

**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MASSACHUSETTS**

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**IN RE:**

**BK ENTERPRISES, INC.**

**Chapter 11  
Case No. 17-13197**

**DEBTOR**

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**DISCLOSURE STATEMENT**

**I. INTRODUCTION**

This Disclosure Statement is submitted on behalf of the Debtor, BK Enterprises, Inc., (hereafter “BK” or “Debtor”). The Disclosure Statement contains a description of the Debtor, the operation of the business during the chapter 11 proceeding and the liquidation of the assets which are being used to fund the Chapter 11 Plan. In addition, the alternatives to the Plan are outlined.

On August 29, 2017 (the “Petition Date”), the Debtor filed a voluntary petition for relief under Title 11, United States Code, known as the Bankruptcy Code (the “Code”). The Chapter 11 case is pending in the United States Bankruptcy Court for the District of Massachusetts in Boston Massachusetts (the “Court”). During the case, the Debtor has maintained its business as a Debtor- in-Possession under Sections 1107 and 1108 of the Code.

The Debtor submits this statement in accordance with the requirements of 11 U.S.C. Section 1125. Its purpose is to provide a summary of the Plan of Reorganization proposed by the Debtor together with sufficient information so that upon reading its contents you may make an informed decision whether to accept or reject the Plan of Reorganization (the "Plan") submitted in this proceeding and filed simultaneously herewith.

NO REPRESENTATIONS CONCERNING BK ENTERPRISES, INC., PARTICULARLY AS TO ITS BUSINESS OPERATIONS OR VALUE OF ITS PROPERTY ARE AUTHORIZED BY THE DEBTOR OTHER THAN AS SET FORTH IN THIS STATEMENT. ANY REPRESENTATIONS OR INDUCEMENTS MADE TO SECURE ACCEPTANCE OF THE PLAN WHICH ARE OTHER THAN AS CONTAINED IN THIS STATEMENT SHOULD NOT BE RELIED UPON BY ANY CREDITOR. ALTHOUGH EVERY ATTEMPT HAS BEEN MADE TO PRESENT ACCURATE INFORMATION HEREIN, THE RECORDS KEPT BY THE DEBTOR AND INFORMATION CONTAINED HEREIN ARE NOT WARRANTED OR REPRESENTED TO BE WITHOUT ANY INACCURACY.

## II. DEFINITIONS

Some terms and phrases used throughout this Disclosure Statement are shorthand expressions having longer meanings. In the interest of making this Disclosure Statement more easily read, the following terms will have their associated definitions:

2.1 Administrative Claim shall mean the costs and expenses of administration of the Chapter 11 case as allowed under Section 503(b) of the Code, including, without limitation, any actual, necessary costs and expenses of preserving or operating the Debtor's estate, and all allowances of compensation and reimbursement of expenses to the extent allowed by the Bankruptcy Court under Section 330 of the Code.

2.2 Allowed Claim shall mean any Claim proof of which was filed on or before the Bar Date, or that has been, or hereafter is, listed by either Debtor-in-Possession as liquidated in amount and not disputed or contingent and, in either case, a Claim as to which no objection to the allowance thereof has been interposed within the applicable period of limitation fixed by the Bankruptcy Code or an order of the Court, or as to which any objection has been determined by an order or judgment that is no longer subject to appeal or certiorari proceeding, and as to which no appeal or certiorari proceeding is pending, after giving effect to any such order or judgment reducing or modifying such Claim.

Unless otherwise specified and in accordance with applicable laws, no allowed secured Claim shall include any component of interest on the principal amount of such Claim, as the Debtor is insolvent.

2.3 Bar Date shall mean the last day for filing claims in this proceeding, fixed by this Court pursuant to Rule 3003(c)(3) of the Rules of Bankruptcy Procedure. The proposed Bar Date by Debtor is March 1, 2018 for filing claims.

2.4 Claim shall mean any claim of whatever character against BK whether or not such claim is provable under Section 502 of the Bankruptcy Code; reduced to judgment; liquidated or unliquidated; secured or unsecured; fixed or contingent; matured or unmatured; disputed or undisputed; a legal claim or a claim to an equitable remedy for breach of performance, if such breach gives rise to a right to payment.

2.5 Claimant shall mean any Person having a Claim against the Debtor that arose on or before the Filing Date or a Claim against the Debtor's estate of a kind specified in Section 502(g), (h) or (i) of the Code.

2.6 Priority Claimant shall mean the holder of an Allowed Priority Claim.

2.7 Class shall mean the category of holders of Claims that are substantially similar to the other Claims in such category.

2.8 Code means the United States Bankruptcy Code, Title 11 of the United States Code, as enacted in 1978, and as thereafter amended.

2.9 Confirmation shall mean the date on which the Debtor's proposed Plan of Reorganization is confirmed by order of the Bankruptcy Court.

2.10 Court shall mean the United States Bankruptcy Court for the District of Massachusetts including the United States Bankruptcy Judge presiding therein.

2.11 Creditor shall mean holder of an Allowed Claim.

2.12 Debtor shall mean BK Enterprises, Inc.

2.13 Effective Date shall mean 30 days following the first business day following the last day on which an appeal from an order of the Court confirming the Debtor's Plan of Reorganization may be taken under applicable law and no such appeal has been taken or, if any appeal has been taken, the first business day following the date upon which all appeals have been exhausted and the Plan may be put into effect, whichever is later. For purposes of distribution hereunder the phrase "paid upon the Effective Date" shall mean on the Effective Date or within a reasonable period thereafter so as to allow the writing and mailing of dividend checks.

2.14 Executory Contract shall mean any pre-petition executory contract or unexpired leases of the Debtors within the meaning of Section 365 of the Bankruptcy Code.

2.15 Fair Market Value shall mean the most probable price, as of a specified date, in cash, or in terms equivalent to cash, or in other precisely revealed terms for which the specified property rights should sell after reasonable exposure in a competitive market under all conditions requisite to a fair sale, with the buyer and seller each acting prudently, knowledgeably, and for self-interest, and assuming that neither is under undue duress.

2.16 Filing Date shall mean August 29, 2017.

2.17 Final Order shall mean an order, judgment or decree of the Bankruptcy Court, which order shall not have been reversed, stayed, modified or amended and the time to appeal from the or to seek review or rehearing of such order shall have expired and which shall have become final in accordance with Rule 8002 of the Rules of Bankruptcy Procedure and any applicable local procedural rule.

2.18 Lien shall mean any charge against or interest in property to secure payment of a debt or performance of an obligation and includes, without limitation, any judicial lien, security interest, mortgage, and statutory lien as defined in 11 U.S.C. Section 101.

2.19 Liquidation Value shall mean the price that an owner is compelled to accept when a property must be sold without reasonable market exposure.

2.20 Plan shall mean the Plan of Reorganization, either in its present form or as it may be amended from time to time.

2.21 Pro Rata shall mean the same proportion that a Claimant in a particular Class bears to the aggregate amount of all Claims in that Class.

2.22 Secured Claim shall mean any Allowed Claim with respect to which a Security Interest is held in or against any property of the Debtor's estate, to the extent of the value of such Creditor's Interest in the estate's interest in such property. If the value of such creditor's interest is less than the amount of the Allowed Claim held by it, then such Creditor shall hold an Unsecured Claim for such deficiency amount.

2.23 Secured Creditor shall mean any Creditor holding a Secured Claim.

2.24 Security Interest shall mean a lien (as such term is defined in Section 101(31) of the Code) on any of the property of the Debtor's estate.

2.25 Unimpaired Creditor shall mean a Creditor whose interest is not materially and adversely affected by this Plan. In the event of controversy, the Court shall, after hearing and upon notice, determine whether any Creditor or class of Creditors is an Unimpaired Creditor.

### **III. OVERVIEW**

BK Enterprises, Inc. is solely owned and operated by Bertram Kline. Debtor is a commercial painting company. BK's principal is the individual who works as the painter. From time to time and depending on the nature of the job, BK hires independent contractors to complete the painting jobs. Debtor's assets are two motor vehicles, paint, painting equipment, miscellaneous painting tools, and some cash.

The Debtor's challenges commenced when one of Debtor's unsecured creditors, Santander Bank took/withdrew \$14,434.69<sup>1</sup> from the business corporate Santander Bank account ("Bank Account") of the Debtor on or about March 2, 2016 as an offset for the repayment of a corporate business loan taken by Debtor which was universally guaranteed by such Debtor's principal.

The action by Santander Bank was the result of Santander's declaring the debt/credit line due and in default as a result of Debtor's principal (Bertram Kline)'s filing for Chapter 13 bankruptcy protection. Santander then sued the Debtor was the remaining amount of the debt. This Chapter 11 case was filed in an effort to stop Santander to deplete the assets of the Debtor.

The Debtor was faced with insufficient cash flow after Santander's setoff actions. Thus, his ability to make monthly payments to its secured lender or to maintain payments to

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<sup>1</sup> The original amount was \$40,000.00.

its vendors and creditors while maintaining its business operations was impaired. The Debtor's inability to make payments as required resulted in the necessity of filing of a Chapter 11 proceeding.

BK submits this Disclosure Statement (the "Disclosure Statement") in connection with the solicitation of acceptances of the Plans of Reorganization from creditors. This Disclosure Statement has been prepared in order to provide creditors with information they need to make an informed judgment about the Plan. This Disclosure Statement accompanies the Plan of Reorganization and details how the remaining funds shall be distributed.

In accordance with the Bankruptcy Rules, the Debtor submits this Disclosure Statement, which includes a summary of the Plan. The Disclosure Statement also explains the procedures for voting for the Plan; discusses confirmation of the Plan; discusses the tax consequences of the Plan; discusses the means for execution of the Plan and the funding of the Plan as well as the financial history and information about the Debtor. One of the purposes of the Disclosure Statement is to set forth alternatives to confirmation of the Plan and why those alternatives are not as desirable as the Plan. The Disclosure Statement also gives the Debtor's recommendation of the Plan.

The Liquidation Analysis shows that the Plan is in the best interest of creditors because the Plan will enable creditors to realize more than they would in liquidation under Chapter 7 of the Bankruptcy Code.

#### **IV. THE PLAN**

ONLY A SUMMARY OF THE PLAN IS PRESENTED HERE. A COPY OF THE PLAN IS ATTACHED HERETO AND YOU SHOULD CAREFULLY READ IT.

The Plan is premised on the Debtor's belief that creditors will receive a greater percentage of their claims under this Plan than they would receive upon a forced liquidation. The Plan is comprised of one class of claimants and the payments to be made are set forth below. The Bankruptcy Code provides that impaired classes (as defined in the Bankruptcy Code) are required to vote on the Plan. Class One is required to vote with respect to the Plan proposed by the Debtor

The Chapter 11 was filed in order to allow the Debtor to stabilize its operations. The Debtor sought before starting these proceedings to negotiate with Santander no reasonable resolution took place.

The Plan is the product of diligent efforts of Debtor's management to complete the Property and to take all steps necessary to sell same for the benefit of the creditors. The Plan provides that the sums on hand will be distributed in full and final satisfaction of the claims as there will be no further business operations by the Debtor.

The purpose of this Disclosure Statement is to advise holders of Claims and Interests of

their rights under the Plan; (iii) assists creditors entitled to vote in making informed decisions as to whether they should vote to accept or reject the Plan; and assist the Court in determining whether the Plan complies with the provisions of chapter 11 of the Bankruptcy Code and should be confirmed.

A. Attachments: Accompanying this Disclosure Statement as Exhibit A is the Plan; and the Ballots as Exhibit B.

B. Inquiries. If you have any questions about the enclosures that you have received, please contact Carmenelisa Perez-Kudzma, 413 Boston Post Road, Weston, MA 02493, or email carmenelisa@pklaw.law, or phone 978-505-3333.

C. Bar Date In order to determine the nature and extent of the claims to be addressed in this case, the Debtor sought and obtained a Court Order fixing March 1, 2018 as the date by which all holders of claims against the Debtor arising before the Filing Date whose claims were not scheduled by the Debtor, or who disagreed with the amount or nature of the claim as scheduled by the Debtor, must file their claim.

D. Retention of Claims, Rights and Causes of Action: All of the Debtor's rights, claims and causes of action not previously settled or expressly waived under the Plan are reserved. Such claims include, but are not limited to, any claims against vendors or customers in the nature of breach of contract, negligence or warranty etc.

