

**UNITED STATES BANKRUPTCY COURT  
MIDDLE DISTRICT OF LOUISIANA**

**IN RE: Mid City Tower, LLC  
DEBTOR**

**CASE NO. 16-10877  
CHAPTER 11**

**AMENDED CHAPTER 11 DISCLOSURE STATEMENT  
Filed by Mid City Tower LLC  
Dated: November 29, 2016**

**Mid City Tower, LLC**, the captioned chapter 11 debtor in possession, respectfully submits to this Honorable Court and purposes to its creditors the following Amended Chapter 11 Disclosure Statement.

**INTRODUCTION**

Mid City Tower, LLC purchased this 14-story 86,000 sf building with almost 3 acres of parking for \$1.2 million in June 2013 back when it was a distressed property with a consistent rent roll collection of only around \$10,000 per month generated with spaces leased at around 34 cents per square foot. The reputation of the building was that of an abandoned space when purchased. Over the past three years, Mid City Tower, LLC made considerable improvements and attracted a solid community of tenants. Capital expenditure was limited to repairs and maintenance spent slowly, most management concerns concentrated on measures to manage costs, understand the building's systems and build support in the community through events based around the designation of Mid City as a Cultural Arts District of Louisiana. Currently, the building has solid tenants such as the local transit authority's management offices, Mid City College, Job Corps, long standing law offices and service providers that have been here for years. In addition, CATS (Capital Area Transit System) is currently renting about 9,000 sf (about one and half floors) and we are in negotiations in creating a permanent lease that will extend its commitment with two year increments (by virtue of their chartering document). The building is poised to be a very attractive asset for this community with a plan for its redevelopment as a mixed used property.

This chapter 11 debtor in possession has formulated a Plan of Reorganization through a combination of debt refinance and future development. This Disclosure Statement is designed to describe the status of the bankruptcy estate in sufficient detail to enable the creditors to make an informed decision when it is time to vote on the proposed plan. This Disclosure Statement will have obtained the approval of the Bankruptcy Judge as being sufficiently informative before it is sent out to you, the creditors, for solicitation of votes in favor of the Plan.

**It is important that each of you read this Disclosure Statement and participate in the cases by completing the enclosed ballot and returning that ballot to the following address for electronic filing by undersigned counsel on your behalf *OR* filing it yourself *in person* at the U.S. Bankruptcy Court located at 707 Florida Street, Baton Rouge no later than the deadline of \_\_\_\_\_.**

**File your ballots at the Clerk of Court’s office or forward it to counsel to be filed electronically for you at your choice:**

**Attorney Pamela Magee, LLC  
P O Box 59  
Baton Rouge LA 70821**

*Failure to return the ballot could result in an insufficient number of votes to get the Plan accepted, so please take the time to cast your vote.*

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### **III. SUMMARY OF ACTIVITY**

#### **PRE PETITION ACTIVITY:**

The debtor acquired immovable property that was purchased in June 2013 for \$1.2 million and during the past three years Mid City Tower, LLC, the captioned chapter 11 debtor in possession in this case, has taken actions prior to the filing of this case as follows in order to improve and develop its primary asset:

Improvements since purchased in 2013:

- a. Started on-site management and developed a procedure manual for the buildings systems
- b. Cleaned the exterior and repainting interiors and exterior.
- c. Landscaping
- e. Installing proper lighting for the parking lot
- f. Painted the exterior aggregate on the building
- g. Remediated \$400,000 in Deferred Maintenance from Previous Ownership
- h. Created an NFC based access control system (this is the same technology that ApplePay uses) for the front doors and elevator. Every floor can be locked or unlocked with a text message from an approved manager. The managers can add and remove employee access without our intervention.
- i. Implemented a network of sensors, in the building, which gives us live real-time data on equipment failures (heat and humidity sensors in the equipment rooms, audio and IR sensors in the mechanical rooms to detect broken belts and failing compressors,, sensor on the building roof chiller to see if the heat exchange system is operational, flood detectors in the basement to check for failing sump-pumps.
- j. Upgraded the network wiring infrastructure in the entire building
- k. Installed a digital interactive tenant directory for the front lobby.

#### **POST PETITION ACTIVITY:**

The chapter 11 petition was filed July 27, 2016. In December 2015, one of the members controlling a minority percent of the LLC, in an apparent attempt to capture additional shares in the building pulled their support and forced the bank into a technical foreclosure. Given that this partner did not seek to pay for these additional shares, an agreement could not be reached that satisfied all parties involved. The bank determined a contract default for the mortgage had occurred and exercised a Louisiana Executory Process Foreclosure. To prevent the scheduled sheriff's sale, Mid City Tower, LLC filed a chapter 11 bankruptcy reorganization.

