

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

IN THE MATTER OF: ) Chapter 11  
)  
**ATHANAS FENCE CO., INC.,** ) Case No. 17-03883  
)  
Debtor-In-Possession ) Judge Timothy A. Barnes

**PROPOSED DISCLOSURE STATEMENT**

On February 10, 2017 (the “Petition Date”), ATHANAS FENCE CO., INC., (the “Debtor”) filed its voluntary petition for relief under chapter 11 of the Bankruptcy Code in the Bankruptcy Court for the Northern District of Illinois. This Proposed Disclosure Statement (the “Disclosure Statement”) is being provided by the Debtor pursuant to Section 1125 of the Bankruptcy Code in connection with the solicitation of votes for the acceptance or rejection of the Debtor’s Amended Plan of Reorganization (the “Plan”) filed August 14, 2017.

**I. SUMMARY**

This Disclosure Statement is intended to provide creditors with information of a kind and in sufficient detail of the Debtor’s history and of the condition of the Debtor’s books and records to allow creditors to make an informed judgment when voting on the Plan. Monthly payments will be made to both secured and unsecured creditors over the course of the Plan. Creditors are advised that, after review, the Court may approve the Disclosure Statement, but such approval does not constitute endorsement.

**PLAN DISTRIBUTION ANALYSIS**

Class	Total Claims \$	Recovery \$	Recovery %
Administrative Claims	\$30,000	\$30,000	100%

Class I – Secured Claims	\$60,139.00	\$60,139.00	100%
Class II – Priority Claims	\$28,923.66	\$28,923.66	100%
Class III – General Unsecured Claims	\$398,000.00	\$119,400.00	30%
Class IV – Equity Holders	Unknown	0.00 – stock canceled	0%
TOTAL	\$517,062.66	\$238,462.66	-

Please see “ C. Summary, Classification, and Treatment of Allowed Claims and Interests” below to indicate what payments you may be receiving from the Debtor on a quarterly basis.

All payments to all Classes under the Plan will be made by Richard Latarte, the President of the Debtor.

A. Treatment of Claims and Interests

The Plan divides all Claims against the Debtor into various Classes. The Table set forth below summarizes the Classes of Claims and Interests under the Plan, the treatment of Claims and Interests, and projected recovery for Holders of Allowed Claims and Interests in such Classes and the entitlement of Holders of Claims and Interests in such Classes to vote to accept or reject the Plan.

B. Summary and Treatment of the Allowed Administrative Claims

<b>Claim</b>	<b>Proposed Treatment by Plan</b>	<b>Projected Recovery Under the Plan</b>
Fees owed to the United States Trustee	Payment in full in cash by Confirmation.	100%
Fees owed to Court Appointed professionals	Payment in full in cash after entry of appropriate Court Order.	100%

C. Summary, Classification, and Treatment of Allowed Claims and Interests

<b>Class</b>	<b>Claim(s) Included in Class</b>	<b>Proposed Treatment of Class by Plan</b>	<b>Estimated Class \$ Size</b>	<b>Projected Recovery</b>	<b>Status</b>	<b>Voting Rights</b>
I	Secured Claims held by JPMorgan Chase Bank, N.A.	Retain all rights	\$60,139.00 with monthly payments of \$1,661.51	100%	Unimpaired	No (presumed to accept)
II	Allowed Unsecured Claims entitled to Priority	Payment in full from operation of business during months 1-60	\$28,923.66 with 20 quarterly payments of \$1,446.18 commencing 30 days after termination of the appeal period of an Order of Confirmation	100%	Unimpaired	No (presumed to accept)
III	Allowed General Non-Insider Unsecured Claims	30% pro rata distribution paid semi-annually from operation of business during months 1-60.	\$119,400.00 with 10 semi-annual payments of \$11,940.00 commencing the later of Dec. 15, 2017 or 30 days after termination of the appeal period of an Order of Confirmation	30%	Impaired	Yes
IV	Equity Security Holders (Shareholders) of the Debtor	Old stock canceled and new stock issued	\$0.00	James Jeffrey Athanas is contributing "new value" in the amount of \$5,000.00 to allow him to retain his interest in the Debtor.	Impaired	Yes

The allowance, classification, and treatment of all Allowed Claims and Interests and the respective distributions and treatments under the Plan take into account and conform to the relative priority and rights of the Claims and Interests in each Class in connection with any contractual, legal, and equitable subordination rights relating thereto. The Debtor is proposing a Five Year Plan, in which the Debtor is the disbursing agent. The Plan will be funded from the income derived from the Debtor's employment.

Creditors who have been listed on Debtor's schedules, but have not filed proofs of claim, and have not been listed as "disputed, unliquidated, or contingent," will be paid according to the claim amount listed in the Debtor's schedules.

## **II. FINANCIAL DIFFICULTIES AND BACKGROUND OF DEBTOR**

### **A. History of the Debtor**

Athanas Fence was started as a sole proprietorship on March 1, 1999. The owner, James Jeffrey Athanas started off just doing repairs and working as a sub contractor in the fencing industry. He used a van and post hole diggers and the necessary equipment needed to install and repair fences.