## V. TREATMENT UNDER THE PLAN

A. Payment of Administrative Claims. Administrative Claims will be paid in cash, in full, on the later of the Effective Date or the date they are allowed by an Order of the Bankruptcy Court. Ordinary trade debt incurred by the Debtor in the course of the Chapter 11 case which remains outstanding, if any, will be paid on the Effective Date. The payments contemplated by the Plan will be conclusively deemed to constitute full satisfaction of all post-petition obligations and Allowed Administrative Claims.

Administrative Claims include any post-petition fees and expenses allowed to professionals employed upon Court authority to render services to the Debtor during the course of the Chapter 11 cases.

In this case, the professionals employed by the Debtor is Carmenelisa Perez-Kudzma, Esq. and the Perez-Kudzma Law Office, P.C., as counsel to the Debtor. In order to be compensated, all professionals will have to apply to the Court for compensation and they will be paid that amount which the Court allows. The sums contemplated to be owed to counsel are approximately \$7,000.00 through Confirmation. A retainer was paid in the sum of \$1,000.00 was given by Debtor. This Court has approved the amount of \$4,935.00 during the pendency of the proceeding. Counsel has used the retainer towards the amount approved by this Court. Upon allowance of any other Application for Compensation further amounts will be due as professional fees.

- B. Payment of Tax Claims.** Priority and Tax Claims, as scheduled or as filed and allowed by the Court, of whatever kind or nature will be paid in full on the Effective Date. As of the Petition Date, there were claims owed to the Internal Revenue Service (“IRS”). Based upon the Amended Proof of Claim filed on January 18, 2018 the IRS is asserting a priority claim in the sum of \$237.73.<sup>2</sup> The IRS shall be paid in full on the Effective Date.

The Debtor has filed all pre-petition tax returns. The Debtor has filed and paid when due all post-petition tax obligations. To the extent that any further claims are asserted, these claims shall be paid in full on the Effective Date.

- C. Payment of Administrative Wage Claims.** No claimants have asserted wage claims for services rendered as none are due.

- D. Payment of Fees of the United States Trustee.** Administrative expenses shall include all quarterly fees owing to the U.S. Trustee through the filing of the Application for Final Decree. The Debtor is current upon its Quarterly Fee payments and there is not expected to be a balance projected due upon Confirmation as the Debtor has paid in amounts in excess of what was owed to the U.S. Trustee. In the event that there are any sums owed, the payment will be paid in full upon the Effective Date of Confirmation. Pursuant to the provisions of 28 U.S.C. §1930 as amended by Pub.L.No. 104-99 (1996) the Debtor shall provide the United States Trustee with Post- Confirmation monthly operating reports and make quarterly payments of the United States Trustee’s fees until the case is closed. The Debtor will be responsible for timely payment of fees incurred pursuant to 28 U.S.C. §1930(a)(6). Upon the Effective Date the Debtor will file an Application for Final Decree or, the Debtor will serve the United States Trustee with a monthly financial report for each month (or portion thereof) the case remains open. The Debtor shall pay all quarterly fees owing to the U.S. Trustee until the Chapter 11 proceeding is closed by the issuance of a Final Decree by the Court.

The monthly financial report shall include the following:

- a) A statement of all disbursements made during the course of the month, whether or not pursuant to the plan;
- b) A summary, by class, of amounts distributed or property transferred to each recipient under the plan, and an explanation of the failure to make any distributions or transfers of property under the plan;
- c) Debtor’s projections as to its continuing ability to comply with the terms of the plan;
- d) A description of any other factors which may materially affect the Debtor’s ability to consummate the plan; and
- e) An estimated date when an application for final decree will be filed with the Court (in the case of the final monthly report, the date the decree was filed).

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<sup>2</sup> The unsecured general claim of the IRS amounts to \$1,911.01.

**E. Designation and Payment of Classes of Claims**

**Class One: General Unsecured Claims.** Class One consists of all Unsecured Claims, as scheduled or as filed and allowed by the Court, against the Debtor of whatever kind or nature which are not included in any other Class hereof, including, without limitation, claims based on the rejection of executory contracts or unexpired leases, and claims for damages to person or property based on strict liability, negligence or breach of a warranty, express or implied, relative to services rendered or products delivered by the Debtor but excluding claims of Insiders. Non- Insider, unsecured creditor claimants owed or scheduled as owed by the Debtor on the Petition Date and as of the Bar Date were in the approximate sum of \$61,854.00. However, based upon the proofs of claim filed, the sums due to Class One Claimants are \$35,117.97.

The Class One Claimants shall receive a two time pro rata dividend distribution on the sums net payment of the Administrative, Priority and Tax Claims upon the Effective Date of Confirmation of the Plan. Each claimant is contemplated to receive a dividend distribution of approximately 5% of the claim. The claims of the Class One creditors are impaired.

**Class Two: Equity Interests of BK Enterprises.** Class Two consists of the Equity Interests. At the time of the filing, there was one shareholder.

**Class Three: Ally Financial.** Class Three consists of the under secured claim of Ally financial. At the time of the filing, Ally Financial has not filed a proof of claim regarding its purchase money security interest of Debtor's 2017 Dodge Ram automobile. This class is not impaired.

**F. Treatment of Executory Contracts and Unexpired Leases**

The Debtor is not a party to any executory contracts or leases. Plan does not contemplate the assumption of any executory contracts. Subject to the requirements of Section 365 of the Bankruptcy Code, all executory contracts or unexpired leases of the Debtor that are not rejected, have not been rejected by order of the Bankruptcy Court or are not the subject of a motion to assume pending 30 days after the Confirmation Date will be deemed rejected. All payments to cure defaults that may be required by Section 365(b)(1) of the Bankruptcy Code will be made by the Debtor. In the event of a dispute regarding the amount of any such payments or the ability of the Debtor to provide for adequate assurance of future performance, the Debtor will make any payments required by Section 365(b)(1) of the Bankruptcy Code after the entry of a Final Order resolving such dispute.

All proofs of Claim with respect to Claims arising from the rejection of executory contracts or unexpired leases must be filed with the Bankruptcy Court within thirty (30) days from and after the date of entry of an order of the Bankruptcy Court approving the Disclosure Statement or such Claims will be barred. A creditor whose claims arise from rejection of executory contracts and unexpired leases will be treated as an unsecured creditor.



**G. Means for Implementation of the Plan**

On Confirmation, all property of BK Enterprises, Inc., tangible and intangible, will revert, free and clear of all claims and interests except as provided herein to.

To fund the sums needed for Confirmation including payment of the Administrative claims, counsel to the Debtor will receive from Debtor the first time payments for unsecured claims and the onetime payment for priority claims thirty days before Plan confirmation in the approximate amount of \$1,784. The sums are available and shall be distributed upon the Effective Date of Confirmation.

All quarterly disbursement fees, arising under 23 U.S.C. §1930 (“Quarterly Fees”), accrued prior to confirmation shall be paid in full, on or before the date of confirmation of the Debtor’s plan, by the Debtor or any successor to the Debtor. All Quarterly Fees which accrue post-confirmation shall be paid in full on a timely basis by the Debtor or any successor to the Debtor prior to the Debtor’s case being closed, converted or dismissed.

The implementation of the Plan shall occur on the Effective Date or as otherwise set forth herein.

The final Confirmation Order shall:

- 1) Authorize the Debtor to perform the Plan according to its terms; and 2) release, as of the Effective Date, the Debtor and the Reorganized Debtor, and their members and their respective successors, attorneys, employees, professionals, agents and assigns from all claims, demands, actions, causes of actions, suits, debts, covenants agreements and demands of any nature whatsoever, in law and in equity, that any creditor had, or now has, or may hereafter have against such entities arising out of any matter prior to the Effective Date provided that no claim for future default under any obligation of the Debtor or the Reorganized Debtor established by the Plan, if any, shall be released hereby. The property of BK, Inc. not specifically disposed of pursuant to the Plan shall remain property of BK Enterprises, Inc.

**H. Provision for Disputed Claims**

The Debtor may object to the allowance of any Claims within 30 days of the Effective Date by filing an objection with the Bankruptcy Court and serving a copy thereof on the holder of the Claim in which event the Claim objected to will be treated as a Disputed Claim under the Plan. If and when a Disputed Claim is finally resolved by allowance of the Claim in whole or in part, the Debtor will make any payments in respect of such Allowed Claim in accordance with the Plan.

## **VI. INFORMATION PERTAINING TO THE DEBTOR**

### **A. General Information Concerning the Debtor's Problems and Corrections**

BK Enterprises, Inc. was formed in 1997 to operate as a painting company. The company does not have employees or staff but contracts independent contractors who worked on selected projects. The Debtor's principal, Bertram Kline, is the only worker of the company. Kline's compensation (and only source of income) derives from Debtor's profits. Debtor intends to operate on a moving forward basis.

### **B. Officers, Directors and Shareholders**

Bertram Kline is the President, Vice President, Secretary, Treasurer and only member of the Board of Directors who is also the only shareholder. He shall be responsible for the administration and distributions to be made under the confirmed Plan and take such actions as may be necessary or appropriate to effectuate and further evidence the terms and conditions of the Plan.

## **VII. VOTING AND CONFIRMATION**

### **A. General Requirements**

In order to confirm a Plan, the Code requires that the Bankruptcy Court make a series of determinations concerning the Plan, including that: (1) the Plan has classified Claims in a permissible manner; (2) the Plan complies with the technical requirements of Chapter 11 of the Code; (3) the proponent of the Plan has proposed the Plan in good faith; (4) the disclosures concerning the Plan as required by Chapter 11 of the Code have been adequate and have included information concerning all payments made or promised by the Debtor in connection with the Plan; (5) the Plan has been accepted by the requisite vote of creditors, except, as explained below, to the extent that "cramdown" is available under Section 1129(b) of the Code; (6) the Plan is "feasible" (that is, there is a reasonable prospect that the Debtor will be able to perform its obligations under the Plan and continue to operate its business without further financial reorganization, except if the Plan contemplates a liquidation of the Debtor's assets); and (7) the Plan is in the "best interests" of all creditors (that is, that creditors will receive at least as much under the Plan as they would receive in a Chapter 7 liquidation). To confirm the Plan, the Bankruptcy Court must find that all of these conditions are met. Thus, even if the creditors of the Debtor accept the Plan by the requisite number of votes, the Bankruptcy Court must make independent findings respecting the Plan's feasibility and whether it is in the best interests of the Debtor's creditors before it may confirm the Plan. The Debtor believes that the Plan fulfills all of the statutory conditions of Section 1129 of the Code. The statutory conditions to confirmation are more fully discussed immediately below.

**B. Classification of Claims and Interests**

The Code requires that a plan of reorganization place each creditor's claim in a class with other claims which are "substantially similar." The Debtor believes that the Plan meets the classification requirements of the Code.

**C. Voting**

As a condition to Confirmation, the Code requires that each impaired class of claims accept the Plan. The Code defines acceptance of a Plan by a class of claims as acceptance by holders of two-thirds in dollar amount and a majority in number of claims of that class, but for that purpose the only ballots counted are those of the creditors who are allowed to vote and who actually vote to accept or to reject the Plan. Persons who are considered "insiders," as that term is defined in Section 101 of the Code, may vote, but its vote is not counted in determining acceptance of the Plan.

Classes of claims that are not "impaired" under the Plan are deemed to have accepted the Plan. Acceptances of the Plan are being solicited only from those persons who hold Allowed Secured and Unsecured Claims that are impaired under the Plan. An Allowed Claim is "impaired" if the legal, equitable, or contractual rights attaching to the Allowed Claims of the class are modified, other than by curing defaults and reinstating maturity or by payment in full in cash. A claim to which an objection is filed is not an Allowed Claim. However, the Court may allow such a claim for purposes of voting on the Plan. If you have not received an objection to your claim prior to Confirmation of the Plan and you have received a ballot for purposes of voting on the Plan, then most likely your claim is an Allowed Claim. If you have a question, you should consult your own attorney.

Only holders of Allowed Claims or Interests in an impaired Class of Claims or Interest are entitled to vote to accept or reject the Plan as provided for in herein. A Claimant holding a Disputed Claim (whether subject of a motion to expunge, reduce, adjust or re-classify such Claim, or otherwise) shall have the right to vote on the Plan only to the extent: (i) any portion of such Claim is reflected on the Debtor's books and records as undisputed as to amount and classification (but only in the amount and in the priority reflected in Debtor's books and records); (ii) the Debtor and such Claimant stipulate in writing to allow such Claimant to vote some or all of its Claim; or (iii) the Bankruptcy Court so orders, upon motion noticed to the Debtor and such Claimant.

