

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF KENTUCKY
LEXINGTON DIVISION

IN RE:

WHITESBURG REALTY, LLC

CASE NO: 16-50721
CHAPTER 11

DEBTOR IN POSSESSION

**FIRST AMENDED DISCLOSURE STATEMENT FOR DEBTOR'S
PLAN OF REORGANIZATION UNDER CHAPTER 11
OF THE UNITED STATES BANKRUPTCY CODE**

Respectfully submitted,

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Dated: September 8, 2016

TABLE OF CONTENTS

<u>Section</u>	<u>Title</u>	<u>Page</u>
I.	INTRODUCTION AND NOTICE TO HOLDERS OF CLAIM	1-2
II.	DEFINITIONS.....	2
III.	GENERAL INFORMATION AND DESCRIPTION	2-5
	A. Historical Background and Description of Debtor	2
	B. Summary of Assets and Liabilities	3-4
	C. Significant Events Occurring During Pendency of Chapter 11 Case	4-5
IV.	SUMMARY OF DEBTOR’S PLAN OF REORGANIZATION	5-16
	A. General Summary	5
	B. Recommendation of Debtor.....	5
	C. Description of Plan	5-8
	D. Summary of Treatment of Unclassified Claims.....	8-10
	E. Summary of Treatment of Classified Claims.....	10-11
	F. Provisions Applicable to All Claims.....	11-13
	G. Plan Implementation	13-15
	H. Tax Consequences	15-16
	I. Voting Procedures.....	16-17
V.	CONFIRMATION OF THE PLAN/LIQUIDATION ANALYSIS	17-19
VIII.	CONCLUSION.....	19

EXHIBIT 1-1 – YEARLY FINANCIAL PROJECTIONS

1-2- SCHEDULED 2017 RENTS

1-3 MASTER RENT ROLL/TENANT INFORMATION

1-4 2014 HISTORICAL INCOME

1-5 2015 HISTORICAL INCOME

EXHIBIT 2 – LIST OF ASSUMED LEASES

EXHIBIT 3 – LIQUIDATION ANALYSIS

EXHIBIT 4 – LIST OF UNSECURED CREDITORS

DISCLOSURE STATEMENT

DISCLAIMER

All Creditors and Holders of Interests are advised and encouraged to read this Disclosure Statement and the Plan in their entirety. Plan summaries and statements made in this Disclosure Statement are qualified in their entirety by reference to the Plan, any exhibits, and the Disclosure Statement as a whole.

This Disclosure Statement has been prepared in accordance with §1125 of the Bankruptcy Code and Rule 3016 (c) of the Federal Rules of Bankruptcy Procedure. This Disclosure Statement was prepared to provide holders of Claims and Interests in the Debtor with “adequate information” (as defined in the Bankruptcy Code) so that they can make an informed judgment about the Plan.

As to contested matters, adversary proceedings, and other actions or threatened actions, this Disclosure Statement shall not constitute nor be construed as an admission of any fact or liability, stipulation, or waiver, but rather as a statement made in settlement negotiations.

The information contained in this Disclosure Statement is included herein for the purpose of soliciting acceptances of the Plan and may not be relied upon for any other purpose other than to make a judgment with respect to, and how to vote on, the Plan.

This Disclosure Statement shall not be admissible in any non-bankruptcy proceeding involving the Debtor and any party, nor shall it be construed to be conclusive advice on the tax or other legal effects of the Plan as to Holders of Claims against, or Interests in, the Debtor; provided, however, that in the event the Debtor defaults under the Plan, the Disclosure Statement may be admissible in a proceeding relating to such default for the purpose of establishing the existence of such default.

THE REPRESENTATIONS IN THIS DISCLOSURE STATEMENT ARE THOSE OF THE DEBTOR. NO REPRESENTATIONS CONCERNING THE DEBTOR ARE AUTHORIZED OTHER THAN AS SET FORTH IN THIS STATEMENT. ANY REPRESENTATIONS OR INDUCEMENTS MADE TO SECURE ACCEPTANCE OF THIS PLAN WHICH ARE OTHER THAN AS CONTAINED IN THIS DOCUMENT SHOULD NOT BE RELIED UPON BY ANY PERSON. NO INFORMATION CONTAINED IN THIS DISCLOSURE STATEMENT HAS BEEN PREPARED BY AN INDEPENDENT PUBLIC ACCOUNTANT TO THE KNOWLEDGE OF THE DEBTOR.

NEITHER THE PLAN NOR THIS DISCLOSURE STATEMENT HAS BEEN DESIGNED TO FORECAST CONSEQUENCES WHICH FOLLOW FROM A GENERAL REJECTION OF THE PLAN, ALTHOUGH AN ATTEMPT IS MADE TO STATE THE CONSEQUENCES OF A LIQUIDATION OF THE DEBTOR. DEBTOR IS REPRESENTED BY THE LAW FIRM OF DELCOTTO LAW GROUP PLLC, 200 NORTH UPPER STREET, LEXINGTON, KENTUCKY 40507 WHICH HAS NOT EXPRESSED AN OPINION ON ANY INFORMATION SET FORTH HEREIN. THE LAW FIRM OF DELCOTTO LAW GROUP PLLC NO ACTUAL KNOWLEDGE OF ANY INFORMATION WHICH WOULD CONFLICT WITH THE INFORMATION SET FORTH HEREIN.

