves all rights and claims to pursue MRC on account of same.

4) The Substitute Contracts

On October 25, 2017, the Debtor received two formal written offers to stand in as the bulk buyer on substantially the same non-economic terms as the previously court-approved MRC Contract with certain modifications (the "Substitute Contracts").

Also on October 25, 2017, counsel for the Debtor informed counsel for the HUO of the Debtor's receipt of the Substitute Contracts.

Later on October 25, 2017, the HUO filed its objection to the Second Amended Disclosure Statement and renewed motion to dismiss the bankruptcy case (the "Renewed Motion to Dismiss"). ECF ##385 & 396.

On October 26, 2017, the Debtor filed its *Emergency Motion for Entry of Order Approving Bid Process* (ECF No. 397) ("Process Motion").

On October 30, 2017, Debtor filed its response to the HUO's Renewed Motion to Dismiss (ECF #413) (the "Response"). In the Response, among other things, Debtor disclosed the identities of the parties that tendered the Substitute Contracts, Kingfisher Island, Inc. (the previous backup bidder, "KFI")[14] and 6060 Condo Holdings, LLC (a company to be formed by Artemis Capital, LLC ("Holdings"), together the "Prospective Bidders"). *See* Response at FN 2.

On November 1, 2017, this Court held a hearing on, among other things, the Process Motion. Representatives of both Prospective Bidders attended the hearing.

[14] As was previously disclosed in connection with the Original Sale Motion, and among other instances, the April 7, 2017 *Notice of Filing Updated Declaration of Thomas M. Messana, Esq., Managing Shareholder of Attorney For Debtor-in-Possession, Messana, P.A.* (ECF #176), counsel for the Debtor "have represented and presently represent certain entitles affiliated with KFI. Upon information and belief, the nature of the affiliation is generally as follows: Todd Mikles is a beneficiary of the owner of KFI. This firm previously and currently represents business entities in which Todd Mikles has some authority or control. [Debtor's counsel] do not and will not represent KFI, Mr. Mikles or any of their affiliates in connection with any matter relating to the Debtor." ECF #176 at ¶3(B)(iii). Debtor had no affiliation to KFI prior to the instant bankruptcy case. Additionally, upon information and belief, the Debtor understands that RUO LLC is affiliated with or managed by an affiliate or entity directly or indirectly related to Todd Mikles or an entity that he is affiliated with or related to.

At the November 1, 2017 hearing, the Court approved a deadline of November 1, 2017 at 5:00 pm to submit best last and final Substitute Contracts (the "Submission Deadline").

On November 2, 2017, this Court entered its *Order Granting Motion to Approve Bid Process, Setting Deadline for Debtor to File Sale Motion and Setting Hearing* (ECF #427), memorializing the Submission Deadline, approving the Process Motion, and setting other deadlines with respect to approval of a Substitute Contract.

The Prospective Bidders both tendered best last and final offers to the Debtor prior to the Submission Deadline. An offer was submitted by KFI (the "KFI Offer")[15] and Holdings (a company to be formed by the Yanko Group, LLC) (the "Holdings Offer").[16]

On November 2, 2017, the Debtor selected the KFI Offer as the highest and best offer and the Holdings Offer as the back-up offer.

The key terms of the KFI Offer track the language of the previously court-approved MRC Contract with certain modifications including, among others:[17]

a. Price. The "*Purchase Price*" for the Condominium Property shall be as follows:

i. $1,0900,000.00 for the Association's units ((i) CU-1, $250,000; (ii) CU-2, $250,000; (iii) CU-3, $250,000; (iv) CU-4, $250,000; and (iv) Association unit 505, $90,000) (the "Association's Units").
ii. $90,000.00 for each residential unit which executes the KFI Offer and closes on the sale. At least 50 residential units (the "*Minimum Participation Requirement*") must execute the KFI Offer within 25 days of the Commencement Date (defined therein) and close, otherwise KFI may terminate the KFI Offer.
iii. $4,100,000.00 or less paid to the Schecher Group, Inc. D/B/A SG Shared Components (the "*Schecher Claim Amount*") at Closing, in full and final satisfaction of its claims asserted against all units subject to the sale under this KFI Offer, including any and all claims asserted in Case No. 16-

[15] A copy of the KFI Offer is attached hereto as Exhibit "_".

[16] A copy of the Holdings Offer is attached hereto as Exhibit "_".

[17] To the extent of any inconsistency with this Third Amended Disclosure Statement and the KFI Offer, the terms of the KFI Offer shall control.

26187-RAM, in the United States Bankruptcy Court, Southern District of Florida, Miami Division.

iv. $90,000.00 paid toward non-debtor Sellers' legal fees and costs, at Closing. *See* KFI Offer at ¶ 2.

b. Deposit. KFI will deposit a $30,000 (Thirty Thousand Dollars) (the "*Initial Deposit*"), which amount shall be non-refundable in favor of the Association, towards the purchase of the Association's Units within three (3) business days of the United States Bankruptcy Court, Southern District of Florida, Miami Division (Case No. 16-26187-RAM) (the "*Bankruptcy Court*") approving the KFI Offer; the Deposit to be held by the law firm of Messana, P.A.

On the thirtieth (30th) day following the Commencement Date, KFI shall deposit (i) an additional $200,000.00 (Two Hundred Thousand Dollars) with Coastal Title of Ft. Lauderdale, Florida unless otherwise agreed, in writing, by KFI and Seller (the "Escrow Agent") with proof given to Seller's attorneys and the title company (the "*Refundable Deposit*"); and (ii) an additional $70,000.00 (Seventy Thousand Dollars) which shall be non-refundable and allocated to the Association's Units to be held by the law firm of Messana, P.A. (the "*Second Non-Refundable Deposit*") The Refundable Deposit, together with the Initial Deposit and Second Non-Refundable Deposit, the "*Deposits*" shall be applied to the Purchase Price in the event of a Closing. Where a Closing does not occur, the Refundable Deposit shall be returned to KFI.

All interest accrued or earned on the Refundable Deposit shall be paid to KFI except in the event of a default by Buyer, in which event all of the interest shall be disbursed to Sellers, together with the Deposits, as liquidated damages in accordance with the default provisions. *See* KFI Offer at ¶ 4.

c. Due Diligence Exception: KFI may not terminate the Agreement solely because, as of the expiration of the Initial Due Diligence Period, or any extension thereof, it has not entered into an agreement with the Schecher Group, Inc. regarding the sale, cooperation or otherwise, relative to the Hotel Unit. *See* KFI Offer at ¶ 7(e).

2. The key terms of the Holdings Offer also track the language of the previously court-approved MRC Contract with certain modifications including, among others:[18]

a. Price. The "*Purchase Price*" for the Condominium Property shall be as follows:

i. For the Association's Units: (i) Unit CU-1, C-2, C-3, C-4 and Unit 505, $1,300,000;

[18] To the extent of any inconsistency with this Third Amended Disclosure Statement and the Holdings Offer, the terms of the Holdings Offer shall control.

ii. $85,000.00 for each residential unit which executes the Contract. At least 50 residential units (the "*Minimum Participation Requirement*") must execute the Contract and close, otherwise the Buyer may terminate the Holdings Offer and immediately receive the return of its Deposit, as described in Paragraph 4 below.

iii. Holdings will accept the purchase of the Condominium Property subject to amounts owed, not to exceed $4,100,000 to the current hotel operator from the Condominium Property owners as well as the Association. *See* Holdings Offer at ¶ 2.

b. Deposit. Holdings will deposit a $300,000.00 (Three Hundred Thousand Dollars) towards the purchase of the Condominium Property within three (3) business days after the Commencement Date (as defined in paragraph 5 below) to be held by an escrow agent selected by Holdings, with proof given to the Sellers' attorneys and the title company. From the $300,000.00 deposit, $100,000.00 shall be non-refundable and excepted from Due Diligence Section 7. *See* Holdings Offer at ¶ 4.

c. However, the non-refundable portion of the deposit shall become refundable in the event the Sellers fail to close or meet any of the conditions in Section 8 of the Holdings Offer or if Holdings terminates the Holdings Offer during the month the Holdings Offer is fully executed. *See* Holdings Offer at ¶ 8(i).

d. Due Diligence. Notwithstanding any other provision of the Holdings Offer, Holdings may terminate the Holdings Offer for any reason or for no reason within its sole and absolute discretion at any time before 6:00 pm EST on or before the end of the Due Diligence Period. *See* Holdings Offer at ¶ 7.

Under both the KFI Offer and Holdings Offer, the Association and RUOs are responsible for paying their pro-rata portion of the Florida Building and Supply, Inc. allowed claim.

Both the KFI Offer and Holdings Offer employ language identical to the court-approved MRC Contract with respect to the HUO's right of first refusal.

On November 10, 2017, Debtor filed its *Debtor's Motion for Entry of an Order Authorizing Sale of Debtor's Real Property Located at 6060 Indian Creek Drive, Miami, Florida 33140 to Kingfisher Island, Inc. and Payment of Costs Associated Therewith* (ECF #432) (the "New Sale Motion").

The New Sale Motion seeks, among other things, approval of the KFI Offer as the highest and best bid and approval of the Holdings Offer as the back-up bidder.[19]

The hearing on the New Sale Motion and this Third Amended Disclosure Statement and the HUO's objections and Renewed Motion to Dismiss are set for November 28, 2017.

5) RUO Participation

Both the KFI Offer and Holdings Offer include a Minimum Participation Requirement requiring that at least 50 RUOs participate in the bulk sale.

At present, upon information and belief, approximately 56 RUOs have signed the KFI Offer.[20] Accordingly, the only prong necessary to commence the due diligence period of the KFI offer is Bankruptcy Court approval.