**D. Best Interests of Creditors**

Notwithstanding acceptance of the Plan by creditors of each class, in order to confirm the Plan the Bankruptcy Court must independently determine that the Plan is in the best interests of all classes of creditors impaired by the Plan. The "best interests" test requires that the Bankruptcy Court find that the Plan provides to each member of each impaired class of claims a recovery which has a value at least equal to the value of the distribution which each such creditor would receive if the Debtor was liquidated under Chapter 7 of the Code. Please see the discussion of liquidation value below.

**E. Confirmation Without Acceptance by All Impaired Classes**

Even if a plan is not accepted by all impaired classes, it may still be confirmed. The Code contains provisions for confirmation of a plan where at least one impaired class of claims has accepted it. These “cramdown” provisions are set forth in Section 1129(b) of the Code.

A plan of reorganization may be confirmed under the cram-down provisions if, in addition to satisfying the usual requirements of Section 1129 of the Code, it (i) “does not discriminate unfairly” and (ii) “is fair and equitable,” with respect to each class of claims that is impaired under, and has not accepted, the plan. As used by the Code, the phrases “discriminate unfairly” and “fair and equitable” have narrow and specific meanings unique to bankruptcy law.

The requirement that a plan of reorganization not “discriminate unfairly” means that a dissenting class must be treated equally with respect to other classes of equal rank. The Debtor believes that its Plan does not “discriminate unfairly” with respect to any class of Claims.

The “fair and equitable” standard differs according to the type of claim to which it is applied. In the case of secured creditors, the standard is met if the secured creditor retains its lien and is paid the present value of its interest in the property which secures the secured creditor’s claim. With respect to unsecured creditors, the standard is met if the unsecured creditor receives payment in the full amount of its claim or, in the event that it receives less than the full amount of its claim, no junior class receives or retains any interest in property of the debtor. The standard as applicable to unsecured creditors is also known as the “absolute priority rule.”

**VIII. LIQUIDATION VALUATION**

To calculate what creditors would receive if the Debtor was to be liquidated, the Bankruptcy Court must first determine the aggregate dollar amount that would be generated from the Debtor’s assets if the Chapter 11 case were converted to a Chapter 7 case under the Code and the assets were liquidated by a trustee in bankruptcy (the “Liquidation Value”). The Liquidation Value would consist of the net proceeds from the disposition of the real estate of the Debtor which funds are held by counsel to the Debtor.

The Liquidation Value available to general creditors would be reduced by (a) by the costs and expenses of the liquidation, as well as other administrative expenses of the Debtor’s estate. The Debtor’s costs of liquidation under Chapter 7 would include the compensation of a trustee, as well as of counsel and of other professionals retained by the trustee; and all unpaid expenses incurred by Debtor during the Chapter 11 case (such as compensation for attorneys and certified public accountant and taxes) which are allowed in the Chapter 7 proceeding; and any litigation costs or claims arising from the operation of the Debtor’s business during the pendency of the Chapter 11 reorganization and Chapter 7 liquidation case. Once the percentage recoveries in liquidation of the administrative and priority claimants, general unsecured creditors and equity security holders are

ascertained, the value of the distribution available out of the Liquidation Value is compared with the value of the property offered to the Class One Claimants under the Plan to determine if the Plan is in the best interests of each creditor and equity security holder.

The Debtor has determined that the Plan is the most practical means of providing recovery to unsecured creditors. Alternatives to the Plan which were considered and evaluated by the Debtor prior to and during the course of the Chapter 11 Case including liquidation of the Debtor' assets under chapter 7 of the Bankruptcy Code or dismissal of the proceeding.

The following table suggests a likely liquidation scenario for the Debtor.

| Source and Application of Funds  | Amount                  | Assumptions   |
|--|-------------------------|---|
| Proceeds from liquidation of Property ( <b>Painting equipment, Motor Vehicle</b> )   | <b>\$3,000.00</b>       |   |
| Proceeds from liquidation of inventory and furniture, fixtures and equipment on cessation of business ( <b>Unused/Unopened Paint</b> ) | <b>\$500.00</b>         |   |
| Chapter 11 expenses ( <b>Attorney's Fees</b> )   | <b>\$7,000-\$10,000</b> | Includes unpaid monthly operating expenses, quarterly fees owed and Attorney's fees |
| Priority debt ( <b>IRS</b> )   | <b>\$237.73</b>         |   |
| Total for Unsecured claimants under Chapter 11   | <b>\$3,568.16</b>       |   |
|  |                         |   |
| Chapter 7 Trustee fees and expenses  | <b>\$5,000.00</b>       | Estimated costs of trustee commission and counsel fees.                             |
| Net available for unsecured creditors in Chapter 7   | <b>\$0</b>              |   |

The Debtor estimates that its unsecured creditors would receive nothing in the event of liquidation. Upon Confirmation it is contemplated that the unsecured creditors shall share in the distribution of the sum of approximately five (5) percent. The Debtor believes that the Plan is in the best interests of all creditors. Thus, a conversion to Chapter 7 with the additional costs noted above would provide less of a return to the creditors.

## IX. **FEDERAL INCOME TAX CONSEQUENCES**

Implementation of the Plan may result in federal income tax consequences to holders of Allowed Claims. Tax consequences to a particular creditor may depend on the particular circumstances or facts regarding the claim of the creditor. No tax opinion has been sought or will be obtained with respect to any tax consequences of the Plan, and the following disclosure (the "Tax Disclosure") does not constitute and is not intended to constitute either a tax opinion or tax advice to any Person. Rather, the Tax Disclosure is provided for informational purposes only.

Because the Debtor intends to continue its existence and business operations, it will receive a discharge with respect to its outstanding indebtedness. Actual debt cancellation in excess of the fair market value of the consideration -- stock, cash or other property -- paid in respect of such debt will hereinafter be referred to as a "Debt Discharge Amount."

In general, the IRC provides that a taxpayer who realizes a cancellation or discharge of indebtedness must include the Debt Discharge Amount in its gross income in the taxable year of discharge. The Debt Discharge Amounts may arise with respect to Creditors who will receive, in partial satisfaction of their Claims, including any accrued interest, consideration consisting of or including cash. The Debtor's Debt Discharge Amount may be increased to the extent that

unsecured Creditors holding unscheduled claims fail to timely file a Proof of Claim and have their Claims discharged on the Confirmation Date pursuant to Section 1141 of the Bankruptcy Code. No income from the discharge of indebtedness is realized to the extent that payment of the liability being discharged would have given rise to a deduction.

If a taxpayer is in a case under the Bankruptcy Code and a cancellation of indebtedness occurs pursuant to a confirmed plan, however, such Debt Discharge Amount is specifically excluded from gross income (the “Bankruptcy Exception”). The Debtor intends to take the position that the Bankruptcy Exception applies to it. Accordingly, the Debtor believes it will not be required to include in income any Debt Discharge Amount as a result of Plan transactions.

Section 108(b) of the IRC, however, requires certain tax attributes of the Debtor to be reduced by the Debt Discharge Amount excluded from income. Tax attributes are reduced in the following order of priority: net operating losses and net operating loss carry-overs; general business credits; minimum tax credits; capital loss carry-overs; basis of property of the taxpayer; passive activity loss or credit carry-overs; and foreign tax credit carry-overs. Tax attributes are generally reduced by one dollar for each dollar excluded from gross income, except that general tax credits, minimum tax credits, and foreign tax credits are reduced by 33.3 cents for each dollar excluded from gross income. An election can be made to alter the order of priority of attribute reduction by first applying the reduction against depreciable property held by the taxpayer in an amount not to exceed the aggregate adjusted basis of such property. The Debtor does not presently intend to make such election. If this decision were to change, the deadline for making such election is the due date (including extensions) of the Debtor's federal income tax return for the taxable year in which such debt is discharged pursuant to the Plan.

The federal tax consequences of the Plan to a hypothetical investor typical of the holders of claims or interests in this case depend to a large degree on the accounting method adopted by that hypothetical investor. A “hypothetical investor” in this case is defined as a general unsecured creditor. In accordance with federal tax law, a holder of such a claim that uses the accrual method and who has posted its original sale to the Debtor as income at the time of the product sold or the service provided hypothetically should adjust any net operating loss to reflect the dividend paid by the Debtor under the Plan provided that holder previously deducted the liability to the Debtor as a “bad debt” for federal income tax purposes. Should that holder lack a net operating loss, then in accordance with federal income tax provisions, the holder should treat the dividend paid as ordinary income, again provided the holder previously deducted the liability to the debtor as a “bad debt” for federal income tax purposes. If the accrual basis holder of the claim did not deduct the liability as a “bad debt” for federal income tax purposes, then the dividend paid by the Debtor has no current income tax implication. A holder of a claim that uses a cash method of accounting would, in accordance with federal income tax laws, treat the dividend as income at the time of receipt.

THE DEBTOR MAKES NO REPRESENTATIONS REGARDING THE PARTICULAR TAX CONSEQUENCES OF CONFIRMATION AND CONSUMMATION OF THE PLAN AS TO ANY CREDITOR. EACH PARTY AFFECTED BY THE PLAN SHOULD CONSULT HER, HIS OR ITS OWN TAX ADVISORS REGARDING THE SPECIFIC TAX CONSEQUENCES OF THE PLAN WITH RESPECT TO A CLAIM.

**X. FEASIBILITY**

The Bankruptcy Code requires as a condition to Confirmation that the Bankruptcy Court find that liquidation of the Debtor or the need for further reorganization is not likely to follow after Confirmation.

**XI. PROVISIONS GOVERNING DISTRIBUTIONS**

**A. Method of Distributions under the Plan**

Effective Date Payments. On the Effective Date or as soon thereafter as is reasonably practical, the Disbursing Agent for the Debtor, which shall be counsel to the Debtor shall remit to holders of Allowed Administrative Expense Claims and Allowed Priority Claims an amount in cash equal to the Allowed amount of such Claims, and shall distribute the first and final dividend distribution to the holders of Allowed Unsecured Class One.

Delivery of Distributions and Undeliverable Distributions. Distributions to holders of Allowed Claims shall be made at the address of each such holder as set forth on the Schedules filed with the Bankruptcy Court, unless superseded by a new address as set forth (a) on a proof of claim filed by a holder of an Allowed Claim, or (b) in another writing notifying the Debtor (at the addresses set forth in the Plan) of a change of address. If any holder's Distribution is returned as undeliverable, the Debtor shall make a good faith effort to locate correct addresses for any Distribution that is returned as undeliverable.

Compliance with Tax Requirements. In connection with the Plan, to the extent applicable, the Debtor or the Reorganized Debtor (as applicable) in making distributions under the Plan shall comply with all tax withholding and reporting requirements imposed governmental unit, and all distributions pursuant to the Plan shall be subject to such withholding and reporting requirements.

**B. Time Bar to Cash Payments.**

Checks issued by the Disbursing Agent for the Debtor in respect of Allowed Claims shall be null and void if not negotiated within ninety (90) days after the date of issuance thereof. Requests for reissuance of any check shall be made to the Disbursing Agent by the holder of the Allowed Claim to whom such check originally was issued. Any claim in respect of such a voided check shall be made on or before the earlier of (a) 30 days after the expiration of the sixty day period following the date of issuance of such check.

**XII. PROCEDURES FOR RESOLVING AND TREATING DISPUTED CLAIMS**

**A. No Distribution Pending Allowance.** Notwithstanding any other provision of the Plan, no cash or other property shall be distributed under the Plan on account of any Disputed Claim, unless and until such Claim becomes an Allowed Claim.

**B. Resolution of Disputed Claims** Unless otherwise ordered by the Bankruptcy Court after notice and a hearing, the Debtor shall have the right to make and file objections to Claims and shall serve a copy of each objection upon the holder of the Claim to which the objection is made as soon as practicable, but in no event later than 30 days after the Confirmation Date. From and after the Confirmation Date, all objections shall be litigated to a Final Order except to the extent the Debtor elects to withdraw any such objection or the Debtor and the claimant elect to compromise, settle or otherwise resolve any such objection, in which event they may settle, compromise or otherwise resolve any Disputed Claim subject to Bankruptcy Court approval.



#### **XIV. MISCELLANEOUS**

**A. Modification of Plan.** The Debtor reserves the right, in accordance with the Bankruptcy Code and the Bankruptcy Rules to amend or modify the Plan at any time prior to the entry of the Confirmation Order. After the entry of the Confirmation Order, the Debtor may, upon order of the Bankruptcy Court, amend or modify the Plan, in accordance with Bankruptcy Code §1127(b), or remedy any defect or omission or reconcile any inconsistency in the Plan in such manner as may be necessary to carry out the Plan's purpose and intent. A holder of an Allowed Claim or Interest that is deemed to have accepted the Plan shall be deemed to have accepted the Plan as modified if the proposed modification does not materially and adversely change the treatment of the Claim or Interest of such holder.

