

IN THE UNITED STATES BANKRUPTCY COURT FOR
THE WESTERN DISTRICT OF MISSOURI

In Re:)
)
MILLERS HERITAGE LANDSCAPE, LLC) Case No. 13-43948-BTF11
)
Debtor.)

DEBTOR’S DISCLOSURE STATEMENT

I. INTRODUCTION

This Disclosure Statement (“Disclosure Statement”) is provided to the creditors of Millers Heritage Landscape, LLC, to enable the creditors to arrive at an informed judgment in exercising their rights under the Debtor’s Plan of Reorganization (the “Plan”). The definitions of Article I of the Plan shall have the same meaning when used in this Disclosure Statement.

The function of this Disclosure Statement is to provide "adequate information" to all creditors. "Adequate information" is defined in 11 U.S.C. §1125 as follows:

Section 1125. Postpetition disclosure and solicitation.

"(a)" In this section --

- (1) 'adequate information' means information of a kind, and in sufficient detail, as far as is reasonably practicable in light of the nature and history of the debtor; and the condition of the debtor's books and records, that would enable a hypothetical reasonable investor typical of holders of claims or interests of the relevant class to make an informed judgment about the plan...; and
- (2) 'investor typical of holders of claims or interests of the relevant class' means investor having --
 - (A) a claim or interest of the relevant class;
 - (B) such relationship with the debtor as the holders of other claims or interests of such class general have; and
 - (C) such ability to obtain such information from sources other than the disclosure required by this section as holders of claims or interests in such class generally have."

THE REPRESENTATIONS MADE IN THIS DISCLOSURE STATEMENT ARE THE ONLY REPRESENTATIONS AUTHORIZED BY THE DEBTOR RESPECTING ITS BUSINESS OPERATIONS, THE VALUE OF ITS PROPERTY OR ANY OTHER MATTERS WHATSOEVER.

CREDITORS SHOULD NOT RELY ON ANY UNAUTHORIZED REPRESENTATIONS WHICH ARE MADE TO SECURE THEIR ACCEPTANCE OR REJECTION OF THE PLAN. THE COURT WILL CONDUCT A HEARING ON WHETHER OR NOT THIS DISCLOSURE STATEMENT SHOULD BE APPROVED AS CONTAINING ADEQUATE INFORMATION TO ENABLE ALL CREDITORS TO MAKE AN INFORMED JUDGMENT ABOUT THE PLAN.

The information provided in this Disclosure Statement is true and accurate to the best of the Debtor's knowledge, information and belief. However, certain information relating to projections and values is necessarily subjective.

CREDITORS ARE ENCOURAGED TO CONSULT WITH THEIR FINANCIAL ADVISORS, ATTORNEYS, AND OTHER CREDITORS IN ORDER TO OBTAIN A MORE COMPLETE UNDERSTANDING OF THE FINANCIAL AND LEGAL IMPLICATIONS OF THE DISCLOSURE STATEMENT AND THE PLAN. CREDITORS AND PARTIES IN INTEREST SHOULD CONSULT THEIR OWN COUNSEL AND TAX ADVISORS REGARDING THE INCOME TAX CONSEQUENCES OF CONFIRMATION OF THE PLAN AS IT RELATES TO THEM. THE DEBTOR MAKES NO REPRESENTATION REGARDING THE EFFECT OF CONFIRMATION OF THE PLAN ON HOLDERS OF CLAIMS AND INTERESTS.

Creditors may contact counsel for the Debtor for additional information. The counsel for the Debtor can provide tax returns for 2015 and 2016, and Monthly Operating Reports.

The Court will probably conditionally approve the Disclosure Statement, and set a hearing on confirmation of the Plan and final approval of the Disclosure Statement. When the Court sets a hearing for confirmation of the Plan and final approval of the Disclosure Statement, the Debtor's counsel will mail a copy of the Plan, Disclosure Statement, Ballot, and Notice of the hearing to all creditors. At the confirmation hearing, the Court will determine whether the Disclosure Statement provides adequate information. At the confirmation hearing, the Court will determine whether the Plan has been accepted by the requisite number of classes of creditors and will rule on whether the Plan complies with the confirmation requirements of 11 U.S.C. §1129.

The Plan will have several Classes of Claims and each creditor should examine those Classes to determine where its Claim has been placed. A Class of Claims will have accepted a Plan if the Plan has been accepted by creditors [other than any entity designated under 11 U.S.C. §1126(e)] which hold at least two-thirds in amount and one-half in number of the Allowed Claims of such Class held by creditors [other than any entity designated under 11 U.S.C. §1126(e)] that have voted to accept or reject the Plan.