After he was doing this he realized he wanted to stay with it and make it a profession. His Mother supplied him the capital to purchase a dump truck, power digger and other equipment necessary to operate a fencing company. The Debtor employed an accountant, established a proper Federal Tax ID number and was off to the races.

In the first year of operations, 1999, the business made approximately \$20,000.00. The Debtor initially operated out of his mother's house as he was living at

home during this period. The following year the Debtor hired a full time laborer, and started to advertise in the local Pioneer Press newspaper. This generated new business for the Debtor and the company started to grow.

Once the Debtor was getting established the Debtor rented a yard for his material, equipment and vehicles. The Debtors business plan was working and sales grew resulting in sales of approximately \$90,000.00 in 2001. In the upcoming years the Debtor started advertising, rented office space and hired sub contractors to install the fence and cut back on the insurance, taxes etc. Sales were reaching the \$350,000.00 level and everything was moving in the right direction by 2005.

That same year the owner of the Debtor had a major health scare as his doctor found malignant tumor on his kidney. Mr. Athanas had to remove the kidney and tumor but was fortunate as he didn't require any chemotherapy or radiation treatment. Once the operation was completed he decided that he needed assistance and in 2006 hired his old boss Steve Dorsey who Mr. Athanas worked for in the 80's and 90's. He became the Debtors production manager which took pressure of Mr. Athanas as the business operations were getting to big for just one person.

The recession hit in 2006 or 2007 and the Debtor's business started to decline. Work suffered as the economy tanked. The Debtor had high overhead in the rental space for office, yard for material, vehicle expenses, office help, insurances etc. Starting in 2007 sales dropped dramatically from \$500,000.00 to approximately \$300,000.00. The Debtor had to lay off his supervisor Steve Dorsey and cut back on all of his expenses. The Debtors shareholder James Jeffrey Athanas started to partially fund the business operations by utilizing his personal funds, credit cards and IRA

distributions.

Eventually the economy started to recover so did the income of the Debtor. At this point the Debtor decided to incorporate. Accordingly the Debtor moved from a sole proprietor to a corporation on October 22, 2010 to protect the assets of the Debtor and the shareholder. The Debtor is in good standing with the Illinois Secretary of State at the current time.

The business started to get back on its feet and all was good with the Debtor making \$400,000.00 a year again. The Debtors numbers grew upward from 400K to - 975K at the peak. However a new problem was just over the horizon.

The Debtor had hired new employees and accountants to help him manage the business. The profit and loss statements that were being prepared were in accurate and misleading. Eventually the Debtor discovered that he was the victim of an embezzlement. He could never find out who actually committed the embezzlement but the company was in financial difficulty again. Taxes were not being paid on a timely basis. The Debtors largest vendor, Eagle Fence, was also owed a large amount of money which couldn't be paid. Eagle Fence filed a lawsuit to collect the amounts owing to it which partially led to the filing of this Chapter 11.

#### B. Notable Assets of the Debtor.

The following is a summary of the Debtor's assets as of July 31, 2017:

- Fencing Materials - \$5,000.00
- Office furniture - \$750.00
- Accounts Receivable – \$6,809.50

- Computers and accessories, copier and fax machine, forklift - \$3,000.00
- Operating Accounts – As of the Petition Date the Debtor held one depository account with an aggregate value of \$1,600.00. There is currently on hand \$5,135.25.
- Vehicles - \$3,000.00
- Intellectual Property Rights – No value
- Contingent Claims – None.
- Operating Reports – A summary of Debtor’s operating reports for the past six months is attached as **Exhibit A**.

C. Management of the Debtor.

The Debtor currently has the following officers and directors:

James Jeffrey Athanas – President, Sec.-Tres., Director – Sole shareholder

D. Employment and Retention of Advisors.

Prior to filing its voluntary chapter 11 petition, the Debtor retained certain professionals to assist it in carrying out its duties as debtor in possession and to otherwise represent its interest in the chapter 11 cases. These Professionals included Cohen & Krol as counsel for the Debtor. On March 14, 2017 the Bankruptcy Court entered an order approving representation by Cohen & Krol.

E. Exclusivity.

Section 1121(b) of the Bankruptcy Code establishes an initial period of 120 days after the Bankruptcy Court enters an order for relief under chapter 11 of the Bankruptcy Code during which only the debtor may file a plan. If the debtor files a plan within such 120 day period, section 1121(c)(3) of the Bankruptcy Code extends the exclusivity

period by an additional 60 days to permit the debtor to seek acceptances of such plan. Section 1121(d) of the Bankruptcy Code also permits a bankruptcy court to extend these exclusivity periods “for cause.”

#### F. Post Petition Activities.

No parties in interest have objected to the Debtor’s use of cash collateral.