**B. Withdrawal or Revocation.** The Debtor may, withdraw or revoke the Plan at any time prior to the Confirmation Date. If the Debtor revokes or withdraws the Plan prior to the Confirmation Date, or if the Confirmation Date does not occur, then the Plan shall be deemed null and void. In such event, nothing contained herein shall be deemed to constitute a waiver or release of any Claim by or against the Debtor or any other person or to prejudice in any manner the Debtor's rights or any other person in any further proceedings involving the Debtor.

**C. Courts of Competent Jurisdiction.** If the Bankruptcy Court abstains from exercising, or declines to exercise, jurisdiction or is otherwise without jurisdiction over any matter arising out of the Plan, such abstention, refusal or failure of jurisdiction shall have no effect upon and shall not control, prohibit or limit the exercise of jurisdiction by any other court having competent jurisdiction with respect to such matter.

#### **XV. CONFIRMATION**

**A. Confirmation Hearing.** Section 1128(a) of the Bankruptcy Code requires the Bankruptcy Court, after notice, to hold a confirmation hearing to consider confirmation of the Plan. Section 1128(b) of the Bankruptcy Code provides that any party in interest may object to confirmation of a plan of reorganization. The Bankruptcy Court has scheduled a Confirmation Hearing to consider whether the Plan satisfies the various requirements of the Bankruptcy Code for [ ], 2018 at [ ] a.m./p.m.. (EST). At that time, the Debtor will submit a report to the Bankruptcy Court concerning the vote for acceptance or rejection of the Plan by the parties entitled to vote thereon. Confirmation Hearing Notices are being provided to all Holders of Claims as Required by the Bankruptcy Rules. Objections to confirmation must be filed with the Bankruptcy Court by [ ], 2018 at [ ] a.m./ p.m. (EST) and are governed by Bankruptcy Rules 3020(b) and 9014 and the local rules of the Bankruptcy Court. **UNLESS AN OBJECTION TO CONFIRMATION OF THE PLAN IS TIMELY SERVED AND FILED IN ACCORDANCE WITH THE CONFIRMATION HEARING NOTICE, IT MAY NOT BE CONSIDERED BY THE BANKRUPTCY COURT.**

**B. Requirements for Confirmation.** At the Confirmation Hearing, the Bankruptcy Court will determine whether the provisions of section 1129 of the Bankruptcy Code have been satisfied by the Plan. If all the provisions of section 1129 of the Bankruptcy Code are met, the Bankruptcy Court may enter an order confirming the Plan. We believe that all the requirements of section 1129 of the Bankruptcy Code will be satisfied.

**C. Class Acceptance of the Plan.** As a condition to confirmation, the Bankruptcy Code requires that each impaired class of claims or interests accept a plan, subject to the exceptions described in the section entitled "cram down" below. At least one impaired class of

claims must accept a plan in order for the plan to be confirmed. For a class of claims to accept a plan, section 1126 of the Bankruptcy Code requires acceptance by creditors that hold at least two-thirds in dollar amount and a majority in number of the allowed claims of such class, in both cases counting only those claims actually voting to accept or reject the plan. The holders of claims who fail to vote are not counted as either accepting or rejecting a plan.

For a class of interests to accept a plan, section 1126 of the Bankruptcy Code requires acceptance by interest holders that hold at least two-thirds in amount of the allowed interests of such class, counting only those interests actually voting to accept or reject the plan. The holders of interests who fail to vote are not counted as either accepting or rejecting a plan. If the Plan is confirmed, the Plan will be binding on all Holders of Claims of each Class, including Classes and members of such Classes that did not vote or that voted to reject the Plan.

Debtor believes that the Plan satisfies all the statutory requirements of chapter 11 of the Bankruptcy Code, that we have complied or will have complied with all the requirements of chapter 11 and that the Plan has been proposed and made in good faith.

**D. Cram Down.** A court may confirm a plan, even if it is not accepted by all impaired classes, if the plan has been accepted by at least one impaired class of claims and the plan meets the “cram down” requirements set forth in section 1129(b) of the Bankruptcy Code. Section 1129(b) of the Bankruptcy Code requires the court to find that the plan is “fair and equitable” and does not “discriminate unfairly” against any nonaccepting impaired class of claims or interests. With respect to a dissenting class of claims, the “fair and equitable” standard requires, among other things, that, pursuant to the Plan, either (i) each holder of a claim in such dissenting class will receive or retain property having a value, as of the effective date of a plan, equal to the allowed amount of its claim, or (ii) no holder of allowed claims or interests in any junior class will receive or retain any property on account of such claims or interests. With respect to a dissenting class of interests, the “fair and equitable” standard requires that pursuant to the Plan, either (i) each holder of an interest in the dissenting class will receive or retain property having a value, as of the effective date, equal to the greater of the allowed amount of any fixed liquidation preference to which such holder is entitled, or the value of such interests or (ii) no holder of an interest in any junior class will receive or retain any property on account of such interests. The strict requirement of the allocation of full value to dissenting classes before junior classes can receive a distribution is known as the “absolute priority rule.”

#### **E. Plan Meets Requirements for Confirmation**

**1. Best Interests of Creditors.** To confirm the Plan, the Bankruptcy Court must determine that the Plan meets the requirements of section 1129(a)(7) of the Bankruptcy Code, that is, that the Plan is in the best interests of each Holder of a Claim in an Impaired Class that has not voted to accept the Plan. To satisfy this “best interests” test, the Bankruptcy Court must find that the Plan provides each non-consenting Holder in such Impaired Class with a recovery, on account of such Holder’s Claim that has a value at least equal to the value of the distribution that each such Holder would receive if the Debtor were liquidated under chapter 7 of the Bankruptcy Code.

Confirmation of the Plan is in the best interests of the Holders of Claims because it provides distributions to such Holders having a present value, as of the Effective Date, of not less than the value such Holders likely would receive if the Debtor was liquidated under chapter 7 of the Bankruptcy Code.

**2. Alternatives to Confirmation and Consummation of the Plan.** If the Plan is not confirmed by the Bankruptcy Court and consummated, the alternatives available to the Debtor would include (i) confirmation of an alternative plan of reorganization under chapter 11 of the Bankruptcy Code or (ii) liquidation under chapter 11 or chapter 7 of the Bankruptcy Code. If the Plan is not confirmed, we will decide which alternative to pursue by weighing each of the available options and choosing the alternative or alternatives that are in the best interests of the Debtor, its stakeholders, and other parties in interest.

**3. Alternative Plans of Reorganization.** If the Plan is not confirmed, the Debtor (or, if the exclusive period in which to file a plan of reorganization has expired or is terminated by the Bankruptcy Court, any other party in interest) could attempt to formulate a different plan of reorganization. Such a plan might involve either reorganization or continuation of operations or an orderly liquidation of our assets. We believe that the Plan is a significantly more attractive alternative than those alternatives, because it will result in a larger distribution to creditors than would other types of reorganizations under chapter 11 of the Bankruptcy Code or a liquidation under chapter 7 or chapter 11 of the Bankruptcy Code and will avoid the disruption of business that would result from a protracted and contested bankruptcy case.

**4. Dismissal of the Debtor's Chapter 11 Case.** Dismissal of this Chapter 11 Case would have the effect of restoring (or attempting to restore) all parties to the *status quo* as of the commencement of the Chapter 11 proceeding. Upon dismissal of the Chapter 11 cases, the company's would lose the protections afforded by the Bankruptcy Code, thereby requiring, at the very least, an expensive and time-consuming process of negotiation with the creditors which is not in the best interests of the creditors. Dismissal of the Chapter 11 Cases is not a viable alternative to the Plan.

**5. Liquidation under Chapter 7.** If no plan of reorganization is confirmed (and in certain other circumstances), the Chapter 11 Case may be converted to a case under chapter 7 of the Bankruptcy Code, pursuant to which a trustee would be elected or appointed to liquidate the assets of the Debtor for distribution to creditors in accordance with the priorities established by the Bankruptcy Code. A discussion of the potential effects that chapter 7 liquidation would have on the recovery of Holders of Claims is set forth above under Article VIII. "LIQUIDATION VALUATION". The Debtor believes that liquidation under chapter 7 would result in either smaller or no distributions to the holders of Claims as compared to those provided for in the Plan because of, among other things, the erosion in value of assets in a chapter 7 case due to the administrative expenses involved in the appointment of a trustee and professional advisors to such trustee, and (iii) expenses and Claims, some of which would be entitled to priority. In addition, a chapter 7 liquidation is likely to result in delays in ultimate distributions to creditors. If a chapter 7 liquidation occurs, the Debtor believes that there would be minimal sums available to make a distribution to unsecured creditors or priority claimants, and that the creditors would be paid far less than in the Chapter 11 proceeding.. Consequently, the Debtor believes that the distribution of the funds under chapter 11 is a more attractive alternative to creditors t because of the likelihood of a greater recovery provided for by the Plan.

## **XVI. DISCLAIMERS**

THE CONTENT OF THIS DISCLOSURE STATEMENT HAS BEEN APPROVED BY THE BANKRUPTCY COURT AS PROVIDING ADEQUATE INFORMATION TO CREDITORS SO THAT THEY MAY HAVE SUFFICIENT INFORMATION TO VOTE ON THE PLAN. NO REPRESENTATIONS CONCERNING THE DEBTOR, INCLUDING THOSE RELATING TO ITS FUTURE BUSINESS OPERATIONS, OR THE VALUE OF ITS ASSETS, ANY PROPERTY, AND CREDITORS' CLAIMS, INCONSISTENT WITH ANYTHING CONTAINED HEREIN HAVE BEEN AUTHORIZED. THE DEBTOR DOES NOT WARRANT OR REPRESENT THAT THE INFORMATION CONTAINED HEREIN IS COMPLETE OR WITHOUT OMISSIONS. THE BANKRUPTCY COURT'S APPROVAL OF THIS PLAN OF REORGANIZATION AND DISCLOSURE STATEMENT DOES NOT CONSTITUTE A RECOMMENDATION FOR OR AGAINST THE PLAN. THIS DISCLOSURE STATEMENT MAY NOT BE RELIED UPON FOR ANY PURPOSE OTHER THAN TO DETERMINE HOW TO VOTE ON THE PLAN, AND NOTHING CONTAINED IN IT WILL CONSTITUTE AN ADMISSION OF ANY FACT OR LIABILITY BY ANY PARTY, OR BE ADMISSIBLE IN ANY PROCEEDING INVOLVING THE DEBTOR OR ANY OTHER PARTY, OR BE DEEMED CONCLUSIVE ADVICE ON THE TAX OR OTHER LEGAL EFFECTS OF THE REORGANIZATION ON HOLDERS OF CLAIMS.

THE STATEMENTS CONTAINED IN THIS DISCLOSURE STATEMENT ARE MADE AS OF THIS DATE UNLESS ANOTHER TIME IS SPECIFIED, AND NEITHER DELIVERY OF THIS DISCLOSURE STATEMENT NOR ANY EXCHANGE OF RIGHTS MADE IN CONNECTION WITH THIS DISCLOSURE STATEMENT WILL, UNDER ANY CIRCUMSTANCES, CREATE AN IMPLICATION THAT THERE HAS BEEN NO CHANGE IN THE FACTS SINCE THE DATE OF THE DISCLOSURE STATEMENT AND THE MATERIALS RELIED UPON IN PREPARATION OF THIS DISCLOSURE STATEMENT WAS COMPILED.

## **XVII. EFFECT OF THE ORDER CONFIRMING THE PLAN**

To understand the full effect of an order confirming the Plan you should read Section 1141 of the Code. The following is a summary of that section.

**A. Vesting of Assets in Reorganized Debtor.** Pursuant to Bankruptcy Code §§1141(b) and (c), as of the Confirmation Date, the property, assets and effects of the Debtor other than the cash distributed pursuant to this Plan, shall vest in the reorganized Debtor, free and clear of all Claims and Interests except as otherwise expressly provided in this Plan.

**B. Release of Assets.** Until the Effective Date, the Bankruptcy Court shall retain jurisdiction of the Debtors assets and liabilities. Thereafter, jurisdiction of the Bankruptcy Court shall be limited to the subject matter set forth in this combined Disclosure Statement and Plan of Reorganization.

**C. Binding Effect.** Except as otherwise provided in section 1141(d)(3) of the Bankruptcy Code, on and after the Confirmation Date, the provisions of the Plan shall bind any holder of a Claim against, or Equity Interest in, the Debtor and their respective successors and assigns, whether or not the Claim or Equity Interest of such holder is impaired under the Plan and whether or not such holder has accepted the Plan.