I. INTRODUCTION AND NOTICE TO HOLDERS OF CLAIM

Whitesburg Realty, LLC (hereinafter the “Debtor”) as a debtor and debtor in possession in the above-captioned case (the “Debtor”), provides this First Amended Disclosure Statement (“Disclosure Statement”) to all known Creditors in order to disclose that information deemed by the Debtor to be material, important and necessary to Creditors to arrive at a reasonably informed decision in exercising rights to vote on the Debtor’s First Amended Plan of Reorganization (“the Plan”) filed herewith by the Debtor. A copy of the Plan accompanies this Disclosure Statement and you are urged to refer to the Plan when reading the Disclosure Statement. THE PROVISIONS CONTAINED IN THE PLAN CONTROL OVER ANY STATEMENTS CONTAINED HEREIN.

You should read this Disclosure Statement before voting on the Plan. As a Creditor your vote is important. The Plan will be confirmed by the Bankruptcy Court if it is accepted by the holders of two-thirds (2/3) in dollar amount and more than one-half (1/2) in number of the Creditors' Claims in each class voting on the Plan. However, the provisions of Section 1129(b) of the Bankruptcy Code may be invoked by the Debtor if necessary in order to obtain confirmation of the Plan. These provisions permit confirmation even though a class or classes reject the Plan if the Bankruptcy Court finds that the Plan provides fair and equitable treatment for the rejecting class.

By separate order of the Bankruptcy Court, this Disclosure Statement was approved and held to contain adequate information sufficient to enable holders of Claims to make an informed judgment whether to accept or reject the Plan. Whether or not you expect to be present at the Confirmation Hearing, you are urged to fill in, date, sign, and promptly return the ballot. Holders of Claims in a class that is impaired may vote to accept or reject the Plan by completing and delivering or transmitting their ballots to the Attorneys for the Debtor, DelCotto Law Group

PLLC, 200 North Upper Street, Lexington, Kentucky 40507, telephone (859) 231-5800, fax (859) 281-1179, email: jharris@dlgfirm.com, Attention: Jamie Harris. **Only ballots received on or before 5:00 p.m. EST on October 13, 2016 will be counted in determining whether a class has accepted or rejected the Plan.**

II. DEFINITIONS

All capitalized terms used herein and not otherwise specifically defined shall have the meanings given to them in the Plan. As used in this Disclosure Statement, any other terms defined in the Bankruptcy Code shall have the meanings given to them in the Bankruptcy Code, unless the context clearly requires otherwise.

III. GENERAL INFORMATION AND DESCRIPTION

A. HISTORICAL BACKGROUND, DESCRIPTION OF DEBTOR'S BUSINESS, AND PRINCIPAL FACTORS LEADING TO THE CHAPTER 11 BANKRUPTCY FILING

The Debtor, a Kentucky limited liability company, was established on February 10, 2004. The sole member of the Debtor is Jeffrey C. Ruttenberg. The Debtor is a landlord to the various shops and businesses operated at the Whitesburg Plaza. The Debtor has several tenants, most notably, Walmart, and several smaller businesses including a nail salon, fashion retail store and pizza restaurant. The Debtor began to experience cash flow problems after it lost a grocery store tenant. This loss of rental income resulted in cash flow problems which led the Debtor to become in arrears with its primary secured creditor. Despite attempts at negotiation outside of bankruptcy with its primary secured creditor, the Debtor has not been able to reach an out-of-court restructuring agreement. Consequently, the Debtor seeks to reorganize its business under Chapter 11 of the Bankruptcy Code in order to restructure its debts, reorganize as a going concern, and maximize value for the benefit of the creditors of its Estate.

B. SUMMARY OF ASSETS AND LIABILITIES

The following is a summary of the Debtor's primary Assets and Liabilities according to the Debtor's books and records and its Bankruptcy Schedules and the events subsequent to the Petition Date. THIS SUMMARY DOES NOT TAKE INTO CONSIDERATION ALL OF THE PROOFS OF CLAIM FILED HEREIN NOR CLAIMS FOR LEASE OR CONTRACT REJECTION DAMAGES. THE ASSET VALUES CONTAINED HEREIN AND/OR IN DEBTOR'S SCHEDULES ARE BASED ON DEBTOR'S BEST ESTIMATES OF MARKET VALUES, AND MAY NOT AND IN ALL LIKELIHOOD DO NOT ACCURATELY REFLECT LIQUIDATION VALUES OR WHAT MAY ULTIMATELY BE ACHIEVED FOR THESE ASSETS. HOLDERS OF CLAIMS ARE ENCOURAGED TO REVIEW THE SCHEDULES FOR A COMPLETE LISTING OF THE DEBTOR'S ASSETS AND LIABILITIES. The Debtor has also filed monthly operating reports with the Court for the time periods from April 13, 2016¹ through July 31, 2016², as follows: Docs. 35, 39, 50, and 57, all of which can be reviewed as to Debtor's revenue and expenses since the Petition Date.