- Utilities - Debtor is current in its payment of electric, gas, water, and phone.
- Insurance - Debtor is current in its payment of insurance.
- Taxes - Debtor is current with respect to the filing of both State and Federal tax returns.
- Accounting Services – The Debtor has a need of professional accounting services. A motion to employ ant has already been granted.
- Adversary Proceedings - The Debtor is not a party to any adversary proceedings.

#### G. Claims and Bar Dates.

##### G.1. Bar Dates.

On February 10, 2017 the Debtor filed its voluntary petition under Chapter 11 of the Bankruptcy Code. The schedules of assets and liabilities, and statement of financial affairs (collectively, the “Schedules”) were filed on February 21, 2017 with the Bankruptcy Court. Interested parties may review the Schedules or any other documents at the office of the Clerk of the United States Bankruptcy Court for the Northern District of Illinois, Eastern Division, 219 S. Dearborn St., Chicago, Illinois.

On June 7, 2017 the Bankruptcy Court entered an order pursuant to Bankruptcy Rule 3003(c)(3) setting (a) August 7, 2017 as the date by which all Entities (except Governmental Units) are required to file Proofs of Claim for prepetition Claims; and (b)



August 10, 2017 as the date by which Governmental Units are required to file Proofs of Claim for prepetition Claims. In accordance with the Bar Date Order, written notice of the various Bar Dates was mailed to all holders of Claims listed on Debtor's Schedules.

G.2. Claims.

The Debtor estimates that, at the conclusion of the Claims objections, reconciliation, and resolution process, the aggregate amount of Allowed Claims will be as follows: 1) Allowed Administrative Claims in the approximate total amount of \$30,000.00; 2) Allowed Secured Claims in the approximate total amount of \$60,139.00; 3) Allowed Unsecured Claims entitled to Priority in the approximate total amount of \$28,923.66 4) Allowed General Unsecured Claims who are not insiders in the total approximate amount of \$398,000.00.

G.3. Objections to Claims.

The Debtor shall have the right to object to late claims for 90 days after confirmation of the Plan if the claim was filed after August 7, 2017, or if a Proof of Claim is filed after an Order of Confirmation is entered by the Court then for 90 days after the filing of the Proof of Claim

**III. SUMMARY OF THE PLAN**

This section provides a summary of the structure and means for implementation of the Plan and the classifications and treatment of Claims and Interests under the Plan, and is qualified in its entirety by reference to the Plan. The purpose of the Plan is to fairly and expeditiously provide distributions to the holders of Allowed Claims during the reorganization of the Debtor.

A. Overview of chapter 11.

Chapter 11 is the principal business reorganization chapter of the Bankruptcy Code. Under chapter 11, a debtor can reorganize (i.e. restructure its debts) or wind-down its business for the benefit of itself and holders of claims against and interests in the debtor. Chapter 11 also is designed to promote equality of treatment for similarly situated holders of claims against the debtor and similarly situated holders of interests in the debtor with respect to the distribution of the debtor's assets. The commencement of a chapter 11 case creates an estate that is comprised of all of the legal and equitable interests of the debtor as of the filing date. The Bankruptcy Code provides that the debtor may continue to operate its business and remain in possession of its property as a "debtor in possession."

The consummation of a chapter 11 plan is the principal means available to the Debtor to achieve its objective, namely a successful reorganization. A chapter 11 plan sets forth the means for satisfying claims against, and interests in, a debtor. Confirmation of a chapter 11 plan by a bankruptcy court makes the plan binding upon the debtor, any person or entity acquiring property under the plan and any holder of claims against or interests in the debtor, whether or not such holder of claims or interests (1) is impaired under or has accepted the plan or (2) receives or retains any property under the plan. Subject to certain limited exceptions and other than as provided in the plan itself or the confirmation order, a confirmation order discharges a corporate debtor from any debt that arose prior to the date of confirmation of the plan and substitutes therewith the obligations specified under the confirmed plan.

A chapter 11 plan may specify that the legal, contractual, and equitable rights of the holders of claims or interests in certain classes are to remain unaltered by

provisions of the plan. Such classes are referred to as “unimpaired” and, because of such favorable treatment, are deemed to accept the plan. Accordingly, the Debtor needs not solicit votes from the Holders of Claims or Interests in such classes. A chapter 11 plan also may specify that certain classes will not receive any distribution of property or retain any claim against a debtor. Such classes are deemed to be impaired and will be solicited to vote to accept or reject the Plan. Any classes that are receiving a distribution of property under the plan but are not “unimpaired” will be solicited to vote to accept or reject the Plan.