Upon information and belief, in connection with the KFI Offer a certain group of RUOs (approximately 51) have more formally organized and agreed to contribute their units to Sixty One Sixty, LLC ("RUO LLC") in exchange for membership interests in same.

On November 9, 2017, RUO LLC filed for relief filed for relief under Chapter 11 of the Bankruptcy Code in order to, among other things, participate in and facilitate a closing of a sale contemplated herein.[21]

On November 9, 2017, the RUO LLC filed (i) an *Emergency Motion to Transfer Case to the Honorable Robert A. Mark* (the "Transfer Motion"); and (ii) a *Complaint for Injunctive*

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[19] Subsequent to the filing of the New Sale Motion, Debtor has communicated with Holdings regarding modest revisions of its contract in order to facilitate Holdings acting as a backup bidder. The contemplated terms include, among others, that the due diligence period of the Holdings offer would be shortened to the greater of 30 days from the date of the order approving Holdings Offer as the back-up offer or (ii) 10 days after termination of the KFI offer, if terminated. Debtor intends to work cooperatively with Holdings counsel to formalize modifications that would resolve logistical issues with respect to Holdings standing as a back-up buyer.

[20] Attached hereto as Exhibit "" is a spreadsheet of RUOs believed to have executed the KFI RUO.

[21] Case No. 17-23573-LMI (the "RUO Main Case" or "RUO MC").

Relief, Including Temporary Restraining Order and Preliminary Injunction.[22] RUO MC ECF ##3 & 4.

According to the Transfer Motion, the RUO LLC, "filed [its] bankruptcy to reorganize is obligations to the Schechter Group, if any, through a sale of its Units. The [RUO LLC] and the Association intend on working together to facilitate the proposed sale and sale motions are expected to be filed both in this [RUO MC] and in the Association Main Proceeding." RUO MC ECF #3 at ¶10.

On November 13, 2017, the HUO filed its *Emergency* Motion By Schecher Group, Inc. to (I) Dismiss Chapter 11 Bankruptcy Case For "Bad Faith" Filing Pursuant to 11 U.S.C. §1112(B) And/Or, Alternatively (II) For Relief From The Automatic Stay "For Cause" Pursuant To 11 U.S.C. §362(D); And (III) For Sanctions Pursuant To Federal Rule Of Bankruptcy Procedure 9011 (the "MTD RUO MC"). RUO MC ECF #7.

On November 14, 2017, it appears that the HUO refiled its MTD RUO MC. RUO MC ECF #12.

Upon information and belief, prior to the November Foreclosure Trial, RUO LLC filed a suggestion of bankruptcy with the state court advising that the property subject to the foreclosure actions were assets of a debtor in bankruptcy.

On November 14, 2017, notwithstanding the filing of the bankruptcy by RUO LLC and the implications of the automatic stay under 11 U.S.C. §362, the state court commenced the foreclosure trial.

[22] Adversary Proceeding Case No. 17-01438-RAM (the "RUO AP").

On November 15, 2017, the RUO Main Case and RUO AP were transferred to the Honorable Robert A. Mark, with the expectation that they would be considered along with Debtor's bankruptcy case and Adversary Proceeding. RUO MC ## 8, 9 & 10; RUO AP #5 & 6.

The HUO's MTD RUO MC is scheduled to be heard at the same time as the Debtor's New Sale Motion, the HUO's Renewed Motion to Dismiss, the Debtor's Third Amended Disclosure Statement and other matters.

(vi) Debtor's Post Petition Operations and Collection Efforts

Since the Petition Date, the Debtor has continued to operate as Debtor and the Debtor-In-Possession. It has engaged appropriate professionals, acquired insurance (*see* ECF #66 & 73), and taken steps to reorganize its affairs including by passing the 2017 Budget (defined herein) and has taken efforts to collect its outstanding assessment receivables.

The Debtor's outstanding assessment receivables from RUO's total approximately $200,000 against approximately 54 Residential Units (approximately $3,759 outstanding per Residential Unit). The largest outstanding assessment receivable against any individual Residential Unit appears to be approximately $5,065.

Working in coordination with the Accountant and Eisinger, the Debtor has communicated with many RUOs and urged said RUOs to pay their outstanding assessment obligations to the Debtor. Many RUOs are complying and collections. Collections in February were approximately, $3,055, March of $7,708, April of $14,864, May of $15,083, June $16,394, July of $7,704, August of $12,427, and September of $3,844.

Upon information and belief, certain RUOs anticipated paying all outstanding Debtor Assessments upon closing of the sale to MRC and did not pay their monthly assessments in recent months.

Based on estimates received from special counsel, the Debtor believes that the cost of commencing foreclosure actions against the delinquent RUOs is approximately $2,000 – 3,000 per unit (approximately $108,000-162,000 for 54 units) plus costs and filing fees. While the Debtor believes that such costs and fees would ultimately be borne by the delinquent RUO in foreclosure, the Debtor does not believe commencing foreclosure actions against the delinquent RUOs is an efficient or timely method of collecting the outstanding assessment receivables.

Based on the books and records available to the Debtor, through September 30, 2017, the HUO owes the Association approximately $1,225,128 in unpaid assessments.

On March 10, 2017, the Debtor's special counsel, Eisinger, sent a *Notice of Intent to Record a Claim of Lien* letter to the HUO advising the HUO of, among other things, its outstanding debt to the Debtor and its obligation to pay same (the "Demand Letter"). On April 3, 2017, counsel to the HUO sent a response to the Demand Letter disputing the amount of the debts claimed therein and requesting verification of same.

(vii) The Adversary Proceeding

In connection with its reorganization strategy, the Debtor believed it essential to have this Bankruptcy Court resolve the HUO's claim against the Debtor and RUOs.

On April 11, 2017, the HUO filed its Proof of Claim ("POC #40) in the Debtor's bankruptcy case in the amount of $1,075,516.08.

The HUO's POC #40 alleges that its $1,075,516.08 claim is secured claim by Debtor's assets.

On April 14, 2017, the Bankruptcy Court entered its *Order Setting Deadline for Debtor to file Adversary Proceeding* requiring Debtor to file an adversary proceeding against the HUO by April 27, 2017 (ECF #204).

On April 27, 2017, the Debtor filed its *Complaint to Determine Validity, Priority and Extent of Liens, Setoff, Objection to Claim & Request for Declaratory Judgment* (ECF #221) and commenced adversary proceeding Case No. 16-26187-RAM against the HUO (the "Adversary Proceeding").

The Adversary Proceeding includes five counts: Count 1: For Declaratory Relief To Determine The Validity Extent And Priority Of Liens, Claims And Encumbrances In the Debtor's Real Property; Count 2: Objection To The HUO's Claim; Count 3: For HUO's Improper Setoff; Count 4: To Avoid HUO's Preferential Liens Against Unit 505 And Commercial Units; and Count 5: To Avoid HUO's Improperly Perfected Liens Against Commercial Units And Unit 505.

On July 13, 2017, certain of the Participating RUOs filed their Motion to Intervene in the Adversary Proceeding (the "Motion to Intervene"). [AP ECF #26].

On June 9, 2017, the HUO filed its *Defendant, Schecher Group, Inc.'s Motion to Dismiss Complaint to Determine Validity, Priority And Extent Of Liens, Setoff, Objection To Claim & Request For Declaratory Judgment and/or For More Definite Statement* (the "Motion to Dismiss"). [AP ECF #11].

On July 19, 2017, the Debtor filed its response to the Motion to Dismiss. [AP ECF #33].

On August 2, 2017, the HUO filed a response and limited objection to the Motion to Intervene. [AP ECF #39].

On August 7, 2017, the Court entered its: (i) *Order Granting Motion to Intervene with Limitations* [AP ECF #42]; and (ii) *Order (1) Granting in Part and Denying in Part Motion to Dismiss; and (2) Setting Deadlines and Filing Requirements; and (3) Setting Status Conference* (the "Order on Dismissal"). AP ECF #43.

The Order on Dismissal denied the Motion to Dismiss as to Counts 1 and 2 of the Complaint, stayed adjudication on Count 3 of the Complaint, and dismissed Counts 4 and 5 of the Complaint without prejudice.

On August 7, 2017, the Court also entered its Order Referring Proceeding to Judge Hyman to Conduct a Judicial Settlement Conference. [AP ECF #44].

As discussed above, the Settlement Parties participated in the Settlement Conference and understood that the MRC Settlement had been achieved.

Accordingly, the October Bankruptcy Trial was cancelled.

However, thereafter the HUO declared an impasse of the Settlement Conference and withdrew its settlement offers. MRC subsequently terminated the MRC Contract.

The Debtor now seeks authority to enter into the KFI Offer or, as a back-up, the Holdings Offer. Both contemplate payment of the HUO's claim in connection with a bulk purchase of the Debtor's Units and Residential Units.

Absent consent by the HUO to a payoff of $4,100,000 or less, it is anticipated that the Adversary Proceeding will proceed through trial to determine, among other things, the HUO's allowed claim and the "Base Line" number.

Debtor understands that so long as the total allowed claims of the HUO against all units subject to sale under the KFI Offer are less than $4,100,000, and other conditions to the KFI Offer are satisfied, KFI must close on the KFI Offer. The terms of the Holdings Offer are similar.

To expedite the trial in the Adversary Proceeding, on October 31, 2017, Debtor filed its *Motion Requesting Renewed Order Setting Trial Dates and Deadlines.* AP ECF #98.

The HUO objected to setting such dates and deadlines.

