

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

IN RE:’

OUTBACK DEVELOPMENT, LLC

Debtor.

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)
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Case No. 17-61215-can11

DISCLOSURE STATEMENT
RELATING TO DEBTOR’S PLAN
FOR DISTRIBUTION OF ASSETS

(Information for Purposes of Soliciting Acceptances of Plan)

ARTICLE I

Introduction

1.01. Proponent. This Disclosure Statement ("Disclosure Statement") has been prepared and is being distributed by OUTBACK DEVELOPMENT, LLC, Debtor herein and describes the Plan of Debtor providing for distribution of assets as set forth in Debtor’s Plan for sale and liquidation of all assets with payment due creditors from cash created (the “Plan”) filed within the bankruptcy proceedings.

1.02. Purpose. The purpose of this Disclosure Statement is to enable Debtor as the proponent of a Plan which is being presented to the Court to comply with Chapter 11 U.S.C. Section 1125(a) which requires the proponent of the Plan to disclose adequate information for each holder of a claim or interest to make an informed judgment about the Plan in exercise of their right to vote for acceptance or rejection of Debtor’ proposed Plan. This Disclosure Statement contains a discussion of the Debtor’s business related financial information, properties, and a summary and analysis of the Plan, along with information relating to the proposed sale.

1.03 Summary of Debtor’s Plan of Liquidation. On February 28, 2018 the Court entered its Order Granting Debtor’s Motion Authorizing Sale of Real Estate Free and Clear of Liens and Approving Terms of Real Estate Contract with Buyer Bob Robertson Family FLP and/or assigns [doc. #46]. The sale order approved the sale of Debtor’s real estate at an allocated purchase price of \$3,800,000 and the consensual sale of non-Debtor assets from Outback Oyster Bar & Grill Inc. (“Outback Bar”) and Outback Roadhouse Motel and Suites LLC (“Outback Suites”) at an aggregate price of \$1,200,000. Closing of the sale took place on March 13, 2018 and following terms of an agreement for escrow and approval and payment of certain debts and payables owed by Debtor and related Sellers Debtor anticipates the Bankruptcy Estate will receive a sum in excess of \$800,000 after adjustment from additional disbursements for final quarter end payroll taxes, sales taxes, unemployment taxes, and miscellaneous vendor claims. The cash fund will be available for distribution to claims in the order of priority as set forth in 11 U.S.C. Section 726. Debtor’s Plan initially identified general secured claims, lien claims, and unsecured claims however substantial claims were paid at closing. Upon information and belief claims remaining and of which proof of claims have been filed are set forth below:

IDENTIFICATION OF GENERAL PRIORITY AND UNSECURED CLAIMS

CREDITOR	AMOUNT SCHEDULED	OBJ CODE C=CONTING ENT U-UNLIQ. D=DISPUTED	IF POC FILED, CLAIM #	AMOUNT CLAIMED BY CREDITOR	BASIS FOR PRORATA DISTRIBUTION (TBD ¹)
BKD, L.L.P.	\$ 3,996.28				\$ 3,996.28
INTERNAL REVENUE SERVICE	\$	C; U; D	3 (Amended)	\$ 45,825.96	TBD
LINDA S. WOOD	\$ Unknown		6	\$ 83,200.00	TBD
MISSOURI DEPARTMENT OF REVENUE	\$ 13,803.42		4	\$ 2,375.05	
OUTBACK ROADHOUSE MOTEL & SUITES LLC	\$Undetermined				TBD
OUTBACK STEAK & OYSTER BAR, INC.	\$Undetermined				TBD
SUSAN BOSWELL	\$ 50,000.00				\$ 50,000.00
THE HARRISON COMPANY, LLC	\$ 60,224.77	C; U; D			TBD
EMPIRE ENERGY, LLC f/k/a/ TRI LAKES PETROLEUM COMPANY, LLC	\$2,052,124.14	C; U; D	1, 2	\$1,105,447.00 \$ 946,677.14	TBD
TOTAL					\$

Debtor intends to seek Court authority for designation of a Plan Administrator and has nominated Fred Charles Moon as a disinterested party to serve as Plan Administrator. The proposed authority and duties of the Plan Administrator are set forth on Exhibit 'A' attached hereto and incorporated herein by reference. The authority and duties may change subject to objections or hearing with respect to the Disclosure Statement or Plan.