If the Plan is accepted by the impaired Classes it will likely be confirmed. If the Plan is not accepted by the impaired Classes, the Plan may nonetheless be confirmed under §1129(b) of the Bankruptcy Code if it is accepted by at least one Class of Claims or interests which is impaired by the Plan and the Bankruptcy Court finds that the Plan does not discriminate unfairly and is fair and equitable with respect to each Class of Claims or interests that is impaired by, and has not accepted, the Plan. The Debtor reserves the right to request that the Court confirm the Plan under §1129(b) of the Bankruptcy Code if the Plan is not accepted by all impaired Classes and, if necessary, to revise and amend the Plan so as to provide such treatment as the Court may determine to be necessary or sufficient to assure that the Plan does not discriminate unfairly, and is fair and equitable, with respect to any Class of Claims or interests rejecting or failing to accept the Plan.

II. ORGANIZATION AND HISTORY OF THE DEBTOR

Michael and Lauren Perdue formed a company Millers Heritage Landscape, LLC (“Debtor”) with Cory Miller to buyout Miller’s Landscape & Lawncare in January 2013. Miller’s Landscape & Lawncare was owned by Cory Miller (27%) and his father Joe Miller (73%). The Miller’s Landscape and Lawn Care was purchased for \$1,000,000.00. The agreement provided for monthly payments over a 5 year period. The business was in distress at the time it was acquired, and by 2014, the Perdues had, under their leadership, turned the business around. Unfortunately in the remainder of 2014 and into 2015, the business was not profitable. This was caused by a variety of factors, including not keeping costs under control and partnership disagreements. Further, in August, 2014, the Debtor agreed to purchase Corey Miller’s one-half (1/2) of the membership interest in the Debtor for \$425,000. The Debtor agreed to pay \$10,119.05/month to pay this obligation pursuant to a Promissory Note. The Debtor did pay monthly payments to Cory Miller until 8/5/16. Corey Miller filed a Proof of Claim for \$256,076.41, which is the balance owed on the Promissory Note. In April 2015, the Perdues were able to secure an SBA loan of \$1,200,000.00, to pay off the balance to Joe Miller and equipment loans. The new company experienced excessive operational costs (old equipment replacements, uncollectable receivables, legal costs due to the partnership breakup) and the lack of snow in the winter of 2016-2017.

In the fall of 2016, the Debtor reached interim agreements with the larger high interest creditors to take them through the winter of 2016-2017. If the winter was an average snow season for the KCMO area, the Debtor could rely on snow/ice removal services to recover without the need for reorganization. Unfortunately, the winter of 2016-2017 was one of the mildest and driest on record for the KCMO area and the Debtor was unable to avoid the need for filing this Chapter 11 case.

Since the filing of the Petition under Chapter 11, the Debtor has completely reorganized its overhead, operation and business plan.

1. Debtor is in the process of redefining the scope of work that they do. Their focus is on building their re-occurring landscape services (mowing, planter bed maintenance & plant health care), and getting out of the very competitive landscape construction field that has very slim margins.
2. Debtor has reduced management staff by \$165,000.00 (annually) in April of this year, and then another \$102,000 (annually) in June of this year. A total of \$267,000.00 annually will be saved going forward. This is possible by the reduction of the construction division and reductions on unprofitable work. The Perdues have picked up the balance of management requirements.
3. Debtor has reduced overall revenue and is focusing on more profitable work which has allowed the Debtor to reduce direct labor costs as well.
4. Budgeting for snow season, the Debtor has anticipated less than their worst snow season ever. The snow season is based on receiving very small amount of snow removal revenue from December thru February. This is a conservative approach so that the Debtor does not become overextended if a good or even moderate snow season does not materialize.
5. Debtor has been making a monthly profit since the decision to restructure in June 2017.
6. Going forward into 2018 and beyond, the Debtor anticipates a conservative 8% annual growth. Growth will come from resources not being used for landscape construction sales, but focused on maintenance services sales.

III. THE CONFIRMATION PROCESS

Approval of the Plan requires that it be confirmed by the Court. Confirmation can be achieved in one of two ways - either (i) all classes of Claims or Interests entitled to vote have accepted the Plan by the requisite majorities, or (ii) the Court determines that the Plan is fair and equitable with respect to those Classes that have rejected the Plan, and that confirmation will be in the best interests of creditors.