On November 2, 2017, the Bankruptcy Court entered its *Order Abating Discovery and Setting Further Hearing on Motion to Set Trial and Pretrial Deadlines.* AP ECF #100.

Among other things, it is expected that if the Bankruptcy Court approves the New Sale Motion, the Bankruptcy Court will set aggressive deadlines in the Adversary Proceeding with trial commencing in late February or Early March.

IV. SUMMARY OF DEBTOR'S ASSETS AND LIABILITIES

The assets and the liabilities of Debtor as of the filing of the Voluntary Petition herein are substantially as set forth in Bankruptcy Schedules A, B, D, E, and F.

Debtor's primary assets are the Commercial Units, Residential Unit 505, and assessment receivables from the HUO.

The Commercial Units include a restaurant unit (CU-1) and three outdoor terraces (CU-2, CU-3, and CU-4). CU-1 is approximately 2,149 square fee and the Miami-Dade property records reflect its 2016 assessed value of $261,201. CU-2 is an outdoor terrace contiguous with the Condominium's pool area of approximately 1,895 square feet, CU-3 is and outdoor rooftop terrace of approximately 868 Square feet and CU-4 is an outdoor rooftop terrace of approximately 756 square feet. The Miami-Dade property records reflect nominal 2016 assessed values for CU-2, CU-3 and CU-4. The values of CU-1, CU-2 and CU-3 are difficult to estimate.

However, pursuant to the KFI Offer, KFI has agreed to purchase the Commercial units from the Debtor for $1,000,000. Residential Unit 505 is an approximately 373 square foot studio and the Miami-Dade property records reflect a 2016 assessed value of $54,280. MRC has offered to acquire Residential Unit 505 for $90,000. It appears to be encumbered by a mortgage held by Bank of America. However, Bank of America did not file a proof of claim in this Bankruptcy Case, the deadline to do so was April 11, 2017.

In addition, Debtor has cash in the approximate amount of approximately $95,659, as of August 31, 2017.

Attached hereto as Exhibit "A" are copies of the summary page from each Debtor-in-Possession report filed by the Debtor from December 2016 through August 2017 which contain details of, among other things, the Debtor's assets including accounts receivables. ECF ##85, 123, 152, 210, 242, 286, 327, and 369.

Additionally, Debtor is a not-for-profit condominium association. Under the Declaration, the Debtor has the power to assess RUO's, CUOs and the HUO for certain expenses. Presently, the assessment receivables exceeed a million dollars with the HUO owing the Association over $1,000,000 (comprised of assessments, late fees, interest, legal fees and penalties). Said claim is being preserved. RUOs owe the Debtor approximately $200,000.

Finally, Debtor has conducted a preliminary analysis of potential litigation claims including claims potentially sounding in contract, tort, statute and other potential bases (the "Litigation Claims") against certain parties ("Litigation Targets"). The investigation and analysis of the Litigation Claims are ongoing. Accordingly, certain of the Litigation Claims have not been fully analyzed. Nevertheless, a preliminarily list of Litigation Targets is attached hereto as Exhibit "B". Any Litigation Claim not pursued prior to the hearing on confirmation of the Third Amended Plan shall be, on the Effective Date, deemed to vest in the Reorganized Debtor.

V. SUMMARY OF THIRD AMENDED PLAN

THE DESCRIPTION OF THE THIRD AMENDED PLAN AS CONTAINED IN THIS THIRD AMENDED DISCLOSURE STATEMENT SUMMARIZES ONLY CERTAIN PROVISIONS OF THE THIRD AMENDED PLAN AND IS NOT, NOR IS IT

INTENDED TO BE, A COMPLETE DESCRIPTION OF THE THIRD AMENDED PLAN. THIS SUMMARY IS NOT INTENDED TO SUBSTITUTE FOR A READING OF THE THIRD AMENDED PLAN OR THE REMAINDER OF THIS THIRD AMENDED DISCLOSURE STATEMENT IN THEIR ENTIRETY. THE THIRD AMENDED PLAN IS A LEGALLY BINDING DOCUMENT AND CREDITORS MAY WISH TO CONSULT WITH THEIR OWN ATTORNEYS, IF ANY, TO UNDERSTAND THE THIRD AMENDED PLAN MORE FULLY.

THE TERMS OF THE THIRD AMENDED PLAN WILL GOVERN THE RIGHTS OF THE PARTIES, AND PARTIES WITH IMPAIRED CLAIMS ARE THEREFORE URGED TO READ THE THIRD AMENDED PLAN OF REORGANIZATION IN ITS ENTIRETY. CAPITALIZED TERMS NOT OTHERWISE DEFINED IN THE THIRD AMENDED DISCLOSURE STATEMENT SHALL HAVE THE MEANING ASCRIBED TO SUCH TERM IN THE THIRD AMENDED PLAN.

The Third Amended Plan filed herein, a copy of which is attached hereto, divides creditors into eleven (11) Classes as follows:

Classes of Claims against and Interests in Debtor are designated as follows:

Class 1	Secured Claim of Schecher Group Inc. Impaired—subject to objection, to the extent allowed, entitled to vote.
Class 2	Secured Claim of FB&S. Impaired-- subject to objection, to the extent allowed, entitled to vote.
Class 3	Secured Claim of Bank of America. Impaired—subject to objection, to the extent allowed, entitled to vote.
Class 4	Secured Claim of Christopher Trapani, PA. Impaired—subject to objection, to the extent allowed, entitled to vote.
Class 5	Secured Claim of MGC Systems, Corp. Impaired—subject to objection, to the extent allowed, entitled to vote.

Class 6	Secured Claim of City of Miami. Unimpaired—not entitled to vote.
Class 7	Unsecured Priority Claim of Florida Department of Revenue. Unimpaired—not entitled to vote.
Class 8	General unsecured creditors. Impaired—entitled to vote.
Class 9	Interests of the Schecher Group, Inc. Impaired—entitled to vote.
Class 10	Interests of the CUOs. Impaired—entitled to vote.
Class 11	Interests of RUOs. Impaired— entitled to vote.

VII. MEANS OF IMPLEMENTATION AND FEASIBILITY OF THE THIRD AMENDED PLAN

A plan proponent must demonstrate as a condition of confirmation that each impaired Class of Creditors will receive at least as much as it would receive in a Chapter 7 liquidation proceeding. Further, a plan proponent must also demonstrate that the Third Amended Plan is "feasible".

A. Future Operation of Debtor's Business. At this time Debtor has approved a going forward budget sufficient to satisfy its future obligations and maintain its property. Attached hereto as Exhibit "" is a copy of the Debtor's current budget (the "2017 Budget"). The Debtor's 2017 Budget calls for approximately $779,016 in annual assessments necessary to pay certain ongoing operating expenses and to satisfy certain contingent and disputed claims asserted against the Debtor. The Debtor's monthly assessments are equal to approximately $64,918 of which, the HUO is responsible for paying approximately $41,934 and the RUOs (other than the Debtor) are responsible for paying approximately $19,158 on a monthly basis.[23]

[23] The balance of the monthly assessment is technically owed by the owner of Residential Unit 505 and the Commercial Units and reflects issues related to the Circular Assessment Problem (described herein) but resolved under a sale to KFI or Holdings.

Debtor does not have any salaried employees. Debtor's accounting operations are overseen by the Accountant. The Debtor has a voluntary board of directors that works for no compensation. In the event a bulk sale closes (either to KFI or Holdings), the Debtor anticipates the bulk buyer will staff a new board of directors. In all events, the Post-Confirmation Debtor will continue Debtor's duties and responsibilities pursuant to the Third Amended Plan.

B. Bulk Sale. As of November 15, 2017, upon information and belief, those claiming an interest in approximately 56 Residential Units have executed the KFI Offer.

It is expected that additional signed KFI Offers are in transit and that additional RUOs will join in the proposed bulk sale.

C. Source of Funding for Third Amended Plan. Pursuant to the terms of the KFI Offer, certain funding for the Third Amended Plan shall be provided from the proceeds of the sales of the Residential and Commercial Units owned by the Debtor, the collection of outstanding assessments against participating RUOs and Debtor's current assets.

Debtor anticipates receiving approximately $1,090,000 in connection with the sale of its Commercial and Residential Units and collection of approximately $175,000 from outstanding assessments against Residential Units.

Under the KFI Offer, each Residential and Commercial Unit owner is responsible to pay its proportionate share of the claim of FB&S, if any. It is anticipated that, in the absence of a resolution with FB&S, the Debtor will object to the claim of FB&S for a variety of reasons.

With respect to the Debtor, the proceeds of the sale of the Commercial Units and Residential Unit 505 shall be used to satisfy any all allowed secured claims against same (including the Debtor's allocable share of approximately 16.6401% of the FB&S claim, which percentage totals approximately $171,794.55).

With respect to the RUOs that participate in the bulk sale (including RUO LLC), the proceeds of the sale of their Residential shall be used to satisfy any and all allowed secured claims against same (including their allocable share, of the FB&S claim).

Moreover, each Residential and Commercial Unit owner shall pay all other liens encumbering their individual units at closing necessary to satisfy their pro-rata share of any blanket liens against the Condominium, if any, thus satisfying certain potential unsecured claims against the Debtor related to same.

The proceeds of the sale of the Commercial Units and Residential Unit and other assets available to the Debtor in excess of the allowed secured claims will be applied to allowed administrative, allowed priority and allowed unsecured claims as of the Effective Date (including allowed unsecured claim of FB&S).[24] All allowed secured, administrative and unsecured claims shall be paid on the Effective Date.