**D. Term of Injunctions or Stays.** Unless otherwise provided, all injunctions or stays provided for in the Chapter 11 Case pursuant to Bankruptcy Code §§105 or 362, or otherwise, and in existence on the Confirmation Date, shall remain in full force and effect until the Chapter 11 Case is closed.

**E. Rights of Action.** Except as otherwise provided elsewhere in the Plan, on and after the Effective Date, the Debtor will have the exclusive right to enforce any and all present or future rights, claims or causes of action against any Person and rights of the Debtor that arose before or after the Effective Date.

**F. Injunction.** Except as provided herein, on and after the Confirmation Date, all Persons are permanently enjoined from commencing or continuing in any manner any action or proceeding against the Debtor (whether directly, indirectly, derivatively or otherwise) based on any act, omission, transaction, or other activity of any kind or nature that occurred on or before the Confirmation Date.

**G. Discharge of the Debtor.** Except as provided herein, on the Effective Date, the Debtor is forever discharged from any and all claims that arose on or before the Filing Date and all holders of a claim are forever barred and enjoined from prosecuting or seeking to collect any claim against the Debtor.

#### **XVIII. RETENTION OF JURISDICTION**

**A. Bankruptcy Court Jurisdiction.** The Bankruptcy Court shall retain jurisdiction of all matters arising under, arising out of, or related to, the Chapter 11 Case and the Plan pursuant to, and for the purposes of, sections 105(a) and 1142 of the Bankruptcy Code and for, among other things, the following purposes to:

- (i) Hear and determine any motions for the assumption, assumption and assignment or rejection of executory contracts or unexpired leases, and the allowance of any resulting Claims;
- (ii) Determine any and all pending adversary proceedings, applications, and contested matters;
- (iii) Hear and determine any objection to any Claims;
- (iv) Enter and implement such orders as may be appropriate in the event the Confirmation Order is for any reason stayed, revoked, modified, or vacated;
- (v) Issue such orders in aid of execution of the Plan to the extent authorized by Section 1142 of the Bankruptcy Code;
- (vi) Consider any modifications of the Plan, to cure any defect or omission, or reconcile any inconsistency in any order of the Bankruptcy Court, including, without limitation, the Confirmation Order;
- (vii) Hear and determine all applications for compensation and reimbursement of expenses of professionals under sections 330, 331, and 503(b) of the Bankruptcy Code;

- (viii) Hear and determine disputes arising in connection with the interpretation, implementation, or enforcement of the Plan;
- (ix) Recover all assets of the Debtor and property of the Estate, wherever located;
- (x) Hear and determine disputes arising in connection with the interpretation, implementation or enforcement of the Plan;
- (xi) Hear and determine matters concerning state, local, and federal taxes in accordance with sections 346, 505, and 1146 of the Bankruptcy Code (including any requests for expedited determinations under section 505(b) of the Bankruptcy Code filed, or to be filed, with respect to tax returns for any and all taxable periods ending after the Commencement Date through the closing of the Chapter 11 Case);
- (xii) Hear any other matter consistent with the provisions of the Bankruptcy Code;
- (xiii) Construe and enforce any and all provisions of the Plan;
- (xiv) Determine the validity, priority and extent of Liens, Claims and Encumbrances upon property of the Estate and to determine any questions and issues regarding title to and interests in any property of the estate and to enter any order, including injunctions, necessary to enforce the title, right and powers of the Debtor or the debtor in possession;
- (xv) Determine any and all controversies and disputes arising under or related to any settlement of any Adversary Proceeding or contested matter approved by the Bankruptcy Court, either before or after the Confirmation Date; and
- (xvi) Enter a final decree closing the Chapter 11 Case.

#### **IXX. DEBTOR'S RECOMMENDATION**

Failing confirmation of the Plan, these Chapter 11 cases would be converted to a case under Chapter 7 in which a trustee in bankruptcy would be appointed to take charge and liquidate its assets or the case will be dismissed by the court. The Debtor is of the opinion that conversion to a Chapter 7 would yield a smaller distribution for the unsecured creditors than that yielded through its proposed Plan and is firmly convinced that its Plan is in the interest of all creditors. The Debtor strongly urges its creditors to cast their votes in favor of the Plan of Reorganization as confirmation of the Plan is in the best interests of creditors and that the Plan should be confirmed.

The Debtor recommends that all Holders of Claims that are entitled to vote on the Plan vote to accept the Plan. Each creditor is urged to consult with its own counsel in evaluating its claim and in determining how to vote.

Respectfully Submitted,  
BK Enterprises, Inc.  
/s/ Bertram Kline  
By: Bertram Kline, President

Through Counsel of Record,  
/s/ Carmenelisa Perez-Kudzma  
Carmenelisa Perez-Kudzma, Esq.  
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978-505-3333

EXHIBIT A

The Chapter 11 Plan



**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MASSACHUSETTS**

|                      |   |                   |
|----------------------|---|-------------------|
| IN RE:               | ) |                   |
|                      | ) |                   |
| BK ENTERPRISES, INC. | ) | Chapter 11        |
|                      | ) | Case No. 17-13197 |
| DEBTOR               | ) |                   |
|                      | ) |                   |

**CHAPTER 11 PLAN OF REORGANIZATION**

BK Enterprises, Inc. (the “Debtor”) proposes the following Plan of Reorganization (the "Plan") to its creditors pursuant to Section 1121 of Chapter 11 of the Bankruptcy Code (the "Bankruptcy Code").

**ARTICLE I**

**DEFINITIONS AND CONSTRUCTION OF TERMS**

For purposes of this Plan, the following terms shall have the meanings specified in this Article I. A capitalized term used but not defined in this Plan that is also used in the Bankruptcy Code shall have the meaning ascribed to that term in the Bankruptcy Code. Wherever from the context it appears appropriate, each term stated shall include both the singular and the plural, and pronouns shall include the masculine, feminine and neuter, regardless of how stated. The words “in this Plan,” “this Plan,” “hereto,” “herein”, “hereunder” and other words of similar import refer to the Plan as a whole and not to any particular Section, sub-Section or clause contained in the Plan. The rules of construction contained in Section 102 of the Bankruptcy Code shall apply to the terms of this Plan. The headings in the Plan are for convenience of reference only and shall not limit or otherwise affect the provisions of this Plan.

1.1 506(b) Bar Date shall mean the date fixed by an order of the Bankruptcy Court as the last day by which holders of 506b Claims must file a proof of claim or be forever barred from asserting a claim against the Debtor or the Reorganized Debtor or its property and from sharing in distributions under the Plan.

1.2 506(b) Claims shall mean claims arising under 11 U.S.C. §506(b) asserted by holders of Allowed Secured Claims.

1.3 Administrative Expense Claim shall mean the costs and expenses of administration of the Chapter 11 case as allowed under Section 503(b) , 507((a)(2) or 507(b) of the Code, including, without limitation, any actual, necessary costs and expenses of preserving or operating the Debtor's estate, and all allowances of compensation and reimbursement of

expenses to the extent allowed by the Bankruptcy Court under Section 330 of the Code and that is entitled to priority under Section 507(a) of the Bankruptcy Code, other than professional fees.

1.4 Allowed Claim shall mean any Claim proof of which was filed on or before the Bar Date, or that has been, or hereafter is, listed by either Debtor-in-Possession as liquidated in amount and not disputed or contingent and, in either case, a Claim as to which no objection to the allowance thereof has been interposed within the applicable period of limitation fixed by the Bankruptcy Code or an order of the Court, or as to which any objection has been determined by an order or judgment that is no longer subject to appeal or certiorari proceeding, and as to which no appeal or certiorari proceeding is pending, after giving effect to any such order or judgment reducing or modifying such Claim.

Unless otherwise specified and in accordance with applicable laws, no Allowed Secured Claim shall include any component of interest on the principal amount of such Claim, as the Debtor is insolvent.

1.5 Assets shall mean all property of the estate as defined by 11U.S.C. §541, including, without limitation: (i) any and all personal property and fixtures owned by the Debtor and Related Debtor and at any time attached to, located in or on, or used in connection with, the ownership or operation of the businesses, including, without limitation all of the Debtor's accounts and accounts receivable; contracts and contract rights; inventory; other rights of the Debtor to the payment of money, including without limitation amounts due from affiliates, tax refunds, and insurance proceeds; all interest of the Debtor in goods as to which an account receivable shall have arisen; all files records, (including without limitation computer programs, tapes and related electronic data processing software) and writings of the Debtor in which it has an interest in any way relating to the foregoing property; general intangibles, instruments, documents of title, policies and certificates of insurance, securities, chattel paper, deposits, cash; Debtor's goodwill; all of Debtor's machinery, furniture, trade fixtures, motor vehicles, equipment and all other goods (exclusive of inventory) used in connection with or in the conduct of Debtor's business and Causes of Action.

1.6 Available Cash shall mean the amount by which the Debtor's Cash exceeds all accrued and unpaid expenses, including (i) amounts owed to holders of Allowed Secured Claims as provided pursuant to the Plan, and (ii) the Capital Reserve.

1.7 Avoidance Actions shall mean Causes of Action arising or held by the Debtor under Sections 502, 510, 541, 544, 545, 547, 548, 549, 550 or 553 of the Bankruptcy Code, or under related state or federal statutes and common law, including fraudulent transfer laws.

1.8 Bankruptcy Code shall mean Title 11 of the United States Code, as amended from time to time.

1.9 Bar Date shall mean March 1, 2018, as proposed by Debtor, or any other date fixed by an Order of the Bankruptcy Code that set the last day by which Persons asserting certain Claims against the Debtor must file a proof of claim or interest or be forever barred from asserting a Claim against the Debtor or his property, from voting on the Plan and/or sharing in distributions under the Plan.

1.10 Claim shall mean a claim against a Person or its property as defined in Section 101(5) of the Bankruptcy Code, including, without limitation, (a) any right to payment, whether or not such right is reduced to judgment, and whether or not such right is liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured or unsecured; or (b) any right to an equitable remedy for breach of performance, if such breach gives rise to a right to payment, whether or not such right to an equitable remedy is reduced to judgment, or is fixed, contingent, matured, unmatured, disputed, undisputed, secured or unsecured.

1.11 Claimant shall mean any Person having a Claim against the Debtor that arose on or before the Filing Date or a Claim against the Debtor's estate of a kind specified in Section 502(g), (h) or (i) of the Code.

1.12 Class shall mean those classes designated in Article II of this Plan.

1.13 Code means the United States Bankruptcy Code, Title 11 of the United States Code, as enacted in 1978, and as thereafter amended.

1.14 Collateral shall mean any property or interest in property of the Estate subject to a Lien to secure the payment or performance of a Claim, which Lien is not subject to avoidance under the Bankruptcy Code or otherwise invalid under the Bankruptcy Code or applicable law.

1.15 Confirmation shall mean the date on which the Debtor's proposed Plan of Reorganization is confirmed by order of the Bankruptcy Court.

1.16 Contingent or Unliquidated Claim shall mean any Claim for which a proof of claim has been filed with the Bankruptcy Court but which was not filed in a sum certain, or for which the event that would give rise to such a liability or debt has not occurred and is dependent upon a future event that has not occurred or may never occur, and which has not been Allowed.

1.17 Court shall mean the United States Bankruptcy Court for the District of Massachusetts including the United States Bankruptcy Judge presiding therein.

1.18 Creditor shall mean holder of an Allowed Claim.

1.19 Debtor shall mean BK Enterprises, Inc.

1.20 Disclosure Statement shall mean the Disclosure Statement relating to the Plan, including, without limitation, all exhibits and schedules thereto, in the form approved by the Bankruptcy Court pursuant to Section 1125 of the Bankruptcy Code.

1.21 Effective Date shall mean not earlier than 30 days following the first business day following the last day on which an appeal from an order of the Court confirming the Debtor's Plan of Reorganization may be taken under applicable law and no such appeal has been taken or, if any appeal has been taken, the first business day following the date upon which all appeals have been exhausted and the Plan may be put into effect, whichever is later.

1.22 Executory Contract shall mean any pre-petition executory contract or unexpired leases of the Debtors within the meaning of Section 365 of the Bankruptcy Code.

1.23 Fair Market Value shall mean the most probable price, as of a specified date, in cash, or in terms equivalent to cash, or in other precisely revealed terms for which the specified property rights should sell after reasonable exposure in a competitive market under all conditions requisite to a fair sale, with the buyer and seller each acting prudently, knowledgeably, and for self-interest, and assuming that neither is under undue duress.