Section 1123 of the Bankruptcy Code provides that a chapter 11 plan shall classify claims against and interests in the debtor. In compliance therewith, the Plan divides Claims and Interests into various Classes and sets forth the treatment for each Class. The Debtor also is required, as discussed above, under section 1122 of the Bankruptcy Code, to classify Claims and Interests into Classes that contain Claims and Interests that are substantially similar to the other Claims and Interests in such Classes. The Debtor believes that the Plan has classified all Claims and Interests in compliance with the provisions of section 1122 of the Bankruptcy Code, but it is possible that a Holder of a Claim or Interest may challenge the classification of Claims and Interests and that the Bankruptcy Court may find that a different classification is required for the Plan to be confirmed. In such event, the Debtor intends, to the extent permitted by the Bankruptcy Court and the Plan, to make such reasonable modifications of the classifications under the Plan to permit Confirmation and to use the Plan acceptances received in this solicitation for the purpose of obtaining the approval of the reconstituted Class or Classes of which the accepting Holder is ultimately deemed to

be a member. Any such reclassification could adversely affect the Class in which such Holder was initially a member, or any other Class under the Plan, by changing the composition of such Class and the vote required of that Class for approval of the Plan.

B. Administrative Claims.

In full satisfaction, settlement, release, and discharge of and in exchange for each Allowed Administrative Claim, each Holder thereof shall be paid in full in Cash (a) on the Effective Date or as soon as reasonably practicable thereafter, (b) if such Claim is Allowed after the Effective Date, on or as soon as reasonably practicable after such Claim is Allowed, or (c) upon such other terms as may be agreed upon by such Holder of the Claim. Administrative Claims include those held by court appointed professionals including Cohen & Krol and any court appointed accountant; and statutory fees owed to the Office of the United States Trustee for chapter 11 monitoring during the pendency of the chapter 11 case.

C. Classification and Treatment of Claims and Equity Interests.

Except for Administrative Claims, the Plan divides all Claims and Interests in the Debtor into various Classes. A Claim or Interest is classified in a particular Class only to the extent that the Claim or Interest qualifies within the description of that Class and is classified in other Classes to the extent that any portion of the Claim or Interest qualifies within the description of such other Classes. A Claim or Interest is also classified in a particular Class for the purpose of receiving distributions pursuant to the Plan only to the extent that such Claim or Interest is an Allowed Claim or Interest in that Class and has not been paid, released, or otherwise satisfied prior to the Effective Date. All

payments and other distributions herein are to be made by the Debtor from funds generated through the ordinary course of business.

C.1. Class I – Allowed Secured Claims

Allowed Class I Claims include the Allowed Secured Claims of JPMorgan Chase Bank, N.A. in the amount of \$60,139.00. The claim of JPMorgan Chase Bank, N.A. is secured by a blanket lien on all of the personal property owned by the Debtor. This creditor didn't file a proof of claim.

Windset Capital Corporation filed a secured claim in the amount of \$ 59,949.07. This claim may be treated as unsecured depending on the value of the collateral securing the debt. Windset Capital Corporation holds a second position on the personal property of the Debtor.

Class I is unimpaired and a creditor with a Class I claim is not entitled to vote on Debtor's Plan.

C.2. Class II – Allowed Unsecured Claims Entitled to Priority by the Bankruptcy Code.

Allowed Class II Claims include the General Unsecured Claims entitled to Priority under the Bankruptcy Code. The Internal Revenue Service, the Ill. Dept. of Employment Security and the Illinois Department of Revenue have filed claims seeking payment of priority debts in the total amount of \$28,923.66. Any holders of Allowed General Unsecured Claims entitled to Priority will be paid 100% of their claim. Class II is an unimpaired class and not entitled to vote upon Debtor's plan as it is presumed to accept Debtor's Plan.

C.3. Class III – Allowed non-Insider General Unsecured Claims.

Allowed Class III Claims include the non-Insider General Unsecured Claims. The Debtor estimates there to be approximately \$389,000.00 in non-insider General Unsecured Claims. The holders of Class III Claims will be paid 30% of their claim over the course of the Plan. Payments are to be made semi-annually per the attached Exhibit B commencing the later of December 15, 2017 or thirty days after the appeal period has expired on the Order Confirming Plan. Class III is impaired and a creditor with a Class III claim is entitled to vote on the Debtor's Plan.

C.4. Class IV – Equity Interests

Class IV Claims shall include the Equity Security Holders (Shareholders) of the Debtor. At the present time there is only one shareholder of the Debtor. James Jeffrey Athanas, the sole shareholder of the Debtor is requesting 100% ownership of the reorganized Debtor. James Jeffrey Athanas is proposing to contribute "new value" in the amount of \$5,000.00 to allow him to retain his interest in the Debtor.

**AN AUCTION WILL BE HELD AT THE SAME TIME AND PLACE OF THE HEARING ON CONFIRMATION TO DETERMINE IF ANY OTHER PARTY IS INTERESTED IN PROVIDING "NEW VALUE" TO PURCHASE THE STOCK OF THE REORGANIZED DEBTOR. THE INITIAL OFFER IS \$5,000.00 BY JAMES JEFFREY ATHANAS AND ADDITIONAL BIDS WILL BE IN INCREMENTS OF \$1,000.00. ALL BIDS WILL REQUIRE A DEPOSIT OF \$5,000.00. ONCE THE SALE IS COMPLETED THE "OLD STOCK" OF THE DEBTOR WILL BE CANCELLED AND FORFEITED AND NEW STOCK IN THE REORGANIZED DEBTOR WILL BE ISSUED.** This Class is impaired under the plan and a creditor with a Class IV claim is entitled to vote on the Debtor's Plan.