1.04. Disclaimer/Reliance. This Disclosure Statement is intended to provide creditors with adequate information to make an informed decision in voting to accept or reject the Debtor's Plan of Reorganization. **Statements and representations made in this Disclosure Statement have been obtained from sources believed to be reliable but are not guaranteed as to their accuracy and completeness. The statements and representations are true and accurate to the best of the Debtor's knowledge, information, and belief. Certain information relating to projections and values is necessarily subjective and constitute opinions of the Debtor or authorized representatives. Creditors are encouraged to consult with their financial advisers, attorneys, or other creditors in order to obtain a more complete understanding of the financial and legal implications of the Disclosure Statement and Plan.**

1.05. Definitions, Interpretation, and Rules of Construction. Certain terms used in the Disclosure Statement may also be used in the Plan which contains a schedule of definitions or meanings. The definitions in the Plan are applicable to the Disclosure Statement. The provisions of the Plan shall control over the provisions of any other agreement or document and over any descriptions thereof contained in the Disclosure Statement, other than the Confirmation Order created in connection with the Plan as an adjunct or supplement thereto or required thereby. Any term that is not otherwise defined within the Plan, but that is used in the Bankruptcy Code or Bankruptcy Rules, will have the meaning given to that term in the Bankruptcy Code or Bankruptcy Rules, as applicable.

1.06. Procedure. Pursuant to Local Rule 3016-2B of the United States for the Western District of Missouri the Bankruptcy Court may conditionally approve the Disclosure Statement. If or when the Bankruptcy Court has conditionally approves any Disclosure Statement all parties in interest shall receive the Bankruptcy Court's Order (a) fixing a time for filing objections to the Disclosure Statement; (b) fixing a date for the hearing on final approval of the Disclosure Statement

¹ To be determined

to be held if a timely objection is filed; (c) fixing a date for the hearing on confirmation; and (d) fixing a time in which the holders of claims in interest may accept or reject the Plan. The hearing on final approval of the Disclosure Statement may be concurrent with the hearing to confirm Debtor's Plan. The hearing will be held at the U.S. Federal Courthouse, 407 S. Garrison Street, Carthage, Missouri 64836. Objections to the adequacy of the disclosures stated and the confirmation of the Plan must be filed with the Court and served upon the attorney for the Debtor at the address and by the deadline set forth in the conditional Order and Notice or it will not be considered at the hearing.

1.07. Voting. If the Disclosure Statement has been conditionally approved the Disclosure Statement and proposed Plan will be accompanied by a Court Order conditionally approving the Disclosure Statement for circulation with the Plan to claim holders and parties in interest together with a separate ballot. In order to vote for or against the Plan, an eligible and qualified voter must complete, date, sign, and mail the accompanied ballot to the attorney for Debtor, at the address as follows: David E. Schroeder, Attorney for Debtor, 1524 E. Primrose, Suite A, Springfield, MO 65804, telephone (417) 890-1000, Fax (417) 886-8563, Email: bk1@dschroederlaw.com. **The ballot must be received by the deadline set forth in the Court Order approving the circulation of the above-described materials.**

1.08. Confirmation of Plan. Debtor's Plan of Reorganization or any Amended Plan filed by Debtor must be confirmed by the Court before it is effective. The Court will schedule a confirmation hearing on the proposed Plan. **The holders of all claims or interests will receive notice of the hearing.** (Notice of hearing may be set forth in a Court order conditionally approving the Disclosure Statement as described in Section 1.06 above). At the confirmation hearing the Court will determine whether the requisite number of classes and creditors have accepted the Plan and determine whether all other requirements of confirmation have been satisfied.