1.24 Filing Date shall mean the August 29, 2011 the date up on which the Debtor filed its Petition.

1.25 Final Order shall mean an order or judgment which has not been reversed, stayed, modified or amended and, as to which (a) the time to appeal or seek review or rehearing has expired and as to which no appeal or petition for certiorari, review or rehearing is pending, or (b) if appeal, review, re-argument or certiorari of the order has been sought, the order has been affirmed or the request for review, re-argument or certiorari has been denied and the time to seek a further appeal, review, re-argument or certiorari has expired, and as a result of which such order shall have become final and non-appealable in accordance with applicable law; provided, however, that the possibility that a motion under Rule 59 or Rule 60 of the Federal Rules of Civil Procedure, or any analogous rule under the Bankruptcy Rules, may be filed with respect to such order shall not cause such order not to be a Final Order.

1.26 General Unsecured Claim shall mean a Claim that is: (a) not a Secured Claim, and (b) not entitled to priority of payment under Section 507 of the Bankruptcy Code.

1.27 Internal Revenue Code shall mean Title 26 of the United States Code, as amended from time to time.

1.28 Lien shall have the meaning set forth in Section 101(37) of the Bankruptcy Code; except that (a) a lien that has been avoided in accordance with Sections 544, 545, 546, 547, 548, 549 or 553 of the Bankruptcy Code shall not constitute a Lien, and (b) no lien shall be valid unless approved by a Final Order of the Bankruptcy Court or by agreement of the Debtor.

1.29 Liquidation Value shall mean the price that an owner is compelled to accept when a property must be sold without reasonable market exposure.

1.30 Net Proceeds shall mean the proceeds of the sale and liquidation of the Property of the Debtor, less the aggregate amount of any secured claims, and the costs and expenses of selling such Property, including, without limitation, professional fees and expenses (including attorneys, real estate brokers), taxes and real estate closing costs and other usual and ordinary recording and/or settlement charges necessary to close such sale.

1.31 Plan shall mean this Plan of Reorganization, including, without limitation, the Plan Documents, all exhibits, supplements, appendices and schedules to this Plan, either in

their present form or as the same may be altered, amended or modified from time to time.

1.32 Priority Claims shall mean any and all Claims (or portions this Plan), if any, entitled to priority under Section 507(a) of the Bankruptcy Code other than Priority Tax Claims and Administrative Expense Claims.

1.33 Priority Tax Claims shall mean any Claim of a governmental unit entitled to priority under Section 507(a)(8) of the Bankruptcy Code.

1.34 Pro Rata shall mean the same proportion that a Claimant in a particular Class bears to the aggregate amount of all Claims in that Class.

1.35 Reorganized Debtor shall mean BK Enterprises, Inc. from and after the Effective Date, as reorganized pursuant to this Plan and any associated documents.

1.36 Secured Claim shall mean any Allowed Claim with respect to which a Security Interest is held in or against any property of the Debtor's estate, to the extent of the value of such Creditor's Interest in the estate's interest in such property. If the value of such creditor's interest is less than the amount of the Allowed Claim held by it, then such Creditor shall hold an Unsecured Claim for such deficiency amount.

1.37 Secured Creditor shall mean any Creditor holding a Secured Claim.

1.38 Security Interest shall mean a lien (as such term is defined in Section 101(31) of the Code) on any of the property of the Debtor's estate.

1.39 Unimpaired Creditor shall mean a Creditor whose interest is not materially and adversely affected by this Plan. In the event of controversy, the Court shall, after hearing and upon notice, determine whether any Creditor or class of Creditors is an Unimpaired Creditor.

## **ARTICLE II.**

### **TREATMENT AND CLASSIFICATION OF CLASSES AND INTERESTS**

As provided in 11 U.S.C. §1123(a)(1), Administrative Expense Claims and Priority Tax Claims are not classified for the purpose of voting or receiving distribution under the Plan. The Claims are treated as set forth below:

**A. Payment of Administrative Claims.** Administrative Claims will be paid in cash, in full, on the later of the Effective Date or the date they are allowed by an Order of the Bankruptcy Court. Ordinary trade debt incurred by the Debtor in the course of the Chapter 11 case which remains outstanding, if any, will be paid on the Effective Date. The payments contemplated by the Plan will be conclusively deemed to constitute full satisfaction of all post-petition obligations and Allowed Administrative Claims.

Administrative Claims include any post-petition fees and expenses allowed to professionals employed upon Court authority to render services to the Debtor during the course of the Chapter 11 cases.

In this case, the professional employed by the Debtor is Carmenelisa Perez-Kudzma, Esq. and the Perez-Kudzma Law Office, P.C., as counsel to the Debtor. In order to be compensated, all professionals will have to apply to the Court for compensation and they will be paid that amount which the Court allows. The sums contemplated to be owed to counsel are approximately \$7,000.00 through Confirmation. A retainer was paid in the sum of \$1,000.00 was given by Debtor. This Court has approved the amount of \$4,935.00 during the pendency of the proceeding. Counsel has used the retainer towards the amount approved by this Court. Upon allowance of any other Application for Compensation further amounts will be due as professional fees.

**B. Payment of Tax Claims.** Priority and Tax Claims, as scheduled or as filed and allowed by the Court, of whatever kind or nature will be paid in full on the Effective Date. As of the Petition Date, there were claims owed to the Internal Revenue Service ("IRS"). Based upon the Amended Proof of Claim filed on January 18, 2018 the IRS is asserting a priority claim in the sum of \$237.73.<sup>1</sup> The IRS shall be paid in full on the Effective Date.

The Debtor has filed all pre-petition tax returns. The Debtor has filed and paid when due all post-petition tax obligations. To the extent that any further claims are asserted, these claims shall be paid in full on the Effective Date.

**C. Payment of Administrative Wage Claims.** No claimants have asserted wage claims for services rendered.

**D. Payment of Fees of the United States Trustee.** Administrative expenses shall include all quarterly fees owing to the U.S. Trustee through the filing of the Application for Final Decree. The Debtor is current upon its Quarterly Fee payments and there is not expected to be a balance projected due upon Confirmation as the Debtor has paid in amounts in excess of what was owed to the U.S. Trustee. In the event that there are any sums owed, the payment will be paid in full upon the Effective Date of Confirmation. Pursuant to the provisions of 28 U.S.C. §1930 as amended by Pub.L. No.104-99 (1996) the Debtor shall provide the United States Trustee with Post-Confirmation monthly operating reports and make quarterly payments of the United States Trustee's fees until the case is closed. The Debtor will be responsible for timely payment of fees incurred pursuant to 28 U.S.C. §1930(a)(6). Upon the Effective Date the Debtor will file an Application for Final Decree or, the Debtor will serve the United States Trustee with a monthly financial report for each month (or portion thereof) the case remains open. The Debtor shall pay all quarterly fees owing to the U.S. Trustee until the Chapter 11 proceeding is closed by the issuance of a Final Decree by the Court.

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<sup>1</sup> The unsecured general claim of the IRS amounts to \$1,911.01.

The monthly financial report shall include the following:

- a. A statement of all disbursements made during the course of the month, whether or not pursuant to the plan;
- b. A summary, by class, of amounts distributed or property transferred to each recipient under the plan, and an explanation of the failure to make any distributions or transfers of property under the plan;
- c. Debtor's projections as to its continuing ability to comply with the terms of the plan;
- d. A description of any other factors which may materially affect the Debtor's ability to consummate the plan; and
- e. An estimated date when an application for final decree will be filed with the Court (in the case of the final monthly report, the date the decree was filed).

**E. Designation and Payment of Classes of Claims**

**Class One: General Unsecured Claims.** Class One consists of all Unsecured Claims, as scheduled or as filed and allowed by the Court, against the Debtor of whatever kind or nature which are not included in any other Class hereof, including, without limitation, claims based on the rejection of executory contracts or unexpired leases, and claims for damages to person or property based on strict liability, negligence or breach of a warranty, express or implied, relative to services rendered or products delivered by the Debtor but excluding claims of Insiders. Non- Insider, unsecured creditor claimants owed or scheduled as owed by the Debtor on the Petition Date and as of the Bar Date were in the approximate sum of \$61,854.00. However, based upon the proofs of claim filed, the sums due to Class One Claimants are \$35,117.97.

The Class One Claimants shall receive a two time pro rata dividend distribution on the sums net payment of the Administrative, Priority and Tax Claims upon the Effective Date of Confirmation of the Plan. Each claimant is contemplated to receive a dividend distribution of approximately five (5) percent of the claim. The claims of the Class One creditors are impaired.

**Class Two: Equity Interests of BK Enterprises.** Class Two consists of the Equity Interests. At the time of the filing, there was one shareholder.

**Class Three: Ally Financial.** Class Three consists of the under secured claim of Ally financial. At the time of the filing, Ally Financial has not filed a proof of claim regarding its purchase money security interest of Debtor's 2017 Dodge Ram automobile. This class is not impaired.

**F. Treatment of Executory Contracts and Unexpired Leases**

The Debtor is not a party to any executory contracts or leases. Plan does not contemplate the assumption of any executory contracts. Subject to the requirements of Section 365 of the Bankruptcy Code, all executory contracts or unexpired leases of the Debtor that are not rejected, have not been rejected by order of the Bankruptcy Court or are not the subject of a motion to assume pending 30 days after the Confirmation Date will be deemed rejected. All payments to cure defaults that may be required by Section 365(b)(1) of the Bankruptcy Code will be made by the Debtor. In the event of a dispute regarding the amount of any such payments or the ability of the Debtor to provide for adequate assurance of future performance, the Debtor will make any payments required by Section 365(b)(1) of the Bankruptcy Code after the entry of a Final Order resolving such dispute.

All proofs of Claim with respect to Claims arising from the rejection of executory contracts or unexpired leases must be filed with the Bankruptcy Court within thirty (30) days from and after the date of entry of an order of the Bankruptcy Court approving the Disclosure Statement or such Claims will be barred. A creditor whose claims arise from rejection of executory contracts and unexpired leases will be treated as an unsecured creditor.

**G. Means for Implementation of the Plan**

On Confirmation, all property of BK Enterprises, Inc., tangible and intangible, will revert, free and clear of all claims and interests except as provided herein. To fund the sums needed for Confirmation including payment of the Administrative claims, counsel to the Debtor will receive from Debtor the first time payments for unsecured claims and the onetime payment for priority claims thirty days before Plan confirmation in the approximate amount of \$1,784. The sums are available and shall be distributed upon the Effective Date of Confirmation. As of the filing of this Plan and Disclosure statement the Debtor had \$1,925.48 in available cash.

All quarterly disbursement fees, arising under 23 U.S.C. §1930 (“Quarterly Fees”), accrued prior to confirmation shall be paid in full, on or before the date of confirmation of the Debtor’s plan, by the Debtor or any successor to the Debtor. All Quarterly Fees which accrue post-confirmation shall be paid in full on a timely basis by the Debtor or any successor to the Debtor prior to the Debtor’s case being closed, converted or dismissed.

The implementation of the Plan shall occur on the Effective Date or as otherwise set forth herein.

The final Confirmation Order shall:

- 1) authorize the Debtor to perform the Plan according to its terms;
- 2) release, as of the Effective Date, the Debtor and the Reorganized Debtor, and their members and their respective successors, attorneys, employees, professionals, agents and assigns from all claims, demands, actions, causes of actions, suits, debts, covenants agreements and demands of any nature whatsoever, in law and in equity, that any creditor had, or now has, or may hereafter have against such entities arising out of any matter prior to the



Effective Date provided that no claim for future default under any obligation of the Debtor or the Reorganized Debtor established by the Plan, if any, shall be released hereby.

The property of BK Enterprises, Inc. not specifically disposed of pursuant to the Plan shall remain property of BK Enterprises, Inc.

**H. Provision for Disputed Claims:**

The Debtor may object to the allowance of any Claims within 30 days of the Effective Date by filing an objection with the Bankruptcy Court and serving a copy thereof on the holder of the Claim in which event the Claim objected to will be treated as a Disputed Claim under the Plan. If and when a Disputed Claim is finally resolved by allowance of the Claim in whole or in part, the Debtor will make any payments in respect of such Allowed Claim in accordance with the Plan.