SUMMARY OF PRIMARY ASSETS

Prepetition Assets

Debtor's assets as of the Filing Date totaled \$2,649,973.99 including the following: (a) real property valued at \$2.55 M; (b) rent receivables valued at \$15,567.41; and (c) cash and checking accounts valued at \$84,406.58. For more details, see Debtor's Schedules [Doc. 27].

SUMMARY OF LIABILITES

Prepetition Liabilities

¹ Income and Expenses for April 13-30 2016 were \$3,906.88 and \$20,658.95 respectively. The majority of rents received prepetition before the reporting period.

² Income and Expenses for May 1-31, 2016 were \$32,212.19 and \$21,179.36 respectively. Income and expenses for June 1-June 30, 2016 were \$25,776.56 and \$21,384.61 respectively. Income and expenses for July 1-July 31, 2016 were \$35,997.48 and \$22,548.24.

Debtor's liabilities as of the Filing Date totaled \$3,765,072.95 which includes (a) secured claims totaling \$3,755,072.95; (b) priority claims totaling \$0.00; and (c) unsecured claims totaling \$10,000.

C. SIGNIFICANT EVENTS OCCURRING DURING PENDENCY OF CHAPTER 11 CASE

1. Cash Collateral Orders and Adequate Protection Orders. On April 22, 2016, this Court entered an order approving cash collateral use and granting adequate protection [Doc. 25] and on June 2, 2016 the Court entered an order [Doc. 37] authorizing case collateral used through July 31, 2016. The Court entered an order [Doc 48] on July 22, 2016 authorizing use of cash collateral through September 30, 2016. The Debtor has been making monthly adequate protection payments in compliance with the orders.

2. Retention of Professionals. Pursuant to the Order [Doc. 23] dated April 21, 2016, the Debtor was authorized to employ the law firm of DeLCotto Law Group PLLC as its counsel in the bankruptcy proceedings. No official committee of unsecured creditors was appointed in this case.

3. Ordinary Course of Business. The Debtor has managed its affairs as a debtor in possession under the protection and supervision of the Bankruptcy Court. The Debtor has continued to operate its business in the ordinary course. The Debtor states that no other transactions have occurred which were outside the ordinary course of the Debtor's affairs during the time period from the Petition Date through the filing of this Disclosure Statement and Plan.

4. Lease Renewals and Extensions. During the bankruptcy, Auto Zone extended its commercial lease from 10/1/2017 – 9/30/22 with a base monthly rent of \$3327.50. Shoe Show extended its commercial lease from 7/1/2016 – 6/30/2017 with a base monthly rent of \$967.00.

5. Stay Relief. On May 20, 2016, the Court enters an order [Doc. 33] monitoring the automatic stay to permit Micah Hays and Ryan Boggs to proceed with pending litigation in the Letcher Circuit Court to the extent of available insurance coverage.

IV. SUMMARY OF DEBTOR'S PLAN OF REORGANIZATION

A. GENERAL SUMMARY

The Plan contemplates the continued business operations of the Debtor and the payment of creditors over a period of time from future revenue from its rental operations. Debtor may refinance or sell Assets to satisfy Claims.

B. RECOMMENDATION OF DEBTOR

The Debtor believes that the Plan is in the best interests of all its Creditors and will permit the maximum recovery possible for all classes of Claims, greater than any recovery in a Chapter 7 proceeding.

C. DESCRIPTION OF THE PLAN

1. Continued Existence. The Debtor will continue to operate post-confirmation as the Reorganized Debtor in the ordinary course of business, receiving ongoing income from its commercial rental operations. Based on the financial projections attached to this Disclosure Statement as Exhibit 1, the Debtor should have sufficient cash flow to pay all normal and customary operating expenses and be capable of funding its plan of reorganization. Exhibit 1-1 projections prepared by Apex Realty- the property management company –are based on current leases and historical and anticipated expenses. The Plan contemplates refinancing within 2 years of the Effective Date although the Debtor anticipates that it can refinance within 12 months post-Confirmation. 2017 financial projections are attached as Exhibit 1-1 as well as underlying rent assumptions based on current leases. Due to the term of leases and general tenant stability, the

Debtor anticipates rents and CAM recoveries in years 2-5 of the Plan to be consistent with 2017 rents and recoveries, see Exhibit 1-3 for Master Rent Roll/Tenant Information which details terms/rents of current leases. The Debtor has located a potential tenant for the grocery store location but has not finalized a lease deal, so no rent assumptions have been included for the grocery store; however, the Debtor reserves the right to amend its projections based on the status of any lease negotiations. If a new tenant is located, revenue assumptions will be higher.