Upon the filing of the voluntary bankruptcy the debtor in possession obtained approval to employ undersigned legal and accounting professionals to assist in the chapter 11 reorganization process. The law firm that was initially hired by the debtor, Stewart Robbins & Brown withdrew and the debtor hired Attorney Pamela Magee LLC to proceed with a chapter 11 reorganization. Mr. Mathew S. Thomas is one of the owners of the company who has been the managing member and who has worked in all aspects of the business on a daily basis since the initial formation in 2013, and he has continued his commitment to the development of the business throughout the bankruptcy restructure by handling operations, management, and business development for the chapter 11 debtor in possession.

In the initial stages of the chapter 11 case the debtor also addressed overstated billing issues with Entergy and resolved the abnormally high utility service billing that was occurring in error. The debtor and its management had developed systems prior to the filing of the bankruptcy case to improve the comfort and security for its tenants and that in part enabled the issues with Entergy to be resolved quickly. The chapter 11 case has also provided an opportunity for the debtor to resolve disputes that arose with a minority shareholder and to obtain funding for the debtor to restructure its building loan.

#### **IV. LIQUIDATION ANALYSIS; SUMMARY OF ASSETS AND LIABILITIES**

The primary asset of this business is a 14-story commercial office rental building tower. The value of the immovable property far exceeds the amount of the allowed claims and therefore the chapter 11 plan appropriately proposes to pay all debt in full. The debtor has obtained a recent appraisal of the property indicating a current value of \$2.25 million. However, in the event of a conversion to a chapter 7 liquidation chapter the ability of the debtor to repay its creditors would be lost because (1) the debtor would no longer have control over the management and marketing of the property, (2) the secured lender on the building could obtain relief from the stay if the property was not sold quickly enough in a “chapter 7 liquidation sale” and thereby losing all equity instead of having all creditors paid in full through the debtor’s proposed plan, and (3) the expense of using multiple contract services for hire that are currently provided by the debtor would be excessive, would not provide the quality and personalized services to the tenants that current management provides for all of the maintenance and management, and (4) would preclude the development of new tenant spaces and future income

growth (5) and a quick chapter 7 liquidation sale would likely not yield any amount above the balance of the mortgage therefore. A summary of the assets and debts follows:

ASSETS AS OF THE PETITION DATE:

- (1) Immovable property located at 5700 Florida Blvd valued at \$2.25 million: 14-story Class B plus a single-level basement, suburban office building built in 1968 containing a total of 77,500 SF of Net Rentable Area situated on a 2.586-acre site in Mid City, Baton Rouge, East Baton Rouge Parish, Louisiana. Total Square Feet: 86,000 SF Number of Tenants: 36 tenants total, 20 under 500 SF, 8 between 500 SF and 1200 SF, 8 over 1200 SF
- (2) Number of full service Tenant leases: 36 tenants total, 20 under 500 SF, 8 between 500 SF and 1200 SF, 8 over 1200 SF
- (3) Parking Spaces: 272
- (4) Improvements since purchased in 2013:
  - a. Started on-site management and developed a procedure manual for the buildings systems
  - b. Cleaned the exterior and repainting interiors and exterior.
  - c. Landscaping
  - e. Installing proper lighting for the parking lot
  - f. Painted the exterior aggregate on the building
  - g. Remediated \$400,000 in Deferred Maintenance from Previous Ownership
  - h. Created an NFC based access control system (this is the same technology that ApplePay uses) for the front doors and elevator. Every floor can be locked or unlocked with a text message from an approved manager. The managers can add and remove employee access without our intervention.
  - i. Implemented a network of sensors, in the building, which gives us live real-time data on equipment failures (heat and humidity sensors in the equipment rooms, audio and IR sensors in the mechanical rooms to detect broken belts and failing compressors,, sensor on the building roof chiller to see if the heat exchange system is operational, flood detectors in the basement to check for failing sump-pumps.
  - j. Upgraded the network wiring infrastructure in the entire building
  - k. Installed a digital interactive tenant directory for the front lobby.
  - l. Obtained service contracts and warranties for daily cleaning, HVAC maintenance, roof maintenance, elevator maintenance, emergency electrical system maintenance