**ARTICLE III.**

**VOTING AND CONFIRMATION**

**A. General Requirements**

In order to confirm a Plan, the Code requires that the Bankruptcy Court make a series of determinations concerning the Plan, including that: (1) the Plan has classified Claims in a permissible manner; (2) the Plan complies with the technical requirements of Chapter 11 of the Code; (3) the proponent of the Plan has proposed the Plan in good faith; (4) the disclosures concerning the Plan as required by Chapter 11 of the Code have been adequate and have included information concerning all payments made or promised by the Debtor in connection with the Plan; (5) the Plan has been accepted by the requisite vote of creditors, except, as explained below, to the extent that “cram-down” is available under Section 1129(b) of the Code; the Plan is “feasible” (that is, there is a reasonable prospect that the Debtor will be able to perform its obligations under the Plan and continue to operate its business without further financial reorganization, except if the Plan contemplates a liquidation of the Debtor’s assets); and the Plan is in the “best interests” of all creditors (that is, that creditors will receive at least as much under the Plan as they would receive in a Chapter 7 liquidation). To confirm the Plan, the Bankruptcy Court must find that all of these conditions are met. Thus, even if the creditors of the Debtor accept the Plan by the requisite number of votes, the Bankruptcy Court must make independent findings respecting the Plan’s feasibility and whether it is in the best interests of the Debtor’s creditors before it may confirm the Plan. The Debtor believes that the Plan fulfills all of the statutory conditions of Section 1129 of the Code. The statutory conditions to confirmation are discussed more fully immediately below.

**B. Classification of Claims and Interests**

The Code requires that a plan of reorganization place each creditor's claim in a class with other claims which are "substantially similar." The Debtor believes that the Plan meets the classification requirements of the Code.

**C. Voting**

As a condition to Confirmation, the Code requires that each impaired class of claims accept the Plan. The Code defines acceptance of a Plan by a class of claims as acceptance by holders of two-thirds in dollar amount and a majority in number of claims of that class, but for that purpose the only ballots counted are those of the creditors who are allowed to vote and who actually vote to accept or to reject the Plan. Persons, who are considered "insiders," as that term is defined in Section 101 of the Code, may vote, but their votes are not counted in determining acceptance of the Plan.

**Classes of claims that are not "impaired" under the Plan are deemed to have accepted the Plan. Classes of claims that are "impaired" under the Plan are deemed to have accepted the Plan if no ballot is submitted to vote in favor of or against the Plan upon solicitation of Acceptances.** Acceptances of the Plan are being solicited only from those persons who hold Allowed Unsecured Claim that is impaired under the Plan. An Allowed Claim is "impaired" if the legal, equitable, or contractual rights attaching to the Allowed Claims of the class are modified, other than by curing defaults and reinstating maturity or by payment in full in cash. A claim to which an objection is filed is not an Allowed Claim. However, the Court may allow such a claim for purposes of voting on the Plan. If you have not received an objection to your claim prior to Confirmation of the Plan and you have received a ballot for purposes of voting on the Plan, then most likely your claim is an Allowed Claim. If you have a question, you should consult your attorney.

**D. Best Interests of Creditors**

Notwithstanding acceptance of the Plan by creditors, in order to confirm the Plan the Bankruptcy Court must independently determine that the Plan is in the best interests of all classes of creditors impaired by the Plan. The "best interests" test requires that the Bankruptcy Court find that the Plan provides to each member of each impaired class of claims a recovery which has a value at least equal to the value of the distribution which each such creditor would receive if the Debtor was liquidated under Chapter 7 of the Code. Please see the discussion of liquidation value below.

**1. Confirmation Without Acceptance by All Impaired Classes**

Even if a plan is not accepted by all impaired classes, it may still be confirmed. The Code contains provisions for confirmation of a plan where at least one impaired class of claims has accepted it. These "cramdown" provisions are set forth in Section 1129(b) of the Code.

A plan of reorganization may be confirmed under the cramdown provisions if, in addition to satisfying the usual requirements of Section 1129 of the Code, it (i) "does not discriminate unfairly" and (ii) "is fair and equitable," with respect to each class of claims that is impaired under, and has not accepted, the plan. As used by the Code, the phrases "discriminate unfairly" and "fair and equitable" have narrow and specific meanings unique to

bankruptcy law.

The requirement that a plan of reorganization not “discriminate unfairly” means that a dissenting class must be treated equally with respect to other classes of equal rank. The Debtor believes that its Plan does not “discriminate unfairly” with respect to any class of Claims.

The “fair and equitable” standard differs according to the type of claim to which it is applied. In the case of secured creditors, the standard is met if the secured creditor retains its lien and is paid the present value of its interest in the property which secures the secured creditor’s claim. With respect to unsecured creditors, the standard is met if the unsecured creditor receives payment in the full amount of its claim or, in the event that it receives less than the full amount of its claim, no junior class receives or retains any interest in property of the debtor.

#### **ARTICLE IV.**

#### **PROVISIONS FOR THE EXECUTION OF THE PLAN**

A. In order to participate in the distribution under this Plan, a proof of claim must have been filed with the Bankruptcy Court on or before the bar date established by the Court unless scheduled by the Debtor as liquidated in amount, not disputed and not contingent in which event the claim will be allowed as scheduled.

B. "Confirmation" shall mean the date upon which the Bankruptcy Court enters an order confirming the Plan under Section 1129 of the Bankruptcy Code.

C. "Effective Date" shall mean 30 days following the first business day following the last day on which an appeal from an order of the Court confirming the Debtor’s Plan of Reorganization may be taken under applicable law and no such appeal has been taken or, if any appeal has been taken, the first business day following the date upon which all appeals have been exhausted and the Plan may be put into effect, whichever is later. For purposes of distribution hereunder, the phrase “paid upon the Effective Date” shall mean on the Effective Date or within a reasonable period thereafter so as to allow the writing and mailing of dividend checks.

#### **ARTICLE V.**

#### **RELEASE AND DISCHARGE OF CLAIMS**

##### **A. Discharge.**

Except as otherwise expressly provided in Section 1141 of the Bankruptcy Code or the Plan, the distributions made pursuant to and in accordance with the applicable terms and conditions of the Plan are in full and final satisfaction, settlement, release and discharge as against the Debtor and the reorganized Debtor of any debt or obligation of the Debtor that arose before the Effective Date, and any debt of the Debtor of a kind specified in Section 502(g), 502(h), or 502(i) of the Bankruptcy Code, and all Claims against the Debtor or his

Estate of any nature, including without limitation, any interest accrued thereon from and after the Petition Date, whether or not (i) a proof of claim based on such debt, obligation or Equity Interest is filed or deemed filed under Section 501 of the Bankruptcy Code, (ii) such Claim is Allowed under Section 502 of the Bankruptcy Code, or (iii) the holder of such Claim has accepted the Plan.

Nothing in the Plan shall limit the Debtor's or Reorganized Debtor's ability to obtain a discharge of Claims pursuant to Section 1141(d)(5) of the Bankruptcy Code.

**B. Injunction Relating to the Plan.**

As of the Effective Date, all Persons are hereby permanently enjoined from commencing, continuing or enforcing in any manner or in any place, any action or other proceeding, whether directly, indirectly, derivatively or otherwise against the Debtor, the Estate or the Reorganized Debtor, on account of, or respecting any Claims, debts, rights, obligations, Causes of Action or liabilities discharged pursuant to the Plan, except to the extent expressly permitted under the Plan.

**C. Releases.**

Except as otherwise set forth in the Plan, as of the Effective Date, in consideration for, among other things, the obligations of the Debtor under the Plan and other contracts, instruments, releases, agreements or documents to be entered into or delivered in connection with the Plan, (a) each holder of a Claim or Interest that votes in favor of the Plan and (b) to the fullest extent permissible under applicable law, as such law may be extended or interpreted subsequent to the Effective Date, each Person that has held, holds or may hold a Claim or at any time was a creditor of the Debtor and that does not vote on the Plan or votes against the Plan, in each case will be deemed to forever release, waive and discharge all claims (including any derivative claims), obligations, suits, judgments, damages, demands, rights, causes of action and liabilities (other than the right to enforce the Reorganized Debtor's obligations under the Plan and the contracts, instruments, releases, agreements and documents delivered under the Plan), whether liquidated or unliquidated, fixed or contingent, matured or unmatured, known or unknown, foreseen or unforeseen, then existing other thereafter arising in law, equity or otherwise, that are based in whole or in part on any act, omission, transaction or other occurrence taking place on or prior to the Effective Date in any way relating to the Debtor, the Bankruptcy Case or the Plan that such entity has, had or may have against the Debtor, the Estate, the Estate's Assets, the Reorganized Debtor and/or the Reorganized Debtor's Assets.

**D. Cancellation of Existing Indebtedness and Liens.**

Except as may otherwise be expressly provided in the Plan, on the Effective Date: (a) all credit agreements, promissory notes, mortgages, security agreements, invoices, contracts, agreements and any other documents or instruments evidencing Claims against the Debtor, together with any and all Liens securing same, will be canceled, and released without further act or action by any Person under any applicable agreement, law, regulation, order or rule, (b) the obligations of the Debtor thereunder will be deemed cancelled, discharged and released,

and (c) all of the right, title and interest of any holder of such mortgages, deeds of trust, liens or other security interests, including any rights to any collateral thereunder, will revert to the Reorganized Debtor. To the extent deemed necessary or advisable by the Reorganized Debtor, any holder of a Claim will promptly provide the Reorganized Debtor with an appropriate instrument of cancellation, discharge or release, as the case may be, in suitable form for recording wherever necessary to evidence such cancellation, or release, including the cancellation, or release of any Lien securing such Claim. The Debtor shall be entitled to receive a complete discharge of all debts as provided under Section 1141(d)(5).

**E. Setoffs**

Except as otherwise provided in the Plan, nothing contained in the Plan shall constitute a waiver or release by the Estate of any rights of setoff the Estate may have against any Person. There are no known rights to setoff.

**ARTICLE VI**

**CONDITIONS PRECEDENT TO CONFIRMATION AND THE EFFECTIVE DATE OF THE PLAN**

**A. Conditions Precedent to Effectiveness.**

This Plan shall not become effective, and the Effective Date shall not occur, unless and until the following conditions shall have been satisfied or such conditions shall have been waived pursuant to this Plan:

1. The Confirmation Order, in form and substances reasonably acceptable to the Debtor shall have been entered by the Bankruptcy Court;
2. If an appeal of the Confirmation Order has been timely filed, no stay of the Confirmation Order pending appeal shall have been entered;
3. Each of the Plan Documents, in form and substance reasonably acceptable to the Debtor, (i) shall have been executed, delivered and, if necessary, properly recorded, (ii) shall have become effective, and (iii) shall have been filed with the Bankruptcy Court; and
4. All actions, other documents and agreements necessary to implement the Plan shall have been executed, delivered and, if necessary, properly recorded, and shall have become effective.

**B. Waiver of Conditions.**

Except for the conditions set forth above, the Debtor may, in its sole discretion, waive one or more of the conditions precedent to the effectiveness of the Plan set forth below.

1. Effect of Non-occurrence of Conditions to the Effective Date.

If consummation of the Plan and thus the Effective Date do not occur, the Plan shall be null and void in all respects and nothing contained in the Plan or Disclosure Statement shall: (a) constitute a waiver or release of any claims by or against, or any Equity Interests in, the Debtor, or (b) prejudice in any manner the rights of the Debtor, or constitute an admission, acknowledgement, offer or undertaking by the Debtor.

**ARTICLE VII.**

**RETENTION OF JURISDICTION**

The Court shall retain jurisdiction of these cases pursuant to the provisions of Chapter 11 of the Code, until the final allowance or disallowance of all claims affected by the Plan, and, in addition shall retain jurisdiction to determine the following matters:

**A.** In order to participate in the distribution under this Plan, a Proof of Claim must have been filed with the Bankruptcy Court on or before the bar date established by the Court unless scheduled by the Debtor as liquidated in amount, not disputed and not contingent in which event the claim will be allowed as scheduled.

**B.** As of the Confirmation, the property of the estate created under Section 541 of the Bankruptcy Code shall be vested in the Debtor free and clear of any and all claims except as otherwise provided herein or in the order of the Bankruptcy Court confirming the Plan.

**C.** The Plan provides for the Court's retention of jurisdiction for specified purposes regardless of the entry of a final decree closing the Chapter 11 case.

**D.** The Plan shall provide for the Court's retention of jurisdiction to determine disputes over defaults alleged under the Plan provisions.