A. Classification of Claims and Eligibility to Vote. For voting purposes, all Claims and Interests will be grouped into Classes where members of each such Class will hold substantially similar Claims or Interests. All persons with an impaired Claim are eligible to vote provided that they are determined to have an Allowed Claim or Interest. A Class is "impaired" if, under the Plan, its legal, equitable or contractual rights are in any way modified other than by curing defaults or payment in full on the Effective Date. Claims that are not impaired are presumed to have accepted the Plan and may not vote.

B. Confirmation by Acceptance. A Plan will be confirmed if it is accepted by all Classes entitled to vote. A Class will have accepted the Plan if votes representing at least two thirds of amount and one half in number of the Allowed Claims voting in that Class have voted to accept the Plan. If any creditor in an otherwise accepting Class have voted against the Plan, the Court must determine that each holder of a Claim or Interest in that Class will receive property, as of the Effective Date, having a value that is not less than what such holder would receive if the Debtor was liquidated under Chapter 7 on that date.

C. Confirmation Without Acceptance by All Classes. If the Plan is not accepted by all impaired Classes, the Court may nonetheless confirm the Plan if (i) at least one impaired Class has accepted the Plan, without counting votes by insiders, and (ii) the Court finds that the Plan does not discriminate unfairly, and is fair and equitable with respect to each impaired Class that has rejected the Plan.

D. Balloting. This Disclosure Statement will be mailed to all creditors and equity holders along with the Plan, a ballot and an order containing instructions, setting certain deadlines, and setting a hearing on confirmation. Only those ballots timely filed will be counted.

E. Confirmation. At the hearing on confirmation the Court will determine whether the requisite number of votes have been received for confirmation under the acceptance method or, if the Plan is not accepted by all Classes, then whether the Plan should be confirmed under the non-acceptance method. The Debtor reserves the right to seek confirmation under the non-acceptance method if less than all Classes vote to accept the Plan. The effect of confirmation generally is to discharge the Debtor from any and all liabilities that arose prior to confirmation, except as provided in the Plan.

IV. DISCLOSURES OF COMPENSATION

A. Krigel & Krigel, P.C., the attorneys for the Debtor, were paid an initial retainer of \$15,000 plus \$1,717 for the filing fee for a total initial retainer of \$16,717. The attorneys have billed \$9,023.25 in fees and \$1,940.01 in expenses. The firm still holds funds in trust.

B. The Debtor is current with U.S. Trustee Quarterly Fees.

V. THE CHAPTER 11 PLAN

The Chapter 11 Plan provides for payment to all creditors.

A. Classification of Claims. The claims of creditors are classified as follows:

5.1 The Class One Claim shall be paid as follows: The Debtor will pay Bank of the Prairie as a Secured Claim to the value of the collateral, which was appraised by Lindsay Auction Service on July 27, 2017, and determined to have value of \$425,000 (Estimated Orderly Liquidation Value) and the value of cash assets totaling \$92,178 for a total of \$517,000. There may be additional assets and the Debtor will increase the Secured Claim to \$600,000. The Debtor shall pay Bank of the Prairie the Secured Claim of \$600,000, with interest at the rate of 5%, payable as follows:

The balance of \$600,000 owed to Bank of the Prairie shall be paid at 5% interest with payments of principal and interest paid in the months of March-October of each year and interest only for the months of November-February. The interest only payments will commence with the month following the confirmation of the Chapter 11 Plan. Until confirmation, the Debtor is paying interest only on all of the Promissory Notes, at the rates set out in the Promissory Notes. For the months starting with March, 2018, the Debtor will pay principal and interest, amortized over 20 years. The monthly payments of principal and interest shall be \$3,959.73. The unpaid balance shall be due and payable at the end of ten (10) years from the date of confirmation of the Chapter 11 Plan, unless extended by agreement of the parties. The balance owed to Bank of the Prairie shall be treated as an Unsecured Non-Priority Claim. Class One is impaired.

5.2. The Class Two Claim of Stearns Bank shall be paid as a Secured Claim in the amount of \$40,000. The Debtor shall pay Stearns Bank as a Secured Claim of \$40,000, with interest at the rate of 6% payable as follows:

Payments will commence in the full month following confirmation of the Chapter 11 Plan and will be payable on the 5th of each month. The balance of \$40,000 at 6% interest shall be amortized over 60 months with monthly payments of \$773.31.