1.09 Contact for More Information. If you want additional information about the Disclosure Statement or Plan, you should contact the attorney for Debtor, David E. Schroeder at 1524 E. Primrose, Suite A, Springfield, Missouri 65807, Telephone (417) 890-1000, Fax (417) 886-8563, or by e-mail at bk1@dschroederlaw.com

ARTICLE II

The Debtor and the Bankruptcy Estate

2.01. The Debtor. Debtor OUTBACK DEVELOPMENT, LLC is a Missouri limited liability company originally formed in 2005. Initial members were Steve Wood and Linda Wood, husband and wife with each couple holding a fifty percent (50%) equity interest. The Company was initially formed as a real estate development company for development and construction of various commercial properties including travel plazas. A part of the business plan was for travel plazas owned by Outback Development, LLC, to be provided fuel from an affiliated company known as Wood Petroleum Company which was a separate business entity owned and controlled by individual Steve Wood. In 2012 the assets of Wood Petroleum were sold to Empire Energy, LLC f/k/a TriLakes Petroleum Company LLC. In July of 2013 Steve and Linda Wood were divorced with Steve Wood retaining all equity interests in the companies. Subsequent to the sale of Wood Petroleum assets, Empire Energy LLC initiated a lawsuit in April of 2014 in the Circuit Court of LaClede County, Missouri against Wood Petroleum, Outback Development, LLC, and Steve and

Linda Wood. The last travel plaza owned by Outback Development, LLC was sold in 2014. Following the sale of the truck plaza the sole remaining assets owned by Outback consisted of approximately fourteen (14) acres in Branson, Missouri on which were located improvements utilized by Outback Bar and Outback Suites as tenants to Outback Development.

2.02. Factors Contributing to the Filing of Chapter 11 Reorganization Proceeding. Following the sale of assets of Wood Petroleum Company and the dispute that arose between the parties relating to rights to account receivables, etc., Outback Development experienced cash flow difficulties which were exasperated by initial and continuing legal costs relating to the litigation. Outback Bar, Outback Suites, and Steve Wood jointly funded the litigation costs however the costs and limited resources led to unstable conditions with respect to the day-to-day operations of Bar and Suites and resulted in various tax liens and accrual of trade vendor claims. Subsequently Steve Wood listed the real estate and improvements for sale through local commercial realtors. In the interim the civil litigation was scheduled for jury trial on November 13, 2017 however all parties entered into a settlement agreement which included a consent to judgment on behalf of Steve Wood and others with Outback Development, LLC being dismissed with prejudice with an agreement that any remaining claim of Empire Energy would be subject to determination in a future bankruptcy proceeding. The Debtor filed for relief under Chapter 11 to proceed with a controlled liquidation and filed its bankruptcy petition on November 9, 2017.

ARTICLE III

Description of Chapter 11 Operations

3.01 Bankruptcy Estate. For general description of the nature and operation of the Debtor and its affiliations with others see Section 2.01 above.

3.02 Significant Events During the Bankruptcy Case. On November 9, 2017 Debtor filed its petition for relief under Chapter 11 of the Bankruptcy Code. The first meeting of creditors was held on January 8, 2018. Since the petition date, the Debtor has continued to operate as debtor-in-possession in accordance with the Guidelines of the Bankruptcy Court and the Bankruptcy Code. Other significant events are summarized as follows:

- A. Approved Engagement of Professionals. By Court Order dated December 5, 2017, David Schroeder was approved by the Court as counsel for the Debtor;
- B. Approval of Listing Agreement with Realtor Booker Cox. On December 26, 2017 the Debtor filed a Motion for Order and approval of listing agreement with Realtor Booker Cox and Broker Foggy River Realty, LLC for the listing of the fourteen (14) acre tract with improvements together with the business operations of Outback Bar and Outback Suites. Subsequently the Court entered an Order approving Debtor's Motion.
- C. Motion to Sell Real Estate Free and Clear of Liens. On January 11, 2018 the Debtor filed a Motion to Sell the Real Estate, Improvements, and business concerns of Outback Development with the consent of Outback Bar and Outback Suites for an aggregate set price of \$5,000,000 to Buyer Bob Robertson Family FLP and/or assigns. The Court subsequently granted Debtor's Motion on February 27, 2018.
- D. Report of Sale. On April 3, 2018 Debtor filed a Report of Sale regarding all Debtor's real property and assets of related entities [doc. #58]. The report stated that the closing company has an adjusted escrow balance of \$895,938 subject to additional disbursements of approximately \$25,000 and with the closing of escrow with the title company monies are to be paid to Debtor as an initial deposit and the Debtor-in-Possession account required

to be established and collateralized pursuant to the prior Order approving sale.

