

E-filed: November 7, 2017

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14 **UNITED STATES BANKRUPTCY COURT**
15 **DISTRICT OF NEVADA**

16 In re

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18 GRAND CANYON RANCH, LLC,

19 Debtor.
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Case No. 15-14145-btb

Chapter 11

**FANN CONTRACTING, INC.'S AMENDED
DISCLOSURE STATEMENT TO