2. Valuation of Secured Claims. Under Section 506 of the Bankruptcy Code, a secured creditor has a secured claim to the extent of the creditor's interest in the debtor's interest in the collateral and an unsecured claim for the balance, if any, unless the Creditor, if eligible, elects to have its claim treated as fully secured. The Allowed amount of the Creditor's Secured Claim will be the lesser of value of the creditor's interest in the debtor's interest in the property as determined under Section 506, or the allowed amount of the creditor's claim. Under the Plan, the Debtor proposes to allow all Secured Creditors to retain their liens in the amount equal to the lesser of the value of the property or the full amount of their Claim on the Petition Date without benefit of appraisal. If a dispute over valuation occurs with any Secured Creditor, the Debtor reserves the right to request that the Court determine the value of the Creditor's interest in the collateral which secures the Creditor's Claim.

3. Retention of Property by the Debtor. Upon Confirmation, the Reorganized Debtor will retain all of the property of the estate free and clear of liens, claims, and encumbrances not expressly retained by Creditors under the Confirmed Plan. The Reorganized Debtor will have the rights and powers to assert any and all Causes of Action. Upon information and belief, there are no Causes of Action with any value as review of payments made within 90 days of the Petition date reveals transfers in the form of insurance payments and payments contemporaneous with the

providing of services. Debtor believes transferees have valid defenses to preference claims. Insider draws for Mr. Ruttenberg in the year prior to the Petition Date totals \$32,250. Mr. Ruttenberg has received no draws or compensation post-petition and he will receive no compensation under the Plan.

4. Parties Responsible for Implementation of the Plan. Upon Confirmation, the Reorganized Debtor will be charged with administration of the Case. The Reorganized Debtor will be authorized and empowered to take such actions as are required to effectuate the Plan, including the prosecution and enforcement of Causes of Action. The Reorganized Debtor will pay all United States Trustee fees and will file all post-confirmation reports required by the United States Trustee's Office. The Reorganized Debtor will also file the necessary final reports and will apply for a final decree as soon as practicable after substantial consummation. Post-confirmation, the Reorganized Debtor's real property assets will be managed by a non-insider property management company which may be either Apex Realty, LLC or such other property management company as may be selected and supervised by Jeffrey Ruttenberg ("Ruttenberg"), sole Member of the Debtor. Ruttenberg shall receive no salary. Upon payment of the Class A-1 Claim in full, Ruttenberg shall be entitled to take reasonable draws. Ruttenberg will have the authority to take any and all actions desirable or necessary in his business judgment to continue the operations of the Reorganized Debtor.

5. Post-Confirmation Liabilities of the Reorganized Debtor. The Reorganized Debtor will not have any pre-petition liabilities except those expressly assumed or addressed under the Plan. The Reorganized Debtor will be responsible for all ongoing business expenses and payments due and owing or contemplated under the Plan.

6. Executory Contracts and Leases. The Debtor reserves the right to apply to this Court at any time prior to Confirmation for authority to assume or reject any other executory contracts and unexpired leases in whole or in part as provided in 11 U.S.C. §§ 365 and 1123. All remaining executory contracts and leases for which the Debtor has not so moved on or before the Confirmation Date shall be deemed rejected as of said date (the “Rejection Date”). The Plan shall constitute a motion to assume the leases set forth as Exhibit 2 to the Disclosure Statement. The Debtor is the lessor to these leases and is not in default thereunder. **Any party desiring to object to the assumption of the leases shall file an objection on or before October 13, 2016.**

7. Causes of Action. The Plan provides that the Debtor shall retain all rights of actions against others. The Debtor has conducted an analysis of potential Avoidance Actions and has determined that most transferees have valid defenses to preference claims and hence none exist which would be financially beneficial to the Debtor or its creditors. The Debtor is not aware of any fraudulent conveyance actions. If no action is taken to pursue a Cause of Action within six months of the Effective Date, it shall be deemed abandoned.

D. SUMMARY OF TREATMENT OF UNCLASSIFIED CLAIMS

THE PLAN PROVISIONS CONTROL OVER THE FOLLOWING SUMMARY:

1. Administrative Claims. Allowed Administrative Claims shall be paid in full within thirty (30) days of the date such claim becomes an Allowed Claim or will receive such other repayment terms as may be agreed upon by the Debtor and Claimant. Upon information and belief, the only known allowed Administrative Claims are the professional fees of Debtor’s counsel. On August 12, 2016, Debtor’s counsel filed its first interim fee application [Doc 51] for fees and expenses in the amount of \$25,785.70 for the time period April 14, 2016-July 31, 2016. It is estimated that the total professional Administrative Claim expenses will not exceed \$48,000.00.