ARTICLE IV

Expected Distributions Under the Plan

4.01. General. Set forth in this Article is a general description of the basic treatment and the distribution with respect to claims including classes of claims and interest. This description is not intended, nor should it be relied upon, to substitute for a careful review of the actual terms of the Plan.

4.02. Summary of Expected Distributions to Claimants. Below is a summary of the claims or classes of claims and interest and their proposed treatment under the Plan. The information constitutes a summary only and must be qualified by reference to the Plan itself and the exhibits thereto and all documents described therein. Any specific claim in any specific class and the total amount to be paid may vary depending upon resolution of any objections to claims as may be filed with the Bankruptcy Court and served upon the holders of each claim to which objections are made.

A. Class 1: Costs of Administration. Administrative expenses are costs or expenses of administering the Debtor's Chapter 11 case which are allowed under Section 507(a)(2) of the Code. All costs of administration approved and allowed by the Court will be paid in full, in cash, the earlier to occur of an Order approving and allowing such costs or on the Effective Date of the Plan.

B. Class 2: Tax Claims. This Class consists of allowed priority claims under 11 U.S.C. Section 507(a)(8) which are not otherwise treated as secured claims herein. As provided in 11 U.S.C. Section 1129(a)(9)(C), unless claimants holding claims in this Class agree to an alternate form of treatment, the allowed claims in this Class shall be paid in full, in cash, on or before the Effective Date from the sale proceeds.

C. Class 3: Unsecured Creditors. General unsecured claims are not secured by the property of the estate and are not entitled to priority under Section 507(a) of the Code. Unsecured creditors will be paid a prorata share of all remaining cash generated by the sale of Debtor's assets. "Remaining cash" means that fund left after payment of administrative costs, secured claims, and priority items described elsewhere in this Plan. No interest will be paid to unsecured creditors. No distribution will be made on account of a disputed claim unless such claim is allowed by a final non-appealable Order. The claim is identified and utilized for voting purposes, the claimant may not be entitled to a distribution if an objection to the claim is later upheld. The Debtor shall have the power and authority to settle and compromise any disputed claim with Court approval in compliance with Rule 9019 of the Federal Rules of Bankruptcy Procedure.

D. Class 4: Litigation Claimants or Objectionable Claims. As of the date of publication of this Plan Debtor disputes and objects to the separate claims of Empire Energy (f/k/a Tri Lakes Petroleum Company, LLC) and the Internal Revenue Service (POC #3). Since all such claims are disputed, unliquidated, and contingent and incapable of being liquidated in this Court prior to confirmation, all such claimants shall be treated as follows:

4.01 Claim of Empire Energy (f/k/a Tri Lakes Petroleum Company, LLC). Debtor intends to file an objection to the proof of claim of Empire Energy (f/k/a Tri-Lakes Petroleum Company, LLC) based on legal theories, defenses, or rights of offset and the right to seek subordination of the claim.

Should Debtor ultimately prevail in its positions after the exhaustion of all potential appellate/remand proceedings any recovery of the Debtor shall be distributed to the allowed claims of Class 4 to the extent of the total amounts due and allowed to any holder of Class 4 claims. Should claimant ultimately prevail in its position after exhaustion of all potential appellate/remand proceedings, then any claim shall be entitled to prorata distribution as a member of Class 4 general unsecured claims.

4.02 Claim of Internal Revenue Service. Debtor intends to file an objection to the proof of claim of Internal Revenue Service based on legal theories, defenses, or rights of offset and the right to seek subordination of the claim. Should Debtor ultimately prevail in its positions after the exhaustion of all potential appellate/remand proceedings any recovery of the Debtor shall be distributed to the allowed claims of Class 4 to the extent of the total amounts due and allowed to any holder of Class 4 claims. Should claimant ultimately prevail in its position after exhaustion of all potential appellate/remand proceedings, then any claim shall be entitled to prorata distribution as a member of Class 4 general unsecured claims.