SUMMARY OF DEBTS AS OF THE PETITION DATE:

MidSouth Bank	\$980,000
mortgage loan secured by office tower	
Unsecured, non- insider claims	\$ 60,000
Insider claims	\$115,000
Equity interests	undetermined

The liquidation value of the assets of this estate depends on the status of operations and the personal contact with the tenants. In the event of a chapter 7 conversion, the ongoing development would be devastated without the hands-on 24 hour a day attention that has been provided by management of Ms. Ann Simmers and Mr. Mathew Thomas for the past three years building this business without personal compensation. They have provided, and continue to provide the attention to the tenants' needs that brought a distressed property to a profitable operation. The rental income has tripled during this time, because of the services management provides and the improvements to the facility and operations described above, all of which require continuous attention. In the event of a liquidation in chapter 7 all of this value would be lost due to a chapter 7 trustee's having to hire out all of these services on a temporary basis pending advertisement for a sale within the short time frame MidSouth Bank would push, while losing all of the personal attention to tenants that current management provides at no expense because the individuals have been building a business with value for their future. Liquidation would therefore result in decreased rental collections and loss of tenants, such that the value in chapter 7 would be just a building subject to a mortgage.

The liquidation of the debtor's business is based on the physical building alone and therefore is estimated in the range of \$1 million to \$1.7 million by management, depending on the length of time for continuation of services being provided. If current management were removed, as would be anticipated in a chapter 7, and because so much of what current management provides is done without compensation yet has increased the monthly rental and improved the technical operations of the facility during this development. Then the lower value range would be expected and therefore result in no value to any creditors other than the building mortgage holder. Further, the lender will push to complete a state court foreclosure upon stay relief by its pending motion within 30 days most likely, and at a sheriff sale there would be a credit bid by the bank for less than its debt. That also exposes the dissenting management to deficiency judgments, as opposed to the proposed buyout of their interest with a 40% return on their investment. The bank has already filed suit against all of the individual guarantors. So a liquidation would not enable any value to be obtained to pay the creditors other than the bank's secured claim, and to the detriment of all creditors and of all shareholders as well. The chapter 11 plan proposed to this court provides that all creditors (except current management) are paid now, and even the dissenting management will be paid the full value of their investment plus a 40% return. The plan proposes no distribution or investment return being paid the current management, whose goal is to build the business, to preserve the value of the ongoing operation, and to build their future investment value. The amount proposed to settle and remove the dissenting minority shareholders in this chapter 11 plan is based on the proposed value of the operating business at a minimum value of \$2 million. That yields the calculated 40.46% return on a total investment of \$284,777.58 by the minority owners, resulting in the proposed \$400,000 to be paid those minority owners by the debtor's chapter 11 reorganization. A conversion to chapter 7, as has been pushed by the disputing minority interest, intentionally destroys all investment value and is not in the best interests of all creditors of the estate. Whereas the goal of current management reflects a best interest of creditors, and that includes the interest of all creditors, and all shareholders, by paying a 40% return on an investment to parties whose only goal leading up to the filing of this chapter 11 and throughout the case has been the liquidation and closure of this business.

## **V. HISTORICAL DATA AND FUTURE OWNERSHIP**

Mid City Tower, LLC is a Louisiana entity formed in 2013 by Mathew S. Thomas with the assistance of his family. The entity has always been operated from its business location at 5700 Florida Boulevard, Rouge Rouge, Louisiana.

The most recent year- end balance sheet and profit and loss data for 2015 is attached as Exhibit "A" and in comparison, the most recently monthly report data for October 2016 reflects the growth in rental receipts from tenants.

As a result of this anticipated reorganization two new members are ready to buy into the business. The debtor will redeem or structure a buy-out of three prior minority equity interests who controlled 40% of the LLC as of the chapter 11 petition date by funding through a contribution of \$400,000. There are two new investors, Saby Joseph who will contribute \$250,000 and Shajimon Thomas who will contribute \$150,000. The equity interest owners upon approval of the restructure of this entity are anticipated to include the following individuals directly and/or through the existing LLC owned member: Mathew Thomas, Ann Simmers, Saby Joseph, Shajimon Thomas, and Michael Simmers. The debtor has filed for court approval in order to refinance the current mortgage to MidSouth Bank, the only secured creditor.