The following list contains non-insider creditors who filed proofs of claim as general unsecured creditors not entitled to priority, creditors whose claims have been reclassified as unsecured, and creditors who hold a scheduled claim. The Debtor's intended treatment of each proof of claim is set forth in the far right column. If a creditor did not file a proof of claim, and if the creditor is listed in Debtor's Schedule F as holding an unsecured nonpriority claim not designated as "contingent, unliquidated, or disputed," then that claim will be deemed allowed and will receive treatment as a general unsecured creditor.

<b>Claimant</b>	<b>Proof of Claim No.</b>	<b>Amount of Claim</b>	<b>Debtor's Intent</b>
Illinois Department of Revenue	7-1	3,122.05	No Objection
Illinois Department of Employment Security	6-1	4,366.32	No Objection
Internal Revenue Service	1-3	4,902.47	No Objection
AT&T		845.00	No Objection
Chase -9846		6,040.09	No Objection
Chase-8637		11,664.61	No Objection
Chase Merchant Services		19,000.00	No Objection
Citi Business		29,280.44	No Objection
DexMedia		1,866.00	No Objection
Do It Best Corp		1,538.32	No Objection
Eagle Fence Distributing, LLC	9-1	204,500.28	No Objection
Exxon Mobil		3,065.40	No Objection
Hibu Inc.- West		90.79	No Objection
Ila Lemonis	8-1	9,641.00	No Objection
Pekin Insurance	5-1	36,879.03	No Objection
RSV Partners, LLC	4-1	2,960.00	No Objection
State Farm		4,221.21	No Objection
Windset Capital Corporation	3-1	59,949.07	Possible

			Objection
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D. Means for Implementation of the Plan.

D.1. Income Generated from Operation of the Debtor

The Debtor will continue its business operations to fund the payments under the Plan of Reorganization. The Debtor expects income to grow from year 2017 through 2021. Projections are attached hereto as **Exhibit B**.

E. Treatment of Executory Contracts and Unexpired Leases.

E.1. Assumption and Assignment Generally.

Except as otherwise provided in the Plan or in any contract, instrument, release or other agreement or document entered into in connection with the Plan, on the Effective Date, pursuant to Section 365 of the Bankruptcy Code, the Debtor will assume each of the Executory Contracts and Unexpired Leases listed in Article X of the Plan. Each contract and lease listed in Article X of the Plan will be assumed only to the extent that any such contract or lease constitutes an Executory Contract or Unexpired Lease. Listing a contract or lease in Article X of the Plan does not constitute an admission by the Debtor that such contract or lease is an Executory Contract or Unexpired Lease or that the Debtor has any liability thereunder. The Debtor will file a motion to assume or reject any executory contract and will give proper notice to all parties. This motion shall be set on the same date as the Hearing of Confirmation of this Plan.

E.2. Approval of Assumptions and Assignments.

Each Executory Contract and Unexpired Lease that is assumed will vest in, and be fully enforceable by, the reorganized Debtor in accordance with its terms, except as



may be modified by the provisions of the Plan, any order of the Bankruptcy Court authorizing or providing for its assumption, or applicable law.

F. Procedures for Resolving Disputed Claims and Interests.

F.1. Allowance of Claims and Interests.

After the Effective Date, except as released herein or by Bankruptcy Court Order, the reorganized Debtor shall have and retain any and all rights and defenses that the Debtor had with respect to any Claims and Interests immediately prior to the Effective Date.

F.2. Claims and Interests Administration Responsibilities.

Except as otherwise specifically provided in the Plan, after the Effective Date, the reorganized Debtor shall have the authority: (a) to file, withdraw, or litigate to judgment any objections to Claims or Interests; and (b) to settle or compromise any Disputed Claim or Interest without any further notice to or action, order, or approval by the Bankruptcy Court.

F.3. Estimation of Claims and Interests.

[This section intentionally omitted.]

F.4. Adjustment to Claims Without Objection.

Any Claim or Interest that has been paid or satisfied, or any Claim or Interest that has been amended or superseded, or altered by court order, may be adjusted or removed from the Claims Register at the request of the reorganized Debtor without any further notice to or action, order, or approval of the Bankruptcy Court.

**ANY CLAIM OR INTEREST, THE HOLDER OF WHICH IN RECEIPT OF  
NOTICE OF THESE PROCEEDINGS, THAT HAS BEEN OR IS HEREAFTER LISTED**

**IN THE SCHEDULES AS CONTINGENT, UNLIQUIDATED OR DISPUTED, AND FOR WHICH NO PROOF OF CLAIM OR INTEREST HAS BEEN TIMELY FILED IS NOT CONSIDERED ALLOWED AND WILL BE OBJECTED TO AND NOT PAID IF SUCCESSFUL.**

F.5. Amendments to Claims.