**E.** The Court shall retain jurisdiction of these cases pursuant to the provisions of Chapter 11 of the Code, until the final allowance or disallowance of all claims affected by the Plan, and, in addition shall retain jurisdiction to determine the following matters:

1. To enable the Debtor to consummate the Plan and to resolve any dispute thereto including those creditors whose claims are scheduled by the Debtor as disputed or which amounts due and payable are disputed;

2. To enable the Debtor to consummate any and all proceedings which they may bring prior to the entry of the order of confirmation to set aside liens or encumbrances, and to recover any preferences, transfers, assets or damages to which it may be entitled under all applicable provisions of the Code or other federal, states or local law;

3. To hear and determine all claims arising from the rejection of any executory contracts, including leases, and to consummate the rejection of executory contracts rejected hereunder or with respect to which an application for rejection was filed prior to the entry of the order of confirmation;

4. To liquidate damages in connection with any disputed, contingent or unliquidated claims;

5. To adjudicate all controversies concerning the classification or allowance of any claims or interest;
6. To adjudicate all claims including amounts and issues relating to the validity of asserted security interests in any property of the estate including any property transferred hereunder or in any proceeds thereof;
7. To adjudicate all matters affecting the entry of a final decree closing the Chapter 11 case;
8. To adjudicate all disputes over defaults alleged under the Plan provisions;
9. To adjudicate all claims or controversies arising out of any purchases, sales or contracts made or undertaken by the Debtor during the pendency of this Chapter 11 case;
10. To recover all assets and property of the estate wherever located; and
11. To make such other as are necessary or appropriate to carry out the provisions of this Plan.

## **ARTICLE VIII.**

### **MISCELLANEOUS**

#### **A. Continuation of Injunctions or Stays Until Effective Date.**

All injunctions or stays provided for in the Bankruptcy Cases under Sections 105 and 362 of the Bankruptcy Code, or otherwise, and in existence on the Confirmation Date, shall remain in full force and effect until the Effective Date.

#### **B. Exemption from Transfer Taxes.**

In accordance with Section 1146(c) of the Bankruptcy Code: (a) the issuance, transfer or exchange of any security under the Plan or the making or delivery of any instrument or transfer pursuant to, in implementation of, or as contemplated by the Plan, including any merger agreements or agreements of consolidation, deeds, bills of sale or assignments executed in connection with any of the transactions contemplated under the Plan, or the re-vesting, transfer or sale of any real or personal property of the Debtor pursuant to, in implementation of, or as contemplated by the Plan, (b) the making, delivery, creation, assignment, amendment or recording of any note or other obligation for the payment of money or any mortgage, deed of trust or other security interest under, in furtherance of, or in connection with the Plan, the issuance, renewal, modification or securing of indebtedness by such means, and (c) the making, delivery or recording of any deed or other instrument or transfer under, in furtherance of, or in connection with, the Plan, including, without limitation, the Confirmation Order, shall not be subject to any document recording tax, stamp tax, conveyance fee or other similar tax, mortgage tax, real estate transfer tax, mortgage recording tax or other similar tax or governmental assessment. Each recorder of deeds or similar official for any county, city or governmental unit in which any instrument under this Plan is to be recorded shall, pursuant to the Confirmation Order, for a period of ninety (90) days after the Effective Date, be ordered and directed to accept such instrument, without requiring the payment of any documentary stamp tax, deed stamps, transfer tax, intangible tax or similar tax.



**C. Amendment or Modification of the Plan.**

Alterations, amendments or modifications of this Plan may be proposed in writing by the Debtor at any time prior to the Confirmation Date, provided that this Plan, as altered, amended or modified, satisfies the conditions of Sections 1122 and 1123 of the Bankruptcy Code, and the Debtor shall have complied with Sections 1125 of the Bankruptcy Code. This Plan may be altered, amended or modified at any time before or after the Confirmation Date and before substantial consummation, provided that the Plan, as altered, amended or modified, satisfies the requirements of Sections 1122 and 1123 of the Bankruptcy Code and the Bankruptcy Court, after notice and a hearing, confirms the Plan, as altered, amended or modified, under Section 1129 of the Bankruptcy Code. A holder of a Claim that has accepted this Plan shall be deemed to have accepted the Plan, as altered, amended or modified, if the proposed alteration, amendment or modification does not materially and adversely change the treatment of the Claim of such holder. The Debtor or the Reorganized Debtor may, without notice to holders of Claims insofar as it does not materially and adversely affect the interests of any such holders, correct any defect or omission in this Plan and any exhibit to this Plan or any Plan Document.

**D. Severability.**

If, prior to the Confirmation Date, any term or provision of this Plan is determined by the Bankruptcy Court to be invalid, void or unenforceable, the Bankruptcy Court may, upon the request of the Debtor, alter and interpret such term or provision to make it valid or enforceable to the maximum extent practicable, consistent with the original purpose of the term or provision held to be invalid, void or unenforceable, and such term or provision shall then be applicable as altered or interpreted. Notwithstanding any such holding, alteration or interpretation, the remainder of the terms and provisions of this Plan shall remain in full force and effect and shall in no way be affected, impaired or invalidated by such holding, alteration or interpretation. The Confirmation Order shall constitute a judicial determination that each term and provision of this Plan, as it may have been altered or interpreted in accordance with the foregoing, is valid and enforceable according to its terms.

**E. Revocation or Withdrawal of the Plan.**

The Debtor reserves the right to revoke or withdraw this Plan prior to the Confirmation Date. If the Debtor revokes or withdraws this Plan prior the Confirmation Date, then this Plan shall be deemed null and void.

**F. Binding Effect.**

The rights, duties and obligations of any Person named or referred to in this Plan shall be binding upon, and shall inure to the benefit of, the successors and assigns of such Person.

**G. Notices.**

All notices, requests and demands to or upon the Debtor or the Reorganized Debtor shall only be effective if in writing and, unless otherwise expressly provided in this Plan, shall be deemed to have been duly given or made when actually delivered or, in the case of notice by facsimile transmission, when received and confirmed, addressed as follows:

**H. Governing Law.**

Except to the extent the Bankruptcy Code, Bankruptcy Rules or other federal law is applicable, or to the extent this Plan, or the Plan Documents provide otherwise, the rights and obligations arising under the Plan shall be governed by, and construed and enforced in accordance with, the laws of the Commonwealth of Massachusetts, without giving effect to the principles of conflicts of law of such jurisdiction.

**I. Post-Confirmation Fees, Final Decree.**

The Reorganized Debtor shall be responsible for the payment of any post-confirmation fees due pursuant to 28 U.S.C. §1903(a)(6) and the filing of post-confirmation reports, until a final decree is entered. A final decree shall be entered as soon as practicable after initial distributions have commenced under this Plan. The monthly financial report shall include the following:

1. A statement of all distributions made during the course of the month, whether or not pursuant to the Plan;
2. A summary, by class, of amount distributed or property transferred to each recipient under the Plan, and an explanation of the failure to make any distributions or transfers of property under the Plan;
3. The Debtor's projections as to its continuing ability to comply with the terms of the Plan;
4. A description of any other factors which may materially affect the Debtor's ability to complete its obligations under the Plan; and
5. An estimated date when an application for final decree will be filed with the Court (in the case of the final monthly report, the date the decree was filed).

**J. Headings.**

Headings are used in this Plan for convenience and reference only, and shall not constitute a party of this Plan for any other purpose.

**K. Inconsistency.**

In the event of any inconsistency between this Plan and the Disclosure Statements or any other instrument or document created or executed pursuant to this Plan, the terms of this Plan shall govern.

**ARTICLE IX.**

**EFFECT OF THE ORDER CONFIRMING THE PLAN.**

To understand the full effect of an order confirming the Plan you should read Section 1141 of the Code. The following is a summary of that Section.

**A.** The provisions of the confirmed Plan bind the Debtor, any entity issuing securities under the plan, any entity acquiring property under the Plan, and any creditor, equity security holder, or general partner in the debtor, whether or not the claim or interest of such creditor, equity security holder, or general partner is impaired under the Plan and whether or not such creditor, equity security holder, or general partner has accepted the Plan.

**B.** Except as otherwise provided in the Plan or the order confirming the Plan, the confirmation of the Plan vests all of the property of the estate in the Debtor.

**C.** Except as otherwise provided in the Plan or in the order confirming the Plan, after confirmation of the Plan, the property dealt with by the Plan is free and clear of all claims and interests of creditors, equity security holders, and of general partners in the Debtor.

**D.** Except as otherwise provided in the Plan, or in the order confirming the plan, the confirmation of the Plan discharges the debtor from any debt that arose before the date of such confirmation. There may be other exceptions set forth in Section 1141.

**E.** The confirmation of the Plan does not discharge a debtor if the Plan provides for the liquidation of all or substantially all of the property of the estate, the Debtor does not engage in business after consummation of the plan; and the Debtor would be denied a discharge if the case were a case under chapter 7.

Respectfully Submitted,  
BK Enterprises, Inc.  
/s/ Bertram Kline  
By: Bertram Kline, President

Through Counsel of Record,  
/s/ Carmenelisa Perez-Kudzma  
Carmenelisa Perez-Kudzma, Esq.  
Perez-Kudzma Law Office, P.C.  
413 Boston Post Road, Weston, MA 02493  
[carmenelisa@pklaw.law](mailto:carmenelisa@pklaw.law)  
978-505-3333

EXHIBIT B

The Chapter 11 Plan Acceptance Ballots

Chapter 11 Plan  
BK Enterprises 17-13197  
District of Massachusetts

## **CLASS [ ] BALLOT FOR ACCEPTING OR REJECTING CHAPTER 11 PLAN OF REORGANIZATION**

*[BK Enterprises]* filed its Chapter 11 Plan of Reorganization dated *[January 29, 2018]* (the “Plan”) for the Debtor in this case. The Court has *[conditionally]* approved a Disclosure Statement with respect to the

Chapter 11 Plan (the “Disclosure Statement”). The Disclosure Statement provides information to assist you in deciding how to vote your ballot. If you do not have a Disclosure Statement, you may obtain a copy from *[Carmenelisa Perez-Kudzma, 413 Boston Post Road, Weston, MA /proponent’s attorney.]* Court approval of the disclosure statement does not indicate approval of the Plan by the Court.

**You should review the Disclosure Statement and the Plan before you vote. You may wish to seek legal advice concerning the Plan and your classification and treatment under the Plan. Your Claim has been placed in Class [ ] under the Plan. If you hold claims or equity interests in more than one class, you will receive a ballot for each class in which you are entitled to vote.**

**If your ballot is not received by *[Carmenelisa Perez-Kudzma, 413 Boston, Post Road, Weston, MA, proponent’s attorney]* on or before *[To be determined by the Court ]*, and such deadline is not extended, your vote will not count as either an acceptance or rejection of the Plan.**

**If the Plan is confirmed by the Bankruptcy Court it will be binding on you whether or not you vote.**

### **ACCEPTANCE OR REJECTION OF THE PLAN**

The undersigned, the holder of a Class [ ] claim by \_\_\_\_\_ against the Debtor in the unpaid amount of Dollars \$ \_\_\_\_\_  
(Check one box only)

☐ ACCEPTS THE PLAN

☐ REJECTS THE PLAN

Dated:

Print or type name:

Signature: \_\_\_\_\_

Title (if corporation or partnership):

Address \_\_\_\_\_

### **RETURN THIS BALLOT TO:**

*Perez-Kudzma Law Office*

*Carmenelisa Perez-Kudzma, 413 Boston Post Road, Weston, MA 02493 TEL: 978-505-3333 By (TBA subject to court order)*

CERTIFICATE OF SERVICE

I, Carmenelisa Perez-Kudzma, state that on January 29, 2018 I electronically filed the foregoing Disclosure Statement with the United States Bankruptcy Court for the District of Massachusetts using the CM/ECF System. I served the foregoing document on the following CM/ECF participants: U.S. Trustee's Office and via first class mail:

Ally Financial  
200 Renaissance Ctr  
Detroit, MI 48243

Cohn & Dussi, LLC VIA ECF through Counsel  
500 West Cummings Park  
Suite 2350  
Woburn, MA 01801

Johnson Paint  
355 Newbury St  
Boston, MA 02115

Koroseal Interior Products  
3875 Embassy Parkway  
Akron, OH 44333

Pittsburgh Paint  
124 2nd Ave  
Needham Heights, MA 02494

Santander Bank Na VIA ECF TROUGH COUNSEL  
1 Huntington Quad Ste 2n  
Melville, NY 11747

Shirley True Value Hardware  
472 Shirley St  
Winthrop, MA 02152

The Paint Project, Inc.  
71 West St  
Medfield, MA 02052

Tnemec Inc.  
6800 Corporate Dr  
Kansas City, MO 64120

United Rentals  
224 Selleck St  
Stamford, CT 06902

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/s/ Carmenelisa Perez-Kudzma  
Carmenelisa Perez-Kudzma