Debtor's counsel is holding \$38,000 in its escrow account from remaining retainer funds paid by the Debtor. The Debtor believes that all other post-petition ordinary course obligations have been paid in the ordinary course of business, or will be paid in the ordinary course before and after Confirmation. Any Allowed Administrative Claims representing obligations incurred in the ordinary course of the Debtor's affairs will be paid by the Debtor in accordance with the terms of the particular agreement under which such Administrative Claims arose.

2. Bar Date. All requests for the allowance of Administrative Claims, including applications for the compensation of Professional Claims, shall be filed with the Court no later than thirty (30) days following the Confirmation Date, or at such other date as the Court may otherwise order, or be forever barred.

3. Professional Claims. Post-Effective Date Professional Claims will not require Bankruptcy Court approval, and will be paid in the ordinary course post-Confirmation from the Reorganized Debtor's business operations.

4. United States Trustee Fees. All fees payable to the United States Trustee pursuant to 28 U.S.C. §1930 have been paid or shall be paid on or before the Confirmation Date of the Plan. Post-confirmation quarterly fees will continue to be paid by the Reorganized Debtor in the ordinary course as they come due.

5. Administrative Tax Claims. Allowed Administrative Claims of a Tax Creditor shall be paid in full, plus interest thereon at the rate prescribed by 11 U.S.C. § 511 from its due date until paid, on the later of (a) the Effective Date or (b) the date on which such Allowed Claim becomes due and payable pursuant to the terms thereof. Postpetition property taxes will be paid in the ordinary course when due.

6. Priority Tax Claims. Allowed Priority Tax Claims will be paid through equal deferred monthly cash payments over five (5) years with interest at the rate prescribed in 11 U.S.C. § 511 until paid in full with payments commencing the month after the Effective Date. Upon information and belief, there are no Priority Tax Claims.

7. Other Priority Claims. Allowed Other Priority Claims include tenant security deposits. The Debtor shall continue to hold any security deposits for its tenants in the ordinary course of business and shall refund or credit deposits as necessary.

E. SUMMARY OF TREATMENT OF CLASSIFIED CLAIMS

The following summarizes the classification and treatment of different classes of Claims under the Plan: THE PLAN CONTROLS OVER ANY SUMMARY HEREIN.

Class A-1: Allowed Secured Claim of LICS: Class A-1 shall consist of the Allowed Secured Claim of LICS secured by a mortgage and assignment of rents and leases on real property operated as a shopping center in Letcher County, Kentucky. The Class A-1 Claim shall be allowed as a Secured Claim in the amount of \$2,600,000, the value of the collateral securing the Class A-1 Claim. The Class A-1 Claim shall be paid in monthly payments at the fixed rate of 5.25% to be amortized over 25 years with a balloon payment due in 2 years after the Effective Date (the "Maturity Date"). The Class A-1 Claim may be prepaid at any time without penalty. The initial monthly payments shall commence on November 30, 2016 and be due on or before the last day of each month. The Debtor may refinance the Class A-1 Claim at any time in an amount to satisfy the Class A-1 Allowed Secured Claim in full or in such lesser amount as the Class A-1 Claimant may accept. The Debtor may also elect to sell the collateral securing the Class A-1 Claim in accordance with the sale procedures set forth in the Plan. The Class A-1 creditor shall retain its lien(s) securing the Class A-1 Claim until paid pursuant to the terms hereof. Class A-1 is Impaired under the Plan.

Class A-2: Prepayment Penalty and Unsecured Deficiency Claim of LICS: Class A-2 shall consist of the Allowed Unsecured Claim of LICS consisting of prepayment penalty and other charges and fees that constitute the Deficiency Claim of LICS. The Class A-2 Claim shall be allowed in the estimated amount of \$1,666,171.08. Class A-2 shall receive 30% of the Debtor's Net Profits from its operations 5 years post-Confirmation after satisfaction of any Allowed Administrative, Priority, and Tax Claims. "Net Profits" as used herein shall mean the cash remaining at calendar year end after payment of all ongoing company obligations, including costs of goods, payroll, operating expenses, debt service and leases, capital expenditures, and taxes. Net Profits for each year shall be determined and distributions made to the Class A-2 Claim on or before September 1st of the following year. Class A-2 is Impaired.

Class B: Allowed Unsecured Claims: Class B shall consist of the Allowed Unsecured Claims against the Debtor other than Secured Claims, Class A-2 Claims, unclassified Claims, and Priority Claims. Each holder of an Allowed Claim in Class B shall receive its distribution equal to its pro rata share of 25% of the Debtor's Net Profits from its operations 5 years post-Confirmation after satisfaction of any Allowed Administrative, Priority, and Tax Claims. "Net Profits" as used herein shall mean the cash remaining at calendar year end after payment of all ongoing company obligations, including costs of goods, payroll, operating expenses, debt service and leases, capital expenditures, and taxes. Net Profits for each year shall be determined and distributions made to the Class B Claims on or before September 1st of the following year. The Class B Claims are Impaired.