On or after the Effective Date, except as provided in Article XI of the Plan, a Claim may not be filed or amended without authorization of the Bankruptcy Court and the Reorganized Debtor, and any such new or amended Claim filed shall be deemed disallowed in full without any further action.

G. Allowance of Payment of Certain Administrative Claims.

All final requests for payment of Claims of a Professional shall be filed no later than forty five days after the Effective Date. After notice and a hearing in accordance with the procedures established by the Bankruptcy Code and prior Bankruptcy Court orders, the Allowed amounts of such Professional Claims shall be determined by the Bankruptcy Court.

**IV. STATUTORY REQUIREMENTS FOR CONFIRMATION OF THE PLAN**

The following is a brief summary of the Plan Confirmation process. Holders of Claims and Interests are encouraged to review the relevant provisions of the Bankruptcy Code and to consult their own attorneys

A. The Confirmation Hearing.

Section 1128(a) of the Bankruptcy Code requires the Bankruptcy Court, after notice, to hold a hearing on Confirmation (the "Confirmation Hearing"). Section 1128(b) of the Bankruptcy Code provides that any party in interest may object to Confirmation.

Notice of the Confirmation Hearing giving its location, date, time, and deadline for objections and ballots will be distributed to all parties at a later date.

B. Confirmation Standards.

To confirm the Plan, the Bankruptcy Court must find, among other things, that the requirements of section 1129 of the Bankruptcy Code have been satisfied. The requirements of section 1129 of the Bankruptcy Code are listed below:

1. the Plan complies with the applicable provisions of the Bankruptcy Code;
2. the Debtor, as Plan proponent, will have complied with the applicable provisions of the Bankruptcy Code;
3. the Plan has been proposed in good faith and not by any means forbidden by law;
4. any payment made or promised under the Plan for services or for costs and expenses in, or in connection with, the Chapter 11 Cases, or in connection with the Plan and incident to the cases, has been disclosed to the Bankruptcy Court, and any such payment made before the Confirmation is reasonable, or if such payment is to be fixed after the Confirmation, such payment is subject to the approval of the Bankruptcy Court as reasonable;
5. with respect to each Class of Impaired Claims or Interests, either each Holder of a Claim or Interest of such Class has accepted the Plan or will receive or retain under the Plan on account of such Claim or Interest property of a value, as of the Effective Date of the Plan, that is not less than the amount that such Holder would receive or retain if the Debtor were liquidated on such date under chapter 7 of the Bankruptcy Code;
6. each Class of Claims or Interests that is entitled to vote on the Plan either has accepted the Plan or is not impaired under the Plan, or the Plan can be confirmed without the approval of each voting Class pursuant to section 1129(b) of the Bankruptcy Code;
7. except to the extent that the Holder of a particular Claim will agree to a different treatment of such Claim, the Plan provides that Allowed Administrative and Allowed Priority Non-Tax Claims will be paid in full on the Effective Date, or as soon as reasonably practicable thereafter;

8. at least one Class of Impaired Claims or Interests will accept the Plan, determined without including any acceptance of the Plan by any insider holding a Claim or Interest of such Class;
9. Confirmation is not likely to be followed by the liquidation, or the need for further financial reorganization, of the Debtor or any successor to the Debtor under the Plan, unless such liquidation or reorganization is proposed in the Plan;
10. all fees of the type described in 28 U.S.C. § 1930, including the fees of the U.S. Trustee, will be paid as of the Effective Date; and
11. the Plan addresses payment of retiree benefits, if any, in accordance with section 1114 of the Bankruptcy Code.
12. In a case in which the debtor is an individual and in which the holder of an allowed unsecured claim objects to the confirmation of the plan—  
**(A)** the value, as of the effective date of the plan, of the property to be distributed under the plan on account of such claim is not less than the amount of such claim; or  
**(B)** the value of the property to be distributed under the plan is not less than the projected disposable income of the debtor (as defined in section [1325 \(b\)\(2\)](#)) to be received during the 5-year period beginning on the date that the first payment is due under the plan, or during the period for which the plan provides payments, whichever is longer.

The Debtor believes that the Plan satisfies the requirements of section 1129 of the Bankruptcy Code, including that (a) the Plan satisfies or will satisfy all of the statutory requirements of chapter 11 of the Bankruptcy Code, (b) the Debtor has complied or will have complied with all of the requirements of chapter 11, and (c) the Plan has been proposed in good faith.

#### C. Financial Feasibility.

Section 1129(a)(11) of the Bankruptcy Code requires that the Bankruptcy Court find, as a condition to Confirmation, that Confirmation is not likely to be followed by the liquidation of the Debtor, unless such liquidation is proposed in the Plan, or the need

for further financial reorganization. The Plan contemplates that the available income for the 60 months post confirmation are used to pay holders Classes I, II, III, and IV. The Debtor believes that the Plan meets the feasibility requirement. The Debtor believes that sufficient funds will exist to make all payments required by the Plan.