D. **The Effective Date.** The Effective Date of the Third Amended Plan means the 30 days after the Closing Date unless a later date is requested by the Debtor. The Closing Date means the date of the closing of the sale to either KFI or Holdings pursuant to their respective contracts.

E. **Substantial Consummation.** The Third Amended Plan shall be deemed substantially consummated upon the Effective Date.

F. **Notice of Effective Date.** Promptly after occurrence of the Effective Date, Debtor shall file with the clerk of the Bankruptcy Court a notice that the Third Amended Plan has become effective; provided, however, that the failure to file such notice shall not affect the

[24] To the extent the Debtor's proceeds are available to satisfy a portion of the unsecured claim of FB&S, such claim of FB&S shall be reduced from the amount participating RUO's must pay to satisfy their pro-rata portion of FB&S claim. The calculation of the RUO's participating in the sale obligation to FB&S shall be calculated after all of the Debtor's funds available to pay the unsecured portion of the FB&S claim are exhausted.

effectiveness of the Third Amended Plan or the rights or substances obligations of any entity hereunder.

G. Final Decree. After the Effective Date, Debtor may move for a final decree closing the case and requesting such other orders as may be necessary and appropriate.

H. Conditions to Effective Date. The occurrence of the Effective Date shall be subject to the satisfaction, or waiver by Debtor of each of the following conditions:

(i) The Confirmation Order shall be entered by the Bankruptcy Court and shall be effective and not stayed.

(ii) The closing of the sale pursuant to the KFI Offer or Holdings Offer shall have occured.

(iii) All deliveries required to be made on the Effective Date have been made or waived by the party for whose benefit such delivery is intended.

I. Waiver of Federal Rule of Civil Procedure 62(a). Debtor will request that the Confirmation Order include (i) a finding that Fed. R. Civ. P. 62(a) shall not apply to the Confirmation Order; (ii) authorization for the consummation of the Third Amended Plan and the transactions contemplated by the Third Amended Plan immediately after entry of the Confirmation Order pursuant to Bankruptcy Rule 3020(e).

J. Disbursing Agent. Debtor (or, as necessary, the escrow agent acting in connection with the bulk sale) shall act as the Disbursing Agent. On or before ten (10) days after the Closing Date and thereafter, all funds available for distribution to creditors and payment of post-confirmation fees and expenses shall be available to the Debtor. The Disbursing Agent shall disburse cash in accordance with the terms of the Third Amended Plan and the Bankruptcy Code. The Disbursing Agent shall also pay all post-Effective Date U.S. Trustee's fees pursuant to 28 U.S.C. § 1930 to the extent required by law.

K. **Post Confirmation Debtor**. Following the Effective Date, all of Debtor's assets, including any and all litigation claims, shall immediately vest with the Reorganized Debtor without the need for any other or further Court order. Wherever the Third Amended Plan refers to the authority, responsibilities, rights, powers or limitations of the Debtor on or after the Effective Date, such reference shall be deemed to be a reference to the Post-Confirmation or Reorganized Debtor. The Post-Confirmation/Reorganized Debtor shall have the same authority, responsibilities, rights, powers or limitations to discharge the duties of Debtor pursuant to the Third Amended Plan. The Post-Confirmation/Reorganized Debtor shall be managed by the Debtor's board of directors, who will not receive compensation for acting as manager of the Post-Confirmation/Reorganized Debtor.

The Post-Confirmation Debtor may retain Professionals without the need for approval by the Bankruptcy Court to assist the Post-Confirmation Debtor with its duties and responsibilities under the Third Amended Plan (the "Post-Confirmation Professionals"). Debtor may retain Debtor's pre-confirmation counsel as a Post-Confirmation Professional.

Post-Confirmation Debtor shall set aside sufficient funds for the retention and payment of post-confirmation fees payable to the U.S. Trustee, Post-Confirmation Professionals and other professionals, if any. Payment to the Post-Confirmation Professionals shall only be made upon application to Bankruptcy Court pursuant to the procedures set forth herein (the "Application Procedures"). Not more than every thirty (30) days, the Post-Confirmation Professionals may submit an application with the Bankruptcy Court for compensation of reasonable fees and expenses in connection with implementing the Third Amended Plan. Such applications shall be served upon the Post-Confirmation Debtor, and any other party that specifically requests notice of such fee applications. Any party may object to the application for compensation of the Post-

Confirmation Professionals and the Disbursing Agent within ten (10) days of service of an application pursuant to these Application Procedures. If a party in interest timely objects, the Post-Confirmation Debtor shall file a notice of contested matter with the Bankruptcy Court and request a hearing to resolve the objection. If no party timely objects to any application pursuant to the Application Procedures, the Post-Confirmation Debtor may submit a proposed unopposed order granting the post-confirmation fee application and distribute cash sufficient to pay the Post-Confirmation Professional or other application, without need for further action or approval of the Bankruptcy Court.

L. Bond. Neither the Disbursing Agent nor Post-Confirmation Debtor shall be required to post a bond.

M. Classification and Treatment of Claims. Section 1122(a) of the Bankruptcy Code provides that a plan may place a Claim or Interest in a particular Class only if that Claim or Interest is substantially similar to the other Claims or Interests in such Class. Classification is a method of recognizing differences in the rights of Creditors and Interests, which call for a difference in treatment of their respective Claims.

The Third Amended Plan establishes eight (8) Classes of Claims and three (3) Classes of Interests. If the Court confirms the Third Amended Plan, the Class into which a Claim or Interest falls will determine the treatment of such Claim or Interest. The Classes of Claims and Interests as established in the Third Amended Plan are summarized below. Administrative Expense Claims and Priority Tax Claims are not classified pursuant to §1123(a)(1) of the Bankruptcy Code.

An Administrative Claim is defined in the Third Amended Plan as a claim constituting a cost or expense of administration of Debtor's Chapter 11 case under Section 503(b) of the

Bankruptcy Code and that is entitled to priority under Section 507(a) of the Bankruptcy Code, including, without limitation, any actual and necessary expenses of preserving the estate, and all fees and charges assessed against the bankruptcy estate under Chapter 123 of Title 28, United States Code.

All requests for payment of Administrative Claims, except for applications for payment of Professional Fee Claims, shall be filed with the Bankruptcy Court and served upon Debtors at least fourteen (14) days before the Confirmation Hearing or by such earlier deadline as may apply to such Administrative Claim pursuant to an order of the Bankruptcy Court. Except as provided herein, any Administrative Claim for which an application or request for payment is not filed within such time period shall be discharged and forever barred. Holders of Allowed Administrative Claims (with the exception of professionals who will be paid 100% of the amount allowed by the Court upon application to the Court) shall be paid 100% of their respective Allowed Administrative Claims in cash, unless otherwise ordered by the Court, upon the Effective Date.

Compensation of Professionals and reimbursement of Professionals are Administrative Claims pursuant to sections 503(b)(2), 503(b)(3), 503(b)(4) and 503(b)(5 of the Code (the "Professional fees and Expenses Claims"), which will include any Allowed Claims of Messana, PA and Eisinger Law and any realtor or Accountant retained by Debtor. All payments to Professionals fro Professional Fees and Expense Claims will be made by the Debtor, or Disbursing Agent out of Cash in accordance with the procedures established by the Code, the Rules and the Court relating to the payment of interim and final compensation for services rendered and reimbursement of expenses. The Court will review and determine all applications for compensation for services rendered and reimbursement of expenses.

All entities seeking an award by the Court of Professional Fees and Expenses shall file their respective final applications for allowance of compensation for services rendered and reimbursement of expense incurred through the Effective Date, including an estimate of fees and expenses not yet earned or incurred, pursuant to section 330 of the Code and Rule 2016 by the date that is seven (7) days prior to the Confirmation Hearing or such other date as may be fixed by the Court. If estimated fees and costs are included in the final application, Messana and Eisinger shall file a supplement to their applications to demonstrate actual fees and costs incurred during by 4:00 pm the calendar day prior to the Confirmation Hearing. The time for filing objections to applications for allowance and payment of Professional Fees and Expenses, shall be three (3) days prior to the Confirmation Hearing.

N. Unclassified Claims:

i. Treatment of Administrative Claims, Including Professional Fee Claims. Allowed Administrative Claims and Professional Fee Claims incurred through the Effective Date shall be paid by the Disbursing Agent on or before the later of the Effective Date or the Allowance Date, except as such administrative or professional claimants agree to another treatment.

ii. Treatment of Priority Unsecured Tax Claims. Allowed Priority Tax Claims shall be paid in full by the payment of Cash on the later of ten (10) days after the Effective Date or of ten (10) days after the Allowance Date. Debtor believes there are approximately $67,000 of Priority Unsecured Tax Claims. Such claims are still being analyzed and objections are preserved. Debtor's secured tax claims shall be paid from cash at Closing.

iii. U. S. Trustee Fees And Reporting. The Debtor shall pay the United States Trustee the appropriate sum required pursuant to 28 U.S.C. §1930(a)(6) within ten days of the

entry of the confirmation order for pre-confirmation periods and simultaneously file with the Court the monthly operating reports for all pre-confirmation periods. Furthermore, the Debtor shall pay the United States Trustee the appropriate sum required pursuant to 28 U.S.C. §1930(a)(6) for post-confirmation periods and simultaneously file with the Court quarterly post-confirmation reports, until the earlier of the closing of this case by the issuance of a Final Decree by the Court, or upon the entry of an Order by this Court dismissing this case or converting this case to another chapter under the United States Bankruptcy Code.