The balance owed to Stearns Bank shall be treated as an Unsecured Non-Priority Claim. Class Two is impaired.

5.3. The Class Three Claim, the lease held by Parkville Sod, Lawn & Garden Centers, Inc. shall be rejected as of January 31, 2018. Class Three is impaired.

5.4 The Class Four Claims owed to Michael Perdue and Randall Perdue shall be paid as follows:

-Lease of 2016 Chevrolet Suburban from Michael Perdue- payments of \$915.19/month until lease completes in September of 2020.

-Lease of 2015 Big Tex Dump Trailer from Michael Perdue for \$250.00/month

-Lease of John Deere 1025 Compact Utility Tractor, John Deere H120 Loader, Frontier 2048 Box Scraper/Box Blade, Frontier 2060 Rake/Thatcher, Frontier 1102 Spreader from Randall Perdue – payments of \$312.29/month until paid in full.

-Lease of John Deere 930M Z-Trak, 652 TC QuikTrak Stand on Mower 52" deck, John Deere 60D Auto Connect Mower Deck from Randall Perdue—payments of \$429.46/ month until paid in full.

-Lease of 2 John Deere W48H Comm. Walk Behind Mowers 48" Deck from Randall Perdue—payments of \$249.66/ month until paid in full.

-Lease of John Deere 652R TC QuikTrak Stand on Mower 52" Deck, John Deere W48H Comm Walk Behind Mower 48" Deck, John Deere W36H Comm Walk Behind Mower 36" Deck, 4 GC 96 Edgers, 4 BR 550 Backpack Blowers , 4 FS 94R Grass Trimmers from Randall Perdue- payments of \$993.37/month until paid in full.

-Lease of 3 John Deere 652R Z-Trak Mower/Tractors from Randall Perdue – payments of \$641.80/ month until paid in full.

-Lease of John Deere 323E Compact Track Loader, John Deere GT72 Grapple, John Deere RC72 Rotary/Flail Cutter from Randall Perdue – payments of \$173.16/month until paid in full.

-Lease of 2016 Hyundai Santa Fe SUV from Randall Perdue- payments of \$615.46/ month with purchase option for \$36,800.

- Lease of 2011 Chevrolet Silverado 2500 from Randall Perdue- payments of \$962.26/ month until paid in full.

-Lease of 2017 Ford F-250 Pickup Truck from Randall Perdue – payments of \$577.94/month until paid in full.

Class Four is not impaired.

5.5 The Class Five shall be paid as follows: The executory Equipment Lease with Wells Fargo Financial Leasing for two (2) 2014 Bobcat Skidsteer Loaders S750 with smooth buckets, will be rejected. Any claim by Wells Fargo Financial Leasing will be treated as a Class Eight Claim. Class Five is impaired.

5.6 The Class Six Claim of Deere & Company dba John Deere Financial shall be paid as follows: Deere & Company dba John Deere Financial shall be paid as a Secured Claim in the amount of \$12,500. The Debtor shall pay Deere & Company dba John Deere Financial as a Secured Claim of \$12,500, with interest at the rate of 6% payable as follows:

Payments will commence in the full month following confirmation of the Chapter 11 Plan and will be payable on the 5th of each month. The balance of \$12,500 at 6% interest shall be amortized over 60 months with monthly payments of \$241.66.

The balance owed to Deere & Company dba John Deere Financial shall be treated as an Unsecured Non-Priority Claim. Class Six is impaired.

5.7 The Class Seven Claims of taxing authorities shall be paid in full at the prevailing interest rate established by the respective taxing authority, in periodic payments with any unpaid balance being due and payable in June, 2022. The payments will be made primarily in the months of March through October of each year. If funds are available, the Debtor will make payments in the winter months of November through February.

In the event that the taxing authorities Allowed Administrative Expenses, Allowed Priority Tax Claims, and Allowed General Unsecured Claims are not paid in accordance with the terms of the Plan of Reorganization or the Confirmation Order, Debtor will be in default. The taxing authorities will provide Debtor with written notice of the default by mail. If default is not made good within fifteen (15) days after notification, the entire principal and accrued interest shall at once become due and payable without further notice. The taxing authorities may thereafter proceed with either or all of the following remedies: (a) enforce the entire amount of its claim under federal or Missouri law; (b) exercise any and all its rights and remedies under federal or Missouri law; (c) seek such relief as may be appropriate in this Court.