Class C: Equity Interests of Debtor. Class C shall consist of the equity membership in the Debtor. Jeffrey C. Ruttenberg is the sole Member of the Debtor. The equity member, Jeffrey Ruttenberg shall retain his interests in the Debtor. The Class C Equity Interests are Not Impaired. Nothing herein in the Plan shall be deemed to prohibit the equity member during the life of the Plan from resigning, transferring, or selling his equity interest in the Debtor, in particular, if such transfer or sale results in the payment in full of the Class A-1 Claim.

F. PROVISIONS APPLICABLE TO ALL CLAIMS

1. Satisfaction of Claims: The payments, distributions and other treatment provided in respect to each Allowed Claim in the Plan shall be in complete satisfaction of such Allowed Claim, and the claim shall be discharged at the completion of all payments due under the Plan term in accordance with 11 U.S.C. § 1141(a)(5). Notwithstanding any other provision of the Plan specifying a date or time for payment, no payment shall be made on any portion of a Claim which is disputed, unliquidated, contingent or subject to objection until such Claim becomes an Allowed Claim, whereupon it shall be paid pursuant to the terms of the Plan.

2. Injunction: Except as otherwise provided in the Confirmation Order and in Section 12.14 of the Plan, the entry of the Confirmation Order shall constitute an injunction against all Persons from taking any actions to commence or continue any action or proceeding that arose before the Effective Date against or affecting the Debtor, the Estate or the Assets, so long as the Reorganized Debtor are in compliance with the Plan provisions.

3. Objections: Unless otherwise ordered by the Bankruptcy Court, all objections to Claims, including determinations regarding the secured status of any claim, shall be filed on or before sixty (60) days following the Effective Date, or thirty (30) days following the filing of any Claim, whichever is later, without prejudice to the extension of such period upon proper application therefore.

4. Procedure for Contingent and/or Unliquidated Insurance Claims. Creditors holding contingent and/or unliquidated Claims resulting from the prosecution of a malpractice claim against the Debtor shall have thirty (30) days from the date of any judgment entered against the Debtor to file a motion or adversary action with the Court to have their Claim for recovery in excess of any insurance policy limits allowed. Upon the allowance of a contingent or unliquidated insurance Claim, it shall be entitled to distribution under the Plan as a Class B Claim. The contingent or unliquidated insurance Claim of any Creditor who fails to initiate timely action pursuant to this provision for the allowance of its Claim shall have its Claim disallowed and be forever barred from seeking any recovery from the Reorganized Debtor, the Estate or the Assets. The Debtor believes the only contingent and/or unliquidated insurance Claims that have not waived Claims against the Estate is the Claim of Deborah Mullins.

5. Other Contingent and/or Unliquidated Claims. Creditors holding other contingent or unliquidated Claims (other than insurance Claims) shall have thirty (30) days from the Confirmation Date to file a motion or adversary action with the Court to have their Claim allowed. Upon the allowance of such a contingent or unliquidated Claim, it shall be entitled to distribution under the Plan consistent with the treatment of other Claims in the class in which the contingent or unliquidated Claim is ultimately allowed. The contingent or unliquidated Claim of any Creditor who fails to initiate timely action pursuant to this provision for the allowance of its Claim shall

have its Claim disallowed and be forever barred from seeking any recovery from the Reorganized Debtor, the Estate or the Assets. The Debtor believes there are no such contingent and/or unliquidated Claims.

G. PLAN IMPLEMENTATION

1. Means of Implementation. The Debtor will continue to operate post-Confirmation as Reorganized Debtor in the ordinary course of business, and expect to receive ongoing income from its business operations. Financial projections are attached hereto as Exhibit 1-1 which reflect the projected 12-month post-confirmation income and expenses of the Debtor. Even though financial projections for 2018-2021 are not provided herein as the property management company does not typically prepare projections beyond 12-months, rents for 2018-2022 should be consistent and stable with 2017 Exhibit 1 projections as several of the larger tenants have longer leases with options as indicated on Exhibit 1-3 and the shopping center has several long term tenants. The Exhibit 1-1 figures are projections only based on historical income and expenses and prepared by Apex Realty. The Debtor generated historical income of \$468,835.84 in 2014 and \$464,796.55 in 2015 an itemization of receipts for 2014 and 2015 is attached hereto as Exhibit 1-4 and Exhibit 1-5.

2. Historical Expenses/Roof Repairs. The Debtor's roof is generally in good condition. Here is a historical breakdown of roof expenses by year as provided by the property management company- Apex Realty:

2013	\$95.28
2014	\$10,752.42
2015	\$1,114.16
2016	\$2,177.43

The Debtor believes the current budget has allocated sufficient funds toward roof repairs when considering the condition of the roof and historical expenses for roof repairs. So long as the Debtor is in compliance with the Plan, the Debtor may elect to make any necessary repairs from the parking lot/repairs reserve mentioned below. The Debtor estimates any parking lot repairs would be done in sections so as to be most cost effective.