E. Class 5. Equity Security Holders. Equity interest holders consist of the membership interest of Steve R. Wood. Steve Wood will not receive any distribution or payment as a holder of any membership interest until all claims in the Classes above are paid in full.

Summary of Plan

5.01 Plan In General. Debtor's proposed Plan has previously been filed with the Court. **The summaries of the Plan and other documents contained in this Disclosure Statement are qualified in their entirety by reference to the Plan itself, the exhibits thereto and all documents described therein. Creditors and other parties in interest are urged to review the Plan itself.** Generally, the Plan assumes the Sale Proceeds to be distributed in a "water fall" manner being that Sale Proceeds shall first be applied to the allowed administrative claims, allowed priority claims, allowed unsecured claims, allowed late filed claims, and lastly to allowed interests in the Debtor. Sale Proceeds will first be applied to the superior Classes such that the first Class must be paid in full before the second and subsequent Classes receive any sale proceeds, and so on. If there are not sufficient funds to pay a particular Class in full, the members of that Class will share pro-rata in any sale proceeds.

5.02. Classes of Claims And Interests and Treatment. The Plan divides claims and interests into separate categories, separate claims, or separate classes. The claims and or classes and treatment to be accorded to each claim and or class under the Plan are set forth in the Table at Article IV, Section 4.02 above.

5.03. Executory Contracts and Unexpired Leases. Debtor is unaware of any executory contracts or unexpired leases as all have been terminated with the sale of Debtor's assets.

ARTICLE VI

Distributions on Claims and Interests and Implementation of Plan

6.01. Distributions by Reorganized Debtor. Pursuant to the Plan, at Article I, Section 1.03, the reorganized Debtor shall cooperate with the Plan Administrator who shall have the duty to make distributions in accordance with the Plan.

6.02. Treating Disputed Claims. Pursuant to the Plan, at Article III and Article VI, Section 6.02, after the date of entry of the confirmation order, the reorganized Debtor shall have the authority to (1) file, litigate to final judgment, settle, or withdraw objections to disputed claims, (2) file proof

of claims on behalf of creditors who do not file claims within the period set for doing so pursuant to Bankruptcy Rule 3004, and (3) litigate to final judgment, settle, or withdraw objections to claims filed pursuant to Bankruptcy Rule 3004.

6.03. Effective Date of Plan. The Plan provides that the effective date of the Plan shall be the first day exclusive of a Saturday, Sunday or Federal legal holiday following the 14th day after an order of the Bankruptcy Court confirming the Plan has become a final order, not subject to appeal, or if a notice of appeal has been filed with respect thereto, not stayed by any order of the Court having jurisdiction to stay such order confirming the Plan.

6.04. Retention of Jurisdiction. The Plan at Article VI provides that the Bankruptcy Court shall retain jurisdiction of these proceedings until final consummation of the Plan, notwithstanding any earlier closing of the case, pursuant to and for the purposes of Code Sections 105(a) and 1127, and as otherwise set forth in the Plan.

6.05. Modification of the Plan. The Plan provides that the Debtor reserves the right to alter, amend, or modify the Plan, subject to the restrictions on Plan modifications as set forth in Bankruptcy Code Section 1127.

ARTICLE VII

Acceptance or Rejection of the Plan/Voting by Impaired Classes

7.01. Classes Entitled to Accept or Reject the Plan. Whether a holder of a claim or interest is entitled to accept or reject a Plan depends on (a) the class in which the claim or interest is classified; and (b) whether that class receives property and is “impaired” under that Plan within the meaning of Bankruptcy Code Section 1124. Generally, whether a class is impaired depends on whether the legal, equitable, or contractual rights of the holders of claims or interests in the class are altered. The Debtor believes that each holder of an allowed claim under Class 3 and 4 A – Timely File General Unsecured Claims is impaired and, therefore, is entitled to vote either to accept or reject the Plan. Only those votes cast by holders of allowed claims shall be counted in determining whether acceptances have been received sufficient in number and amount to confirm the Plan.