Class Seven is not impaired.

5.8 Class Eight Claims, which are the Unsecured Non-Priority Claims, shall be paid as follows:

The Allowed Unsecured Non-Priority Claims shall receive 10% of their claim, payable in monthly payments within no interest payable over seven (7) years in the months of March through October and no payments in November through February. At present, the Debtor estimates the unsecured claims to total approximately \$1,380,488. Ten percent (10%) would be \$138,049. If paid over seven (7) years, each year would be \$19,721. If paid during the non-winter months (8 months), the monthly payments would be \$2,465.16. Class Eight includes the unsecured portion of the claims of Bank of the Prairie (Class One), Stearns Bank (Class Two), Class Eight is impaired.

5.9 Class Nine Claims are the administrative claims. These are the Allowed Administrative Claims, whether incurred before or after the Confirmation Date, allowable under §330 and §503(b) of the Bankruptcy Code, and which are entitled to priority payment under §507(a)(1) of the Bankruptcy Code. The Claims of this Class include attorneys' fees and accounting fees for post-petition services rendered to the Debtor on and after the Filing Date. These Claims also include Claims of the United States Trustee to the extent of any quarterly fees due under 28 U.S.C. §1930(a)(6) as of the Confirmation Date and post-petition taxes, if any. All quarterly fees owing to the United States Trustee shall be paid by the Debtor within 10 days of the entry of the order of confirmation or on the Effective Date of the Plan as required by §1129(a)(12) of the Bankruptcy Code, and the payment of quarterly fees shall be made until the case is closed by order of the Court, as required by Public Law 104-99, Title II, §211, 110 Stat. 37 (effective January 27, 1996), as amended by Public Law 106-208, 110 Stat. 3009 (September 30, 1996). Class Nine is unimpaired.

B. Treatment of Claims and Interests. The Debtor's Plan of Reorganization is incorporated into this Disclosure Statement. Creditors and parties in interest are referred to the Plan for a discussion of the treatment of each Class under the Plan. The secured portion of the secured creditors' claims shall be paid in full. The unsecured non-priority creditors (which includes the unsecured portions of the secured claims) shall receive 10% of their Allowed Unsecured Claims.

The Debtor will continue to operate their lawn and landscaping business. The Debtor has reduced its work force by eliminating several office/administrative positions. This has resulted in a savings of approximately \$100,000/year. The Debtor has eliminated several contracts that had proven unprofitable. The Debtor is more cautious in bidding contracts and making sure that it can perform the services without significant overtime expense.

The Debtor has prepared projections for 2017, 2018, 2019 and 2020 which are attached hereto and made a part hereof as Exhibit 1.

D. Executory Contracts and Unexpired Leases. The Debtor will assume the leases with Randall Perdue, Michael Perdue and will reject the lease with Parkville Sod, Lawn & Garden Centers, Inc. ("Parkville") as of January 31, 2018. The Debtor will allow Parkville to place a sign on the property to either advertise the property for sale or for lease provided that the sign does not interfere with the operation of the Debtor's business and does not mislead the general public that the Debtor is still operating in the leased property until January 31, 2018. All remaining executory contracts or leases are rejected under this Plan.

VI. CONSEQUENCES OF DENIAL OF CONFIRMATION

If the Debtor's Plan or any amended Plan is not confirmed, the case may be converted to a case under Chapter 7 or it may be dismissed. If converted, a trustee would be appointed to liquidate the Debtor's assets and distribute the proceeds to creditors. Based upon the analysis of assets and liabilities, there is no possibility that general unsecured non-priority creditors would receive more than what is being offered in this Plan.

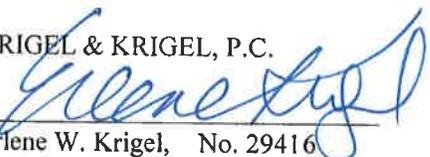
VII. LIQUIDATION ANALYSIS

The Debtor believes that under the best scenario, liquidation would realize nothing for the unsecured creditors. As the Debtor's Plan proposes to pay the unsecured non-priority creditors a total of 10%, it is extremely unlikely that the unsecured creditors would receive more if the assets were liquidated on the Effective Date of the Plan. An analysis of the Assets and Debts is attached hereto and made a part as Exhibit 2.

Date 10/17/17

MILLERS HERITAGE LANDSCAPE, LLC

By 
Michael Perdue
Managing Member

KRIGEL & KRIGEL, P.C.


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