## **VI. CURRENT FINANCIAL INFORMATION**

Copies of the most recent monthly operating report for October, 2016 reflects post-petition financial information and is attached as **Exhibit A-1**. The last two years of income tax returns are attached as **Exhibit B**. Since late July 2016 when this reorganization case was commenced the business has continued to add tenants. Based on the current rent rolls, the debtor collects an average in excess of \$10,000 net profit monthly at present and that is expected to continue to increase. The debtor's monthly Income and Expense information is reflected in the monthly report data. The debtor's plan proposes to assume the tenant leases and the list of tenant leases to be assumed are attached as exhibit B-2 to this disclosure statement and as exhibit B to the plan. It is anticipated that the list of leases will be updated as of plan confirmation as an estimated three new tenants are in the process of being added, including a coffee shop in the building.

## VII. FINANCIAL PROJECTIONS

The business has prepared a summary of its most recent monthly operations that is attached in section VI and that includes an income projection. The debtor's chapter 11 plan is expected to be approved and allow for the debtor to pay out all debt within 30 day of approval and that plan is not dependent on future monthly cash flow, as the plan is primarily funded through debt refinance and member redemptions. A five year Pro-Forma has also been prepared. In addition the debtor has planned development for the top four floors to be converted into high-end luxury condominiums or apartments. See **Exhibit D** for Renderings of these projected high-end residential units. Meanwhile the debtor has prospective tenants currently in development including the following:

### **Second Floor:**

*An urban Aquaponics farming startup with the proposed name of Cloud Farm Aquaponics.* A few nature and science-loving entrepreneurs including Brandon Taylor (mushrooms), John Gray (system's engineer), Chris Martin (aquaponics), Stuart Rogers (fish farming) with Mathew Thomas are working to start an indoor commercial urban farm, renting the second floor of the property as well as utilizing roof space and outdoor space to grow organic high quality greens and mushrooms.

### **Eighth Floor, Two Possible Tenants:**

1. *Call Center for Established Louisiana Security Company.* We are talking to an established Louisiana Security Company to open a call center for their monitoring operations in Baton Rouge. Since this floor was recently utilized as a call center, they could move in with minimal renovation and no additional wiring. They will be renting the entire floor.

OR

2. *Existing Technical School Tenant.* Mid City College wants to utilize the 8<sup>th</sup> floor add an additional program to their current offering.

### **First Floor Retail Eatery Development:**

We are currently talking with two prospective projects, each involving developing the first floor of the building with an eatery. Establishing the first floor eatery is integral to making the proposed residential addition a success, however making the building more attractive to prospective tenants, both commercial and residential.

*Restaurant (Pit-n-Peel).* An established area restaurant is interested to *open* up a second location of their restaurant in the first floor of the Mid City Tower. Negotiations for the 8,000 sf are currently at \$24 per square foot.

OR



*Small Retail Shop and Market Eatery.* An established eye-glass retailer 1,000 sf with the remainder of the space sub-divided for an study lounge serving salads and fresh juices in partnership with the urban farm located on the second floor, as well as sandwiches, coffee and tea.

Leasing of these three floors will generate an additional monthly income of at least \$24,000 per month.

## **VIII. MANAGEMENT**

Ms. Ann Simmers is the managing member of the debtor and is a co-owner and the President of the Mid City College. She has over 18 years of experience in education and compliance management. She with her husband, Michael Simmers, have considerable experience with residential real estate in Louisiana. Mr. Mathew Thomas holds a Masters in Economics and Finance from Brandeis University and is ABD from a Ph.D. program in Economics at the New School for Social Research in New York City. He is a co-owner in the Mid City College, LA; handling compliance issues and curriculum development for the school. He has owned and has experience managing commercial real estate in his hometown of Philadelphia. Together Mathew and Ann have managed the building for the past three years.

Ms. Simmers and Mr. Thomas have not been receiving compensation for the full time services they provide the debtor entity. They will provide management post confirmation. In anticipation of continued growth of the rental rolls they expect to receive future compensation in the form of a fixed salary, but until the plan is consummated that pays off existing debt and increases the monthly net rental profit, they do not plan to draw any salaries during the months following confirmation, and then only to the extent it is feasible for the company to commence a fixed salary for each, and that to be increased slightly each year. No lump sum awards, bonus, or other benefits are to paid until the debtor entity has increased the cash flow. Three to four new tenants are scheduled to be added before the end of 2015, including a coffee shop on site. Therefore, early 2017 is the target date for compensation for existing management to be added in the range of \$30,000 each, when feasible.