D. Best Interests of Creditors Test.

Often called the “best interests” test, section 1129(a)(7) of the Bankruptcy Code requires that the Bankruptcy Court find, as a condition to Confirmation, that each Holder of a Claim or Interest in each Impaired Class: (1) has accepted the Plan or (2) will receive or retain under the Plan property of a value, as of the Effective Date, that is not less than the amount that such Person would receive if the Debtor was liquidated under chapter 7 of the Bankruptcy Code. To make these findings, the Bankruptcy Court must accept the Debtor’s Liquidation Analysis or independently (a) estimate the Cash proceeds (the “Liquidation Proceeds”) that a chapter 7 trustee would generate if each Chapter 11 Case were converted to a chapter 7 case and the assets of such Estate were liquidated,(b) determine the distribution (“Liquidation Distribution”) that each non-accepting Holder of a Claim or Interest would receive from the Liquidation Proceeds under the priority scheme dictated in chapter 7, and (c) compare each Holder’s Liquidation Distribution to the distribution under the Plan (“Plan Distribution”) that such Holder would receive if the Plan were Confirmed and consummated.

D.1. Liquidation Analysis.

A liquidation analysis is included below:

<u>Item</u>	<u>FMV</u>	<u>Liquidation value</u>
• Fencing Materials	\$5,000.00	\$2,500.00

- Office furniture \$750.00 \$500.00
- Accounts Receivable \$6,809.50 \$5,000.00
- Computers and accessories, copier and fax machine, forklift  
\$3,000.00 \$1,500.00
- Operating Accounts \$5,135.25 \$5,135.25
- Vehicles \$3,000.00 \$3,000.00
- Intellectual Property Rights – No value
- Contingent Claims – None.

TOTAL FAIR MARKET VALUE \$23,694.75

TOTAL LIQUIDATION VALUE OF DEBTOR’S ASSETS \$17,635.25

The following Secured Claims and Administrative Priority Claims that would need to be satisfied before any funds would be paid to unsecured creditors:

<u>Claimant</u>	<u>Liquidation Amount</u>
Total Liquidation Value of Debtor’s Assets	\$17,635.25
Less the following:	
Expected Administrative Claims	\$30,000.00
Secured Claims	\$60,139.00
Priority Claims	\$28,923.66
Available for Unsecured Creditors Prior to Chapter 7 Costs of Administration	\$0.00

Before unsecured creditors would be paid any money, all claimants with a higher priority under 11 U.S.C. § 507(a) must be paid in full from the proceeds of liquidation by a chapter 7 trustee. In addition, if the case converts to a Chapter 7 liquidation, the

Chapter 7 Trustee and any professionals employed by the Trustee will be paid ahead of any distribution to the general unsecured creditors. In other words before there can be any distribution to the Class III unsecured creditors, all administrative, priority and secured claims would have to be paid first.

The Debtor is proposing to pay the Class III unsecured creditors the sum of \$119,400.00 over a five year period of time. This amount far exceeds the zero amount available per the above analysis.

All payments to all Classes under the Plan will be made by James Jeffrey Athanas, the President of the Debtor.

#### D.2. Plan Distribution Analysis.

The Plan Distribution Analysis presents estimates of the proceeds that would be available for distribution to creditors if the Plan were confirmed and effectuated according to its terms. These estimates represent a range of management's assumptions regarding the costs that would be incurred to implement the Plan and the funds that would be available for distribution to creditors. The Plan Distribution Analysis has the same projected Effective Date as the Liquidation Analysis (the "Assumed Effective Date"). In addition, management's assumptions in the Plan Distribution Analysis regarding anticipated events and proceeds expected to be realized prior to the Assumed Effective Date are the same as those used to prepare the Liquidation Analysis.

The Debtor has filed operating reports for the post-petition portion of February, 2017 through July, 2017. Summaries of the last five operating reports filed by the Debtor are attached as **Exhibit A**. Detailed projected Plan payments and projections

are set forth in **Exhibit B**, attached hereto. Debtor projects that, after the validity and amount of all secured and priority claims are settled or adjudicated, the amounts set forth above will be sufficient to satisfy the payment requirements set forth in its plan.

The Debtor's Federal Tax Return for 2016 is attached hereto as **Exhibit C**.