O. Classified Claims. For purposes of the Third Amended Plan there shall be eleven (11) Classes of Claims and Interests as follows**:**

1. Treatment of Class 1 Secured Claim of the Schecher Group, Inc**.** Allowed Secured Claims in Class 1 shall be completely and fully satisfied by the following treatment:

a. The Schecher Group Inc. shall have Allowed Secured Claim[25] in an amount equal to: (i) the amount determined by the Bankruptcy Court after adjudication on the merits through the Adversary Proceeding including all setoff claims of Debtor (the "Litigated Schecher Claim"); or (ii) an amount that by agreement Schecher would accept in connection with the closing of the sale to KFI or Holdings as contemplated herein (the "Consent Schecher Claim").

b. In full satisfaction of the Allowed Class 1 Secured Claim, out of the proceeds of the sale of the Commercial Units and Unit 505, the Debtor shall pay Schecher either the Litigated Schecher Claim (so long as funds from the closing of the sale are sufficient to satisfy same) or the Consent Schecher Claim in cash within 10 business days of the Closing Date.

2. Treatment of Class 2 Secured Claim of FB&S**.** Allowed Secured Claims in Class 2 shall be completely and fully satisfied by the following treatment:

a. Out of the proceeds of the sale of the Commercial Units and Unit 505, the Debtor shall pay an amount equal to FB&S's total Allowed Claim multiplied by 16.6401%[26] that is secured, pro rata, by the Commercial

[25] Schecher Group, Inc.'s secured claims, if any, shall be allocated pro-rata to the Debtor's Commercial Units and Unit 505 consistent with Exhibit 7 of the Declaration.

[26] On March 31, 2017 FB&S filed a proof of claim ("POC #6") against the Debtor in its bankruptcy case in the *secured* amount of $1,032,413.43. Pursuant to Exhibit 7 of the Disclosure Statement, the owner of the Commercial

Units and Unit 505 as allocated in Exhibit 7 of the Declaration, within 10 business days of the Closing Date.

b. FB&S shall be entitled to a Class 8 General Unsecured Claim in the amount equal to the difference between its total Allowed Claim and the amount FB&S receives on account of its Allowed Class 2 Claim.

3. Treatment of Class 3 Secured Claim of Bank of America ("BOA"). Allowed Secured Claims in Class 3 shall be completely and fully satisfied by the following treatment:

a. In full satisfaction of the Allowed Class 3 Secured Claim, if any, in connection with the sale of Unit 505, the Debtor shall pay $20,000 to BOA within 10 business days of the Closing Date.

4. Treatment of Class 4 Secured Claim of Cristopher Trapani, PA ("Trapani"). Allowed Secured Claims in Class 4 shall be completely and fully satisfied by the following treatment:

a. In full satisfaction of the Allowed Class 5 Secured Claim, if any, in connection with the sale of the Commercial Units and Unit 505 to the Proposed Purchaser, the Debtor shall pay $10,000 to Trapani within 10 business days of the later of: (i) the Effective Date; or (ii) the Closing Date.

a. Trapani shall be deemed to have an Allowed Unsecured Class 10 Claim in the amount of $2,500.

5. Treatment of Class 5 Secured Claim of MGC Systems Corp. ("MGC"). Allowed Secured Claims in Class 5 shall be completely and fully satisfied by the following treatment:

a. The Debtor anticipates objecting the MGC's claim. MGC shall have an Allowed Secured Claim, if any, only in an amount determined by the Bankruptcy Court after adjudication on the merits through a claims objection process (the "MGC Allowed Secured Claim"). Otherwise MGC shall not be entitled to any claim and shall be compelled to file a satisfaction of its Claim of Lien within 14 days of the Confirmation Date.

Units and Residential Unit 505 bear the burden to pay an aggregate of approximately 16.6401% of the *Shared Costs.* FB&S claims to have a blanket lien over all units comprising the Condominium, including the Debtor's Commercial Units and Residential Unit 505. 16.6401% of FB&S's claim of $1,032,413.43 is approximately $171,794.55. Pursuant to Florida Statute Section 718.121(3), a lien that becomes effective as to two or more condominium parcels may be satisfied by the owner of any parcel by paying the proportionate amount of the claim attributable to its parcel. Accordingly, the Debtor's position is that FB&S does not have a secured claim against the Debtor for any more than its allocable share of its total Allowed Claim based on the allocations of *Shared Costs.* The Debtor reserves all rights to dispute POC #6.

b. In full satisfaction of the Class 5 MGC Allowed Secured Claim, if any, the Debtor shall pay the value of the collateral securing the Allowed MGC Secured Claim, if any, in full within 10 business days of the Closing Date.

6. Treatment of Class 6 Secured Claim of City of Miami ("Miami")**.** Allowed Secured Claims in Class 6 shall be completely and fully satisfied by the following treatment:

a. Miami shall be deemed to have an Allowed Secured Claim in the amount of its Claim #2, or such other amount as is negotiated between by the Debtor that is less than the amount claimed in Claim #2.

b. In full satisfaction of the Class 6 Claim, in connection with the sale of the Commercial Units and Unit 505, the Debtor shall pay the Allowed Secured Class 6 Claim in full within 10 business days of the Closing Date.

7. Treatment of Class 7 Priority Claim of Florida Department of Revenue ("FDOR")**.** Allowed Priority Claims in Class 7 shall be completely and fully satisfied by the following treatment:

a. FDOR shall be deemed to have an Allowed Priority Claim in the amount of its priority Claim #4, or such other amount as is negotiated between by the Debtor that is less than the amount claimed in Claim #4.

b. In full satisfaction of the Allowed Class 7 Priority Claim, the Debtor shall pay the Allowed Priority Class 7 Claim in full on the later of: (i) the Effective Date; or (ii) the Closing Date.

8. Treatment of Class 8 General Unsecured Claims**.** Allowed Class 8 Claims shall be completely and fully satisfied by the following treatment:

a. Each holder of an Allowed Class 8 Unsecured Claim shall receive a its pro rata distribution of the balance of the cash available to the Debtor on the Effective Date remaining after payment of all Allowed Secured, Allowed Administrative Claims, Professional Fee Claims, U.S. Trustee Fees, and Priority Unsecured Tax Claims.

9. Treatment of Class 9 Interests of Schecher Group Inc. Allowed Class 9 Interests shall be completely and fully satisfied by the following treatment: the HUO shall retain its rights and interests under the Declaration, whatever they may be.

10. Treatment of Class 10 Interests of CUOs. Allowed Class 10 Interests of RUOs shall be completely and fully satisfied by the following treatment: CUOs shall retain their rights and interests under the Declaration, whatever they may be.

11. Treatment of Class 11 Interests of RUOs. Allowed Class 11 Interests shall be completely and fully satisfied by the following treatment: RUOs shall retain their rights and interests under the Declaration, whatever they may be.

iii. **Impaired Classes to Vote.** Each impaired Class of Creditors with Claims against Debtor's estate will be entitled to vote separately to accept or reject the Third Amended Plan.

iv. **Acceptance by Class of Creditors.** A Class of Claims will have accepted the Third Amended Plan if the Third Amended Plan is accepted by at least two-thirds ($^2/_3$) in amount of allowed Claims, and more than one-half (1/2) in number of Allowed Claims of such Class that have accepted or rejected the Third Amended Plan.

P. **Discharge of Debtor.** The rights afforded in the Third Amended Plan and the treatment of all Claims and Interests shall be in exchange for and in complete satisfaction, discharge, and release of all Claims of any nature whatsoever against the Debtor and all of the Debtor's property. Upon the substantial consummation of the Third Amended Plan, Debtor shall be discharged under Section 1141 of the Bankruptcy Code.

Q. **Cramdown.** In the event that any impaired Class fails to accept the Third Amended Plan in accordance with 11 U.S.C. §1129(a) of the Bankruptcy Code, Debtor will request the Bankruptcy Court to confirm the Third Amended Plan in accordance with 11 U.S.C. §1129(b) of the Bankruptcy Code. This contemplates an evidentiary hearing by which creditors would be required to accept the Third Amended Plan if it is determined to be fair and equitable and it is accepted by at least one impaired class. The determination of what is fair and equitable varies depending on the classification of each creditor's claim. Generally,

treatment of unsecured creditors is fair and equitable if such creditors receive a greater distribution under the Third Amended Plan than they would receive under Chapter 7.

R. Unclaimed or Undistributable Funds. To the extent any funds are unclaimed or undistributable pursuant to the Third Amended Plan, Bankruptcy Code Section 347, Bankruptcy Rule 3011, or Local Bankruptcy Rule 3011-1, such funds shall vest in the Post-Confirmation Debtor and such claims shall be deemed null and void.

VIII. GENERAL PROVISIONS GOVERNING DISTRIBUTIONS BY DEBTOR PRIOR TO EFFECTIVE DATE

A. Place and Manner of Payments or Distributions. Payment of claims secured by the real property of the Debtor shall be made by the Disbursing Agent within 10 days of the Closing Date. Otherwise, the escrow agent, Disbursing Agent, or Post-Confirmation Debtor shall make Distributions to the holders of Allowed Administrative Claims, Professional Fee Claims, U.S. Trustee Fees, Priority Unsecured Tax Claims, and Allowed Unsecured Claims, on or before ten (10) business days of the later of the Effective Date, the Allowance Date, or the date upon which the recipient of the distribution has delivered to the Debtor all documents necessary for Debtor to effectuate the distribution (including IRS Form W-9), via delivery by either (i) mail to the Claimant at the address of such Claimant as listed in the Schedules of Assets and Liabilities, or a superseding address listed on any proof of claim filed by the Claimant, or (ii) by mail to such other address or by wire transfer to the destination that such Claimant shall have specified for payment purposes in a written notice to Debtor.