## **IX. TAXATION**

The debtor is an LLC and the tax consequences are attributed to its members. The debtor in possession does not have tax delinquencies. There is no amount of debt forgiveness created by this reorganization because the plan pays all creditors in full. Therefore, the tax consequence of confirmation of the debtor's chapter 11 plan will not be adverse to the financial future of the

reorganized entity. A copy of the 2013 and 2014 federal tax returns are attached and reflect a net rental real estate loss for the first two years of operations during which significant improvements were being made to the property. A small estimated proof of claim of \$4600 has been filed by the Internal Revenue Service for an estimated assessment for the 2015 year but the return will reflect no tax due as a result of the LLC structure, so there are no priority tax claims owed by the debtor.

## **X. ANTICIPATED LITIGATION**

As of commencement of the chapter 11 case the only legal action to which the debtor was a party was the foreclosure that was stayed by the bankruptcy filing, and that will be moot as a result of the refinance of the subject mortgage loan. Confirmation of this chapter 11 plan will enable the debtor to refinance its debt and pay all secured and unsecured claims 100%. Therefore, the debtor anticipates no necessity for evaluation or commencement of litigation against or between its current and prior equity owners, its creditors, nor any other parties. The debtor's Statement of Financial Affairs includes a listing of transactions within a year of filing between insiders that is between the debtor and the school. During 2014 the school ended up helping to assist the debtor with its expenses as the net effect of the various transactions and for 2015 there would have been no net effect either way as a result of the transactions between these entities. However, as all allowed claims will be paid in this 100% repayment plan there is no necessity to pursue further evaluation of these accounting transactions.

## **XI. ADMINISTRATIVE EXPENSES**

The post-petition administrative expenses of this estate include legal fees. There has been accrual of professional fees for prior and current legal counsel for the debtor in possession, but no financially burdensome obligations have been incurred during the chapter 11 case. A final fee application for the Stewart Robbins Brown firm, prior counsel for the debtor, has been approved by the court in the amount of \$32,462.06. Undersigned counsel for the debtor who replaced the Stewart Robbins Brown firm did not receive a retainer, and has not yet filed an application for approval of attorney fees. Current counsel has moved the focus from disputed litigation with the minority shareholders to a reorganization plan that pays 100% of the creditors of the case. Further, the anticipated approval of a refinance and buy-out eliminates further contested

litigation in this case and therefore reduces anticipated legal expenses. Current counsel is expected to incur total legal fees in an amount less than that of prior legal counsel. A fee application has not been submitted, but is expected to be less than \$20,000 and counsel will agree to monthly payments to the extent necessary to consummate the debtor's plan of reorganization following confirmation. Anticipated account's fees are not expected to exceed \$2,500. The debtor has sufficient funding to pay all professional services incurred with relation to this reorganization.

## **XII. SUMMARY OF PLAN OF REORGANIZATION**

The chapter 11 plan proposed on behalf of the captioned debtor in possession proposes to pay its debts in full. The plan provides for lump sum payments of allowed secured and unsecured claims with no necessity of amortization over a repayment term of debt existing as of the petition date of the case. A portion of the equity interest will be restructured by providing for a buy-out of the interest of Dr. Bobby Joseph, Erat S. Joseph, and Dr. George A. Mamphilly. A copy of the proposed plan is attached as **Exhibit D** and made a part of this Disclosure Statement. The debtor has applied for a short term bridge loan at 12% interest to be paid interest-only payments for 12 months to refinance the secured debt to MidSouth Bank and pay allowed creditor claims, and that loan will be combined with funds from two new investors for additional funding for the debtor including the buy-out of the dissenting minority equity interests. The debtor has other prospects for loans in progress that would be less expensive than this loan that is closest to a closing date in connection with confirmation of this plan of reorganization.

### **XIII. CONCLUSION**

The debtor in possession believes that this disclosure statement enables the creditors to gain an understanding of the issues faced by the business and its owner as well as the causes for the actions in connection with this Chapter 11 reorganization. The captioned debtor in possession believes that the Plan of Reorganization filed is confirmable under the provisions of Chapter 11 and will provide a prompt and full payment of debt.

**THE FORGOING CHAPTER 11 DISCLOSURE STATEMENT IS SUBMITTED  
BY MID CITY TOWER, LLC WITH THE SUPPORT OF ITS MEMBERS, MS. ANN  
SIMMERS AND MR. MATHEW S. THOMAS  
ON THIS 29<sup>th</sup> DAY OF NOVEMBER, 2016.**

RESPECTFULLY SUBMITTED,

s/ Pamela Magee

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