3. Parking Lot Repair Reserve/Property Tax Reserve. While in bankruptcy, the Debtor has maintained a reserve for parking lot and other repairs. As of July 31, 2016, the parking lot/repairs reserve had \$23,670.69 in available funds. While in bankruptcy, the Debtor has also maintained a property tax reserve in order to timely pay property taxes. As of July 31, 2016, the property tax reserve held \$18,747 in funds. The Debtor has no outstanding prepetition property taxes. As of July 31, 2016, there was also \$54,111.74 available in the main DIP bank account in addition to the reserve account funds.

4. Status of Current Leases/Tenant History and Information. Attached hereto as Exhibit 1-3 is a current Master Rent Roll which details current tenants and information including address leased, square footage, lease dates and options, and average annualized rents for current term. Some leases are year to year; however some leases run through 2021-2022. Please review the attached Exhibit 1-3 for a summary of these details. Current tenants include Wal-Mart, Little Caesars, Reflections, Vapor House, A Plus Rent to Own, Appalachian Wireless, Jumbo House, Auto Zone, Amazing Nails, Cato, and Shoe Show. Vacancies are also noted on the exhibit.

5. Continued Engagement of Professionals. The Reorganized Debtor shall continue the engagement of DelCotto Law Group PLLC and such other professionals as may be necessary for the purposes of rendering services in connection with implementing the Plan, resolving claims, and performing routine post-confirmation Chapter 11 administration such as final reporting and

moving to have the case closed upon Plan completion. Post-Confirmation, any professional services will not require Court approval.

6. Authority for Sale. Any post-confirmation sale of the Debtor's real property shall be pursuant to 11 U.S.C. § 1123 and in accordance with the procedures contained in the Plan. The Debtor will use the authority granted by the Confirmation Order to sell any real property assets, execute a deed for a property to a Secured Creditor, and take all actions necessary to consummate the sale or transfer of any property.

7. Sale Procedures. The Debtor may sell or transfer its real property pursuant to the following procedures (the "Sale Procedures"):

4.1 Sale of any Real Property. The Debtor may accept an offer to purchase its real property for an amount which will fully pay the Class A-1 Allowed Secured Claim of LICS or such other amount as agreed to by the Secured Creditor.

8. Free and Clear. All sales or transfers made pursuant to the Plan shall be free and clear of all liens, claims, encumbrances, and other interests, with same to attach to the proceeds of sale in the same priority and extent as if to the property itself. Allowed Secured Claims may be paid at the closing of any property, and shall not be considered distributions pursuant to the Plan.

9. Reservation of Rights/Modification of Procedures. These Sale Procedures may be modified with the written consent of the Debtor and LICS, as reasonably appropriate to maximize the value realized by the Estate.

H. TAX CONSEQUENCES

Tax consequences resulting from confirmation of the Plan can vary greatly among the various Classes of Creditors and Holders of Interests, or within each Class. Significant tax consequences may occur as a result of confirmation of the Plan under the Internal Revenue Code and pursuant to state, local, and foreign tax statutes. Because of the various tax issues involved,

the differences in the nature of Claims of various Creditors, the taxpayer status and methods of accounting and prior actions taken by Creditors with respect to their Claims, as well as the possibility that events subsequent to the date hereof could change the tax consequences, this discussion is intended to be general in nature only. No specific tax consequences to any Creditor or of an Interest are represented, implied, or warranted. The Debtor makes no representations of tax consequences to Creditors and Creditors should consult their own accountants as to tax consequences to them on their Claims herein.

I. VOTING PROCEDURES

ACCEPTANCE OR REJECTION OF THE PLAN WILL BE DETERMINED, PURSUANT TO THE BANKRUPTCY CODE, BASED UPON THE BALLOTS OF THE CREDITORS HOLDING ALLOWED CLAIMS THAT ACTUALLY VOTE ON THE PLAN. THEREFORE, IT IS IMPORTANT THAT CLAIMANTS EXERCISE THEIR RIGHT TO VOTE TO ACCEPT OR REJECT THE PLAN.

1. Classes Entitled to Vote on the Plan: All Creditors who have an Impaired Claim are entitled to vote to accept or reject the Plan. Classes A-1, A-2, and B are Impaired and may vote for the Plan. Class C is unimpaired and is deemed to accept the Plan.

2. General Provisions: Any Creditor holding a Claim that does not vote will not be counted in the percentage or number requirements for voting. A Claim that has been objected to is not an Allowed Claim unless and until the Court rules on the objection. The Court may temporarily set an amount for such an objected claim for purposes of voting on the Plan. The allowance or disallowance of any Claim for voting purposes does not necessarily mean that all or a portion of the claim will be allowed or disallowed for distribution purposes under the Plan.

3. Requirements for Class Acceptance: As a condition of Confirmation, the Bankruptcy Code requires that each class of Claims that is impaired vote to accept the Plan, subject to the exception of 11 U.S.C. § 1129(b), which still requires one class of Claims that is impaired

have voted to accept the Plan. A class of Claims accepts the Plan if (i) two-thirds of the total Allowed Claims in that class actually vote to accept the Plan and (ii) if one-half of Creditors holding Allowed Claims in that class actually vote to accept the Plan.