B. Undeliverable Distributions. If a Distribution to any Claimant is returned as undeliverable, Post-Confirmation Debtor shall use reasonable efforts to determine such Claimant's current address, and no further Distributions shall be made to such Claimant unless and until Post-Confirmation Debtor is notified of such Claimant's current address.

C. Treatment of Unclaimed or Undeliverable Distributions. If any Claimant entitled to Distributions under the Third Amended Plan cannot be located prior to the Effective Date or Allowance Date or has its Distribution returned, then such Distribution shall be transferred to Post-Confirmation Debtor and, in the case of Cash, held in a non interest-bearing account or fund maintained by the Post-Confirmation Debtor for purposes of holding such distributions. Post-Such distributions shall revest in the Debtor six months after the Effective Date.

D. Tax I.D. Number Required. In lieu of backup withholding, the Post-Confirmation Debtor may suspend distribution to any Claimant that has not provided its Federal Tax Identification Number or Social Security Number, as the case may be. Any such distributions that remain suspended as of the Effective Date or Allowance Date shall be transferred to the Post-Confirmation Debtor and held in a non interest-bearing account or fund maintained by the Post-Confirmation Debtor pending receipt by the Post-Confirmation Debtor of such information.

IX. INJUNCTION AGAINST ENFORCEMENT OF PRECONFIRMATION DEBT

Except as expressly provided herein, at all times on and after the Effective Date, all Persons who have been, are, or may be holders of Claims against or Interests in Debtor arising prior to the Effective Date, shall be enjoined from taking any of the following actions against the Debtor or affecting its property:

(a) commencing, conducting or continuing in any manner, directly or indirectly any suit, action, or other proceeding of any kind arising before the Confirmation Date against Debtor, Debtor's estate, or the Property, including the Acquired Assets (including, without limitation, all suits, actions, and proceedings that are pending as of the Effective Date, shall be deemed to be withdrawn or dismissed with prejudice), including any suit, action or other proceeding which might affect the use or enjoyment of any portion of the Acquired Assets;

(b) enforcing, levying, attaching, collecting, or otherwise recovering by any manner or means whether directly or indirectly any judgment, award, decree, or order against Debtor, Debtor's estate, or the Property, including the Acquired Assets, relating to any obligation which arose prior to the Effective Date;

(c) creating, perfecting, or otherwise enforcing in any manner, directly or indirectly, any Lien or Encumbrance against Debtor, Debtor's estate, or the Property, including the Acquired Assets;

(d) asserting any right of subrogation, or recoupment of any kind, directly or indirectly against any obligation due Debtor, Debtor's estate, or the Property, including the Acquired Assets;

(e) commencing, conducting or continuing in any manner, directly or indirectly any suit, action, or other proceeding of any kind against the Debtor under the Third Amended Plan;

(f) commencing, conducting or continuing in any manner, directly or indirectly any suit, action, or other proceeding of any kind against Purchaser relating to any obligation of the Debtor or Post-Confirmation Debtor, other than an obligation arising under the PSA; and

(g) proceeding in any manner in any place whatsoever that does not conform to or comply with the provisions of the Third Amended Plan.

X. EFFECT OF CONFIRMATION

Except as otherwise provided in the Third Amended Plan or the order confirming the Third Amended Plan, the confirmation of the Third Amended Plan vests all of the property of the estate in the Reorganized Debtor free and clear of all Claims, liens and encumbrances arising prior to the Confirmation Date unless specifically provided for in the Third Amended Plan. The provisions of the Third Amended Plan, if confirmed, shall bind Debtor, all Creditors, Interest Holders, and any entity acquiring property under the Third Amended Plan, whether or not the Claim or Interest of such Creditor, Interest Holder, or entity is impaired under the Third Amended Plan and whether or not such Creditor, Interest Holder, or entity has accepted the Third Amended Plan.

XI. BEST INTEREST OF CREDITORS AND FEASIBILITY STANDARD

Under Section 1129(a)(7) of the Code, the Court must find that either all members of an impaired class of Claims or interests have accepted the Third Amended Plan or that the Third Amended Plan will provide a creditor who has not accepted the Third Amended Plan with a recovery of property of a value, as of the effective date of the Third Amended Plan, that is not less than the amount such holder would recover if Debtor were liquidated under Chapter 7 of the Code. This requirement is called the "Best Interest of Creditors Test".

The analysis of a liquidation scenario/Best Interest of Creditors Test is complicated in this matter by, among other factors, (i) the pending and potential disputes regarding purportedly secured claims of the HUO and others; (ii) the difficulty of valuation of the Debtor's Commercial Units 2-4; (iii) the costs of collection of assessment receivables as compared to the amount of such receivable as against particular Residential Units; and (iv) the speculative nature of litigation and recoveries on same.

The purportedly secured claim of the HUO is presently the subject of the Adversary Proceeding contesting, among other things, the amount of the purported claims and the perfection of the security interests.

Moreover, the HUO is also contesting the claim of the Debtor against the HUO.

Additionally, in a liquidation scenario, the value of the Debtor's real property and the collectability of its receivables become less certain. In the absence of funding that would be critical to advancing the Litigation Claims (as would likely be the case in a liquidation scenario), the recovery on the Litigations Claims (however meritorious) becomes speculative.

Under the bulk sale to KFI, the Debtor stands to receive approximately $1,090,000 for the sale of its Commercial and Residential Units and $175,000 from collection of outstanding

receivables. Absent the sale of its units, the Debtor has little alternative sources of recovery given that, among other things, the HUO has not paid any of the assessments imposed by the Debtor (and the HUO is responsible for approximately 64% of the Debtor's budget). Accordingly, under a liquidation process it is anticipated that Debtor would have less than $175,000 available to pay all creditors.

At present, the filed claim of the HUO is approximately $1,075,516[27] and the claim of Debtor against the HUO though September 30, 2017 is approximately $1,225,128. After adjudication by the Bankruptcy Court, the Debtor anticipates that zero dollars from the sale of its Commercial and Residential Units will be necessary to satisfy the claims of the HUO.

At present, the filed claim of FB&S is approximately, $1,032,413. Of which, the Debtor proposes that no more than $171,794.55 ought to be allowed as a secured claim (leaving a potential FB&S unsecured claim in the amount of $860,618. Of the $1,090,000 sale price, cash available for payments of administrative and junior priority claimants would total approximately $918,206.

Other filed secured claims (other than those filed bt RUOs) total approximately $320,315. Of which, approximately $222,735 is claimed due by Fay Servicing, LLC ("Fay") which appears to hold a claim against one of the RUOs and not the Debtor. The Debtor has reached out to counsel for Fay, but has not received a response. In the absence of Fay voluntarily withdrawing its claim in full, Debtor will object to the Fay claim. Of which, approximately $57,001.82 is claimed by MGC Systems, Corp (also known as A1), which claim will be the subject of objection. Assuming Debtor is successful in its objections, it appears that there are only approximately $40,579 in filed secured claims remaining. Of the $918,206 after payment of

[27] The HUO has already made claims against the Debtor for certain administrative expenses and anticipates that the HUO will assert additional claims against the Debtor related to same.

FB&S's secured claim, cash available for payments of administrative and junior priority claimants would total approximately $877,627.

It is anticipated that Debtor's administrative and priority claims outstanding at the Effective Date could approach $350,000. Assuming such claims are paid in full, of the $877,627 after payment of allowed administrative claims, cash available for payments of junior priority claimants would total approximately $527,627.

Approximately $1,764,144 of "secured" claims and $322,816 of "unsecured" claims have been filed by RUOs. Debtor's position is that substantially all of these claims are subject to objection and should not be allowed. Assuming, conservatively, that 5% of these claim will be allowed, approximately $104,348 would be included in the general unsecured creditor pool. Non-RUO unsecured filed claims total approximately $11,176. Together with the RUO claims and unsecured portion of the FB&S allowed claim, the unsecured creditor claims would total approximately $976,142. With the $527,627 available for unsecured creditors, such creditors would receive an approximate 54% distribution.

Importantly, assuming FB&S receives a distribution of approximately $464,733, only approximately $395,884 of FB&S claim would remain unpaid. Assuming that RUOs participating in the sale satisfy their pro-rata portion of the remaining FB&S claim, FB&S would likely receive substantially all of its outstanding balance.[28]

Debtor believes that the best interest of creditors test is satisfied here because, among other things, the Third Amended Plan provides a method to sell the Debtor's units for maximum value, and will provide a meaningful distribution to unsecured creditors.

[28] Irrespective of the analysis herein, Debtor reserves all rights to dispute the amount of the FB&S claim.

In a Chapter 7 liquidation creditors would be entitled only to amounts left over after payments of more senior claims. Debtor believes that in a Chapter 7 liquidation, junior secured creditors and general unsecured creditors would receive little, if any, distributions.

XII. OBJECTIONS TO CLAIMS

The Deadline to object to claims shall be fourteen (14) days prior to the Confirmation Hearing or such other date as established by Bankruptcy Court Order. A Claimant whose Claim has been objected to in accordance with Section 11.1 of the Third Amended Plan, must file with the Court and serve upon the parties identified in Section 14.1 a response to such claim objection within 30 days after service of any objection to its Claim. Failure to file such a response within the 30-day time period shall be cause for the Bankruptcy Court to enter a default judgment against the non-responding Claimant and to thereby grant the relief requested in the Claim objection. Debtor may request the Bankruptcy Court to estimate any Claim for purposes of voting on this Third Amended Plan or Allowance pursuant to Section 502(c) of the Bankruptcy Code.

Distributions made under the Third Amended Plan shall be made only to the holders of Allowed Claims. Until a Disputed Claim becomes an Allowed Claim, the holder of that Disputed Claim shall not receive the consideration otherwise provided to such Claimant under the Third Amended Plan.

The Debtor shall deposit the Distributions reserved for the holders of Disputed Claims in a reserve fund called the Disputed Claims Reserve. The Debtor shall hold the Disputed Claims Reserve in trust for the benefit of the holders of Allowed Claims whose Distributions are unclaimed and the holders of Disputed Claims pending determination of their entitlement thereto under the terms of the Third Amended Plan. When a Disputed Claim becomes an Allowed

Claim, the Debtor shall release and deliver the Distributions reserved for such Allowed Claims from the Disputed Claims Reserve, together with any earned interest attributable to such Distribution.

XIII. EXECUTORY CONTRACTS

All Executory Contracts not otherwise assumed, assumed and assigned, or rejected pursuant to Section 365 of the Bankruptcy Code prior to the Effective Date shall be deemed rejected as of the Effective Date. Exhibit "D" sets forth the treatment of Executory Contracts that have not been previously assumed, assumed and assigned, or rejected. Prior to ten (10) days before the Confirmation Hearing, Exhibit "D" may be modified by the Debtor or Purchaser without Order of the Bankruptcy Court. Within ten (10) days prior to the Confirmation Hearing, Exhibit "D" may be modified upon request of Debtor or Purchaser, subject to Bankruptcy Court approval. After entry of the Confirmation Order, Exhibit "D" may be modified only upon request of Purchaser, subject to Bankruptcy Court approval. In the event of any modification of Exhibit "D" that requires Bankruptcy Court approval, the Order of the Bankruptcy Court may only be entered after notice and a hearing, as defined in Section 102(1) of the Bankruptcy Code, is provided to the counter-party to the Executory Contract affected by such modification.

Entry of the Confirmation Order shall constitute the approval, pursuant to Sections 363(b), (f) and (m) and 365(a) and (f) of the Bankruptcy Code, of the assumption, assumption and assignment, or rejection of the Executory Contracts as set forth on Exhibit "D", as same may be modified from time to time.

Unless the Bankruptcy Court, the Bankruptcy Code or the Bankruptcy Rules establish an earlier deadline with regard to the rejection of particular Executory Contracts, any Claims arising out of the rejection of Executory Contracts must be filed with the Bankruptcy Court and served

upon Debtor no later than thirty days after entry of the Confirmation Order. Any Claims not filed within such time will be forever barred and will not receive any distributions under the Third Amended Plan. All Claims arising from the rejection of an Executory Contract shall be treated in Class 2.

XIV. EXEMPTION FROM TRANSFER TAXES

Pursuant to Section 1146(a) of the Bankruptcy Code, the issuance, transfer, or exchange of any security under the Third Amended Plan, or the making, delivery, or recording of an instrument of transfer in connection with (a) the sale of the CUs and Unit 505 and (b) financing, if any, extended by the Proposed Purchaser in connection with the acquisition of the CUs and Unit 505, shall not be taxed under any law imposing a stamp or similar tax, including but not limited to any documentary stamp taxes or intangible taxes, whether on any deed, leasehold, assignment, promissory note, security agreement or mortgage.

XV. RETENTION OF JURISDICTION

The Bankruptcy Court even after the case has been closed, shall have jurisdiction to the fullest extent of the law over all matters arising under, arising in, or relating to Debtor's chapter 11 cases, including proceedings to:

(a) ensure that the Third Amended Plan is carried out;

(b) enter such orders as may be necessary or appropriate to implement, consummate, or enforce the provisions of the Third Amended Plan and all contracts, instruments, releases, indentures and other agreements or documents created in connection with the Third Amended Plan or the Third Amended Disclosure Statement;

(c) consider any modification of the Third Amended Plan under Section 1127 of the Bankruptcy Code;

(d) hear and determine all Claims, controversies, suits and disputes against Debtor to the extent permitted under 28 U.S.C. § 1334;

(e) allow, disallow, determine, liquidate, classify, estimate, or establish the priority or secured or unsecured status of any Claim, including the resolution of any and all objections to the allowance or priority of Claims;

(f) hear, determine, and adjudicate any litigation involving the Avoidance Actions or other claims or causes of action constituting Estate Property;

(g) decide or resolve any motions, adversary proceedings, contested or litigated matters and any other matters and grant or deny any applications involving Debtor that may be pending on or commenced after the Effective Date;

(h) resolve any cases, controversies, suits, or disputes that may arise in connection with the consummation, interpretation, or enforcement of the Third Amended Plan, or any entity's obligations incurred in connection with the Third Amended Plan, or any other agreements governing, instruments evidencing, or documents relating to any of the foregoing, including the interpretation or enforcement of any rights, remedies, or obligations under any of the foregoing;

(i) hear and determine all controversies, suits, and disputes that may arise out of or in connection with the enforcement of any and all subordination and similar agreements among various creditors pursuant to Section 510 of the Bankruptcy Code;

(j) hear and determine all requests for compensation and/or reimbursement of expenses that may be made for fees and expenses incurred before the Effective Date;

(k) enforce any Final Order, the Confirmation Order, the final decree, and all injunctions contained in those orders;

(l) enter an order concluding and terminating this case;

(m) correct any defect, cure any omission, or reconcile any inconsistency in the Third Amended Plan or the Confirmation Order;

(n) determine all questions and disputes regarding title to the Estate Property and any other assets of Debtor;

(o) classify the Claims of any Claim holders and the treatment of these Claims under the Third Amended Plan, to re-examine Claims that may have been allowed for purposes of voting, and to determine objections that may be filed to any Claims;

(p) take any action described in the Third Amended Plan involving the post-confirmation Debtor;

(q) enter a final decree in Debtor's case as contemplated by Bankruptcy Rule 3022;

(r) enforce, by injunction or otherwise, the provisions set forth in the Third Amended Plan, the Confirmation Order, any final decree, and any Final Order that provides for the adjudication of any issue by the Bankruptcy Court; and

(s) enter and implement such orders as are necessary or appropriate if the Confirmation Order is for any reason modified, stayed, reversed, revoked, or vacated.

If the Bankruptcy Court abstains or exercises discretion not to hear any matter within the scope of its jurisdiction, nothing in the Third Amended Plan shall prohibit or limit the exercise of jurisdiction by any other tribunal of competent jurisdiction.

XVI. TAX ANALYSIS

THE FOLLOWING DISCUSSION IS A SUMMARY OF CERTAIN MATERIAL FEDERAL INCOME TAX CONSEQUENCES OF THE THIRD AMENDED PLAN TO HOLDERS OF CLAIMS AGAINST THE DEBTOR, BUT IS NOT A COMPLETE DISCUSSION OF ALL SUCH CONSEQUENCES. CERTAIN OF THE CONSEQUENCES DESCRIBED BELOW ARE SUBJECT TO SUBSTANTIAL UNCERTAINTY DUE TO THE UNSETTLED STATE OF THE TAX LAW GOVERNING BANKRUPTCY REORGANIZATIONS. NO RULINGS HAVE BEEN OR WILL BE REQUESTED FROM THE INTERNAL REVENUE SERVICE (THE "IRS") WITH RESPECT TO ANY OF THE TAX ASPECTS OF THE THIRD AMENDED PLAN. FURTHER, THE TAX CONSEQUENCES OF THE THIRD AMENDED PLAN TO THE HOLDERS OF CLAIMS AGAINST THE DEBTOR MAY VARY BASED UPON THE INDIVIDUAL CIRCUMSTANCES OF EACH HOLDER. IN ADDITION, THERE MAY BE STATE, LOCAL, FOREIGN AND OTHER TAX CONSEQUENCES OF THE

THIRD AMENDED PLAN APPLICABLE TO PARTICULAR HOLDERS OF CLAIMS OR INTERESTS, NONE OF WHICH ARE DISCUSSED BELOW. THEREFORE, THE FOLLOWING SUMMARY IS NOT A SUBSTITUTE FOR CAREFUL TAX THIRD AMENDED PLANNING AND ADVICE BASED UPON THE INDIVIDUAL CIRCUMSTANCES OF EACH HOLDER OF A CLAIM, AND YOU ARE URGED TO CONSULT WITH YOUR OWN TAX ADVISORS CONCERNING THE INDIVIDUAL TAX CONSEQUENCES OF THE TRANSACTIONS CONTEMPLATED BY THE THIRD AMENDED PLAN, INCLUDING STATE, LOCAL AND FOREIGN TAX CONSEQUENCES.

A portion of the consideration received pursuant to the Third Amended Plan in payment of a Claim may be allocated to unpaid interest, and the remainder of the consideration will be allocated to the principal amount of the Claim. The tax consequences of the consideration allocable to the portion of a Claim related to interest differ from the tax consequences of the consideration allocable to the portion of a Claim related to principal.

Holders of claims will recognize ordinary income to the extent that any consideration received pursuant to the Third Amended Plan is allocable to interest, and such income has not already been included in such Creditor's taxable income. The determination as to what portion of the consideration received will be allocated to interest is unclear, and may be affected by, among other things, rules in the Internal Revenue Code (the "Tax Code") relating to original issue discount and accrued market discount. Holders of claims should consult their own tax advisors as to the amount of any consideration received under the Third Amended Plan that will be allocated to interest. If amounts allocable to interest are less than amounts previously included in the Creditor's taxable income, the difference will result in a loss. Any amount not

allocable to interest will be allocated to the principal amount of the Claim paid pursuant to the Third Amended Plan, and will be treated as discussed herein.