PLAN DISTRIBUTION ANALYSIS

Class	Total Claims \$	Recovery \$	Recovery %
Administrative Claims	\$30,000	\$30,000	100%
Class I – Secured Claims	\$60,139.00	\$60,139.00	100%
Class II – Priority Claims	\$28,923.66	\$28,923.66	100%
Class III – General Unsecured Claims	\$398,000.00	\$119,400.00	30%
Class IV – Equity Holders	Unknown	0.00 – stock canceled	0%
TOTAL	\$517,062.66	\$238,462.66	-

THE DEBTOR BELIEVES THAT ANY ANALYSIS OF HYPOTHETICAL PLAN DISTRIBUTIONS IS NECESSARILY SPECULATIVE. THERE ARE A NUMBER OF ESTIMATES AND ASSUMPTIONS UNDERLYING THESE ESTIMATES THAT ARE INHERENTLY SUBJECT TO SIGNIFICANT LEGAL, ECONOMIC, COMPETITIVE, AND OPERATIONAL UNCERTAINTIES AND CONTINGENCIES BEYOND THE CONTROL OF THE DEBTOR. NEITHER THE ESTIMATED PLAN DISTRIBUTIONS, NOR THE FINANCIAL INFORMATION ON WHICH IT IS BASED, HAS BEEN EXAMINED OR REVIEWED BY INDEPENDENT ACCOUNTANTS OR PREPARED IN ACCORDANCE WITH STANDARDS PROMULGATED BY THE AMERICAN INSTITUTE OF CERTIFIED PUBLIC ACCOUNTANTS. THERE CAN BE NO ASSURANCE THAT ACTUAL RESULTS WILL NOT VARY MATERIALLY FROM THE HYPOTHETICAL RESULTS PRESENTED IN THE PLAN DISTRIBUTION ANALYSIS.



D.3. Conclusion.

Holders of Allowed Claims in every Class are projected to recover as much or more under the Plan than they would in a Chapter 7 liquidation. Moreover, as set forth in more detail above, a liquidation under Chapter 7 could result in no recovery for unsecured creditors classified in Classes III under the Plan. Therefore, the best interests test is satisfied.

E. Acceptance by Impaired Classes.

The Bankruptcy Code also requires, as a condition of confirmation, that each class of claims or interests that is impaired under a plan accept the plan, with the exception described in the following section. A class that is not “impaired” under a plan of reorganization is deemed to have accepted the plan and, therefore, solicitation of acceptances with respect to such class is not required. A class is “impaired” unless the plan (1) leaves unaltered the legal, equitable, and contractual rights to which the claim or interest entitles the holder of such claim or interest or (2) cures any default and reinstates the original terms of the obligation. Section 1126(c) of the Bankruptcy Code defines acceptance of a plan by a class of impaired claims as acceptance by holders of at least two-thirds in dollar amount and more than one-half in number of claims in that class, but for that purpose counts only those who actually vote to accept or to reject the plan. Thus, a class of claims will have voted to accept the plan only if two-thirds in amount and a majority in number actually voting cast their ballots in favor of acceptance. Under section 1126(d) of the Bankruptcy Code, a class of interests has accepted the plan if holders of such interests holding at least two-thirds in amount actually voting have voted to accept the plan.

NO REPRESENTATIONS CONCERNING THE DEBTOR ARE AUTHORIZED THAN AS SET FORTH IN THIS STATEMENT. ANY REPRESENTATIONS OR INDUCEMENTS MADE TO SECURE YOUR ACCEPTANCE WHICH ARE OTHER THAN AS CONTAINED IN THIS STATEMENT SHOULD NOT BE RELIED UPON BY YOU IN ARRIVING AT YOUR DECISION, AND SUCH ADDITIONAL REPRESENTATIONS AND INDUCEMENTS SHOULD BE REPORTED TO THE OFFICE OF THE UNITED STATES TRUSTEE WHICH, IN TURN, SHALL DELIVER SUCH INFORMATION TO THE BANKRUPTCY COURT FOR SUCH ACTION AS MAY BE DEEMED APPROPRIATE.

THE INFORMATION CONTAINED HEREIN HAS NOT BEEN SUBJECT TO CERTIFIED AUDIT. THE DEBTOR DOES NOT WARRANT OR REPRESENT THE INFORMATION CONTAINED HEREIN IS WITHOUT ANY INACCURACY, ALTHOUGH CONSIDERABLE EFFORT HAS BEEN MADE TO BE ACCURATE.

The Debtor has proposed his Plan of Reorganization in good faith and in compliance with the applicable provisions of the Bankruptcy Code. Regardless of the results of voting under any class of claims, the Debtor may ask the Court to confirm the Plan of Reorganization which can occur as provided by law if the Court finds that the Plan does not discriminate unfairly and is fair and equitable with respect to the rejecting creditors described in such class. This option can occur only if the Court makes the requisite findings after being presented with supporting evidence.

## **V. RECOMMENDATION**

In the opinion of the Debtor, the Plan is preferable to the alternatives described herein because it provides for a larger distribution to the Holders of Claims than would otherwise result in liquidation under Chapter 7 of the Bankruptcy Code. In addition, any

alternative other than Confirmation could result in extensive delays and increased Administrative Claims resulting in smaller distributions to the Holders of Claims. Accordingly, the Debtor recommends that Holders of Claims entitled to vote on the Plan support Confirmation and vote to accept the Plan.

Respectfully submitted,  
ATHANAS FENCE CO., INC.

By: /s/ Joseph E. Cohen  
One of its attorneys

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