7.02 Acceptance by Impaired Classes. An impaired class of claims shall have accepted the Plan if: (i) the holders [other than those designated under Bankruptcy Code Section 1126(e)] of at least two-thirds in amount of the allowed claims actually voting in such class have voted to accept the Plan and (ii) the holders [other than those designated under Bankruptcy Code Section 1126(e)] of more than one-half in number of the allowed claims actually voting in such class have voted to accept the Plan.

7.03 Non-Consensual Confirmation. In the event that any impaired class of claims does not accept the Plan in accordance with Bankruptcy Code Section 1126, the Debtor reserves and hereby requests the Court confirm the Plan in accordance with Bankruptcy Code Section 1129(b).

7.04 Confirmation of the Plan Without Acceptance of All Impaired Classes. The Plan may be confirmed even if not accepted by all impaired classes if (i) at least one impaired class of claims has accepted the Plan, and (ii) the Plan does not “discriminate unfairly” and (iii) the Plan is “fair and equitable” as to the dissenting class(es).

ARTICLE VIII

Other Confirmation Standards

8.01 Best Interests of Creditors Test. Bankruptcy Code Section 1129(a)(7) requires in relevant part that, with respect to each impaired class of claims or interests under the Plan, any holder of a claim or interest in such class who does not accept the Plan must “receive or retain under the Plan on account of such claim or interest property of a value, as of the effective date of the Plan, that is not less than the amount that such holder would so receive or retain if the Debtor were liquidated under Chapter 7 of this title on such date”. This provision is known as the “best interests of creditors test” and is designed to ensure that a Chapter 11 plan provides at least as much to non- consenting creditors holding claims and interests in impaired classes as those parties would receive in a Chapter 7 liquidation. As Debtor’s Plan is a liquidation and disbursement Plan Debtor suggests it meets the best interest of creditors test.

8.02 Feasibility. Bankruptcy Code Section 1129(a)(11) requires as a condition to confirmation a showing that “confirmation of the Plan is not likely to be followed by the liquidation or the need for further financial reorganization of the Debtor or any successor to the Debtor under the Plan unless such liquidation or reorganization is proposed in the Plan”. Debtor’s Plan is a liquidation disbursement Plan.

8.03. Tax Consequences. Debtor is not aware of any adverse tax effects of the plan on the debtor, other than the applications of Code Section 346(j), which may effect certain favorable tax attributes held by debtor on the petition date.

THIS DISCLOSURE STATEMENT DOES NOT PURPORT TO GIVE TAX ADVICE OF ANY KIND RELATED TO THE PLAN, OR ITS IMPACT ON THE DEBTOR, CREDITORS, INTEREST HOLDERS OR OTHER INTERESTED PARTIES. SUCH PARTIES SHOULD SEEK INDEPENDENT TAX COUNSEL WITH REGARD TO THE PLAN’S IMPACT ON THEM.

ARTICLE IX

Recommendation and Conclusion

9.01. Debtor’s Recommendation. The intent of the Plan is to enable the Debtor to continue its operations thereby generating sufficient monies to pay all approved and allowed claims to the extent as set forth in the Plan. Accordingly, Debtor asserts it would be in the best interests of all classes of creditors and interest holders to vote in favor of the Plan.

Dated: April 5, 2018

DAVID SCHROEDER LAW OFFICES, P.C.

BY: /s/ David E. Schroeder

David E. Schroeder

#32724

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Springfield, Missouri, 65804

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E-Mail bk1@dschroederlaw.com

ATTORNEY FOR DEBTOR

CERTIFICATE OF SERVICE

The undersigned certifies that the foregoing document was served electronically to those parties who have entered an appearance in the Court's Electronic Court Filing (ECF) System and conventionally, via first-class mail, postage prepaid, to those parties who have requested notice but are not participating in the ECF System, pursuant to instructions appearing on the electronic filing receipt received from the U.S. Bankruptcy Court, on this 5th day of April, 2018.

/s/David E. Schroeder

David E. Schroeder