Creditors receiving Cash generally will recognize gain or loss on the exchange equal to the difference between its basis in the Claim and the amount of Cash received that is not allocable to interest. The character of any recognized gain or loss will depend upon the status of the Creditor, the nature of the Claim in its hands and the holding period of such Claim. If a Creditor has treated a Claim as wholly or partially worthless and been allowed a bad debt deduction, the Creditor will include the amount of Cash received in income to the extent such Cash exceeds the Creditor's remaining tax basis in the Claim.

Creditors may be entitled to installment sales treatment or other deferral with respect to the distribution they receive subsequent to the Effective Date. Creditors may already have claimed partial bad debt deductions with respect to their claims. The IRS may take the position that holders of Allowed claims cannot claim an otherwise allowable further loss in the year in which their Claim is allowed because they could receive further distributions. Thus, a Creditor could be prevented from recognizing a loss until the time when its Claim has been liquidated and distributions have been completed. If a Creditor is permitted to recognize a loss in the year of the Effective Date by treating the transaction as a "closed transaction" at such time, it may recognize income on any subsequent distribution.

In making distributions pursuant to the Third Amended Plan, the Debtor will comply with all withholding and reporting requirements imposed by federal, state or local taxing authorities. All distributions pursuant to the Third Amended Plan will be subject to all applicable withholding and reporting requirements.

XVII. GENERAL PROVISIONS

A. Notices. Whenever the Third Amended Plan requires notice to be given to Debtor or Disbursing Agent, such notice shall be given to the following parties at their respective addresses unless a prior notice of change of address has been served indicating a new address:

Debtor or Post-Confirmation Debtor:

Messana, P.A.
Attn: Brett D. Lieberman, Esq.
P.O. Box 2485
Fort Lauderdale, Florida 33303 -2485
Facsimile: (954) 712-7401
E-mail: blieberman@messana-law.com

B. Dates. The provisions of Bankruptcy Rule 9006 shall govern the calculation of any dates or deadlines referenced in the Third Amended Plan.

C. Further Action. Nothing contained in the Third Amended Plan shall prevent Debtor from taking such actions as may be necessary to consummate the Third Amended Plan, even though such actions may not specifically be provided for within the Third Amended Plan.

D. Attachments. All attachments to the Third Amended Plan are incorporated herein by reference and are intended to be an integral part of this document as though fully set forth in the Third Amended Plan. All exhibits to the Third Amended Plan and Final Purchase and Sale Agreement shall be filed with the Bankruptcy Court no later than ten (10) days before the Confirmation Date.

E. Third Amended Plan Amendments. Before the Confirmation Date, Debtor may modify, amend or withdraw the Third Amended Plan pursuant to section 1127(a) of the Bankruptcy Code. After the Confirmation Date, Debtor may modify or amend the Third Amended Plan pursuant to section 1127(b) of the Bankruptcy Code.

F. Binding Effect. Upon occurrence of the Effective Date, the Third Amended Plan shall be binding on, and inure to the benefit of, Debtor, the Proposed Purchaser, the Claim holders and Interest holders, and their respective successors and assigns, regardless of whether those parties voted to accept the Third Amended Plan.

G. Governing Law. Except to the extent that the Bankruptcy Code or Bankruptcy Rules are applicable, the rights and obligations arising under the Third Amended Plan shall be governed by, and construed and enforced in accordance with, the laws of the State of Florida, without giving effect to any conflicts of law principles.

XVIII. RISK FACTORS

In deciding whether to accept or reject Debtor's Third Amended Plan, a creditor or other claimant should consider risk factors. Each creditor or other claimant should consult its own counsel and financial advisors regarding risk factors. There are a number of conditions to performance under the Third Amended Plan, including: the satisfaction of the Minimum Participation Requirement and Closing of the Sale. Presently, approximately 56 RUOs have executed the KFI Offer. It is expected that most of the RUOs will continue to support the KFI Offer.

The critical risk factor is that the Adversary Proceeding will result in a determination that the amount required to pay the HUO claims and liens against all units subject to the KFI Offer exceeds $4,100,000. Debtor views this risk as remote.

Other risk factors include the Bankruptcy Court denying the New Sale Motion or granting the Renewed Motion to Dismiss.

Debtor believes that the Bankruptcy Court will grant the New Sale Motion, approve the KFI Offer as the highest and best and the Holdings Offer as the back-up buyer and will deny the

Renewed Motion to Dismiss.

Also an order must by entered by the Bankruptcy Court confirming this Third Amended Plan. Assuming that the New Sale Motion is approved, Debtor anticipates that the Third Amended Plan will be confirmed.

Debtor cannot guarantee that each of these conditions will be satisfied or waived.

XIX. ALTERNATIVES TO CONFIRMATION

If this Case were converted to Chapter 7 liquidation, Debtor believes there would be no funds available for distribution to Debtor's Unsecured Creditors and that the value of its real property would be significantly diminished. Under Chapter 7 liquidation, a bankruptcy trustee would be appointed to take possession and title of Debtor's property. While the Chapter 7 trustee can obtain permission to operate a business for a short period of time while the business is being liquidated, continued operation of the Debtor is unlikely. Rather, the Chapter 7 trustee would likely either (i) propose an auction sale of Debtor's limited assets or (ii) abandon same to the secured creditors. Because the increased value of the Debtor's property results from the Bulk Sale proposal, unless the Chapter 7 trustee also negotiated a bulk sale, unsecured creditors would likely receive no distribution. The appointment of a Chapter 7 trustee would further burden the estate and its creditors with additional administrative expenses above and beyond those administrative claims that have already been incurred.

A further alternative to confirmation would be stay relief for Debtor's secured creditors. In that instance, the secured creditors would likely obtain stay relief and proceed to foreclose upon its collateral. This would likely leave no recovery for Debtor's estate or Debtor's other Creditors.

XX. RECOMMENDATION

Debtor believes that the Third Amended Plan is in the best interest of all Creditors and constituencies and provides a recovery, where there otherwise might be no recovery. Therefore, Debtor recommends Creditors and Interest Holders vote to accept the Third Amended Plan.

XXI. DISCLAIMERS

THE STATEMENTS CONTAINED IN THIS THIRD AMENDED DISCLOSURE STATEMENT ARE MADE AS OF THE DATE HEREOF, AND UNLESS ANOTHER TIME IS SPECIFIED HEREIN, NEITHER THE DELIVERY OF THIS THIRD AMENDED DISCLOSURE STATEMENT NOR AN EXCHANGE OF RIGHTS MADE IN CONNECTION HEREWITH, SHALL UNDER ANY CIRCUMSTANCE, CREATE AN IMPLICATION THAT THERE HAS BEEN NO CHANGE IN THE FACTS SET FORTH HEREIN SINCE THE DATE HEREOF.

ANY BENEFITS OFFERED TO THE HOLDERS OF CLAIMS OR INTERESTS, IN ACCORDANCE WITH THE THIRD AMENDED PLAN, WHICH MAY CONSTITUTE SECURITIES, HAVE NOT BEEN APPROVED OR DISAPPROVED BY THE SECURITIES AND EXCHANGE COMMISSION (THE "COMMISSION"), OR BY ANY RELEVANT GOVERNMENT AUTHORITY OF ANY STATE OF THE UNITED STATES. NEITHER THE COMMISSION, NOR ANY SUCH STATE AUTHORITY, HAVE PASSED UPON THE ACCURACY OF THIS THIRD AMENDED DISCLOSURE STATEMENT OR THE MERITS OF THE THIRD AMENDED PLAN.

NO REPRESENTATIONS CONCERNING DEBTOR, THE VALUE OF ITS PROPERTY, OR THE VALUE OF ANY BENEFITS OFFERED TO HOLDERS OF CLAIMS OR INTERESTS IN CONNECTION WITH THE THIRD AMENDED PLAN,

ARE AUTHORIZED BY DEBTOR, OTHER THAN AS SET FORTH IN THIS THIRD AMENDED DISCLOSURE STATEMENT. ANY REPRESENTATIONS OR INDUCEMENTS MADE TO SECURE ACCEPTANCES WHICH ARE CONTRARY TO THE INFORMATION CONTAINED IN THIS THIRD AMENDED DISCLOSURE STATEMENT SHOULD NOT BE RELIED ON BY YOU IN ARRIVING AT ITS DECISION. ANY SUCH ADDITIONAL REPRESENTATIONS OR INDUCEMENTS SHOULD BE REPORTED TO COUNSEL FOR DEBTOR, BRETT D. LIEBERMAN, ESQ., MESSANA, P.A., P.O. DRAWER 2485, FT. LAUDERDALE, FL 33303. THE INFORMATION CONTAINED HEREIN HAS NOT BEEN SUBJECTED TO A CERTIFIED AUDIT. WHILE DEBTOR'S REAL ESTATE HAS BEEN APPRAISED, OPINIONS OF VALUE MAY DIFFER AND CIRCUMSTANCES MAY CHANGE.

THIS THIRD AMENDED DISCLOSURE STATEMENT HAS NOT BEEN APPROVED BY THE BANKRUPTCY COURT. THE APPROVAL OF THE BANKRUPTCY COURT OF THIS THIRD AMENDED DISCLOSURE STATEMENT DOES NOT CONSTITUTE AN ENDORSEMENT BY THE COURT OF THE THIRD AMENDED PLAN, OR A GUARANTEE OF THE ACCURACY OR COMPLETENESS OF THE INFORMATION CONTAINED HEREIN.

[SIGNATURE PAGE TO FOLLOW]

DATED: November 15, 2017

In re: Sixty Sixty Condominium Association, Inc.

By: _____
Name: Maria Velez
Its: President

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By: /s/ Brett D. Lieberman
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