4. Contested and Unliquidated Claims: Contested, disputed, contingent, and/or unliquidated Claims are not entitled to vote to accept or reject the Plan. If your Claim has been estimated for voting purposes, then you will be allowed to vote your Claim in the amount estimated by that order. If Ballots are erroneously sent to a Creditor not entitled to vote, then the Ballot will not be counted in the calculation of the Creditors voting to accept or reject the Plan. If you are a Creditor holding a contested or disputed claim, you may ask the Court to have your Claim temporarily allowed for the purpose of voting, pursuant to Bankruptcy Rule 3018.

5. Ballots and Voting: Creditors holding Allowed Claims entitled to vote on the Plan will be sent a Ballot, together with instructions for voting, with this Disclosure Statement. Creditors should read the Ballot carefully and follow the instructions contained therein. In voting to accept or reject the Plan, you must use only the Ballot sent to you with this Disclosure Statement. Creditors entitled to vote must complete, sign, and return their ballots to counsel for the Debtor in the pre-addressed envelope on or before the Voting Deadline. Bankruptcy Rule 3018(a) permits a Creditor, for cause, to petition the Court to permit it to change or withdraw its vote on a plan. Any such petition must be made before the Confirmation Hearing, unless otherwise permitted by the Court. The Debtor will present the results of the voting to the Bankruptcy Court at the Confirmation Hearing.

V. CONFIRMATION OF THE PLAN/LIQUIDATION ANALYSIS

1. The Bankruptcy Court will confirm the Plan only if it finds that the Plan complies with the requirements of Chapter 11 of the Bankruptcy Code. The Debtor has asked the

Bankruptcy Court to confirm its Plan, pursuant to 11 U.S.C. § 1129(b), if all the requirements for confirmation are met as set forth in 11 U.S.C. § 1129(a). Although the Debtor believes that the Plan meets the necessary requirements, there can be no assurance that the Bankruptcy Court will reach the same conclusion. The Debtor has requested that even if the Creditors do not vote in favor of the Plan that the Court nevertheless confirm the Plan pursuant to 11 U.S.C. § 1129(b) as being fair and equitable to all Creditors.

2. If the Plan is not confirmed and consummated, the alternatives include preparation and presentation of an alternative plan of reorganization or a conversion of the cases to ones under Chapter 7 of the Bankruptcy Code. If the Court denies confirmation, the Debtor or any other party in interest could propose a different Plan. Debtor believes such an alternative plan would result in less return to creditors than the distributions to creditors pursuant to the Plan. Before proposing the present Plan, the Debtor explored other alternatives and engaged in negotiations with its Secured Creditors. Debtor believes not only that the Plan, as described herein, fairly adjusts the rights of various classes of Creditors and enables Creditors to realize the most possible under the circumstances, but also that rejection of the Plan in favor of some alternative arrangement will require, at the very least, an extensive and time-consuming process and will not result in a better recovery for any Class.

3. If no Plan can be confirmed, the Chapter 11 Case may be converted to a case under Chapter 7 of the Bankruptcy Code, in which case a trustee would be elected or appointed to liquidate the Debtor's Assets for distribution to Creditors in accordance with the priorities established by the Bankruptcy Code. Debtor believes that Confirmation is preferable to Chapter 7 liquidation because the Plan maximizes the distributions to all Classes of Creditors, and any alternative to Confirmation would result in substantial delays and potentially lesser recoveries as

persons unfamiliar with the Debtor's assets would assume administration of the case. Pursuant to the Liquidation Analysis which is attached hereto as Exhibit 3, a chapter 7 liquidation of the Debtor's Estate would result in no distributions to Class B Unsecured Creditors as the Claims of the Debtor's Secured Creditor exceed the liquidation value of the Debtor's Assets. The Plan provides a percentage of net profits to the Secured Creditor on account of its Class A-2 Deficiency Claim which is more than the Creditor would receive in a Chapter 7 liquidation. Pursuant to the Plan and based on Plan projections, Class B Unsecured Creditors (estimated at only \$10,000) are anticipated to be paid in full, after payment of Priority and Administrative Claims. See Exhibit 1-1 for an itemization of projected income and expenses. The pool amount to Class B Unsecured Creditors is an estimate only and actual payments may be higher or lower than projected. In the event that revenues exceed projections, any excess amounts shall be distributed *pro rata* to Unsecured Creditors. Revenue assumptions are based on historical figures and current leases.

VI. CONCLUSION

The materials provided in this Disclosure Statement are intended to assist you in reviewing the Plan in an informed manner. If the Plan is confirmed, you will be bound by the terms of the Plan. You are urged to study these materials and make such further inquiries as you may deem appropriate.

Dated: September 8, 2016

Respectfully submitted,

Whitesburg Realty, LLC

By: /s/Jeffrey C. Ruttenberg
Member

Date: September 8, 2016

TENDERED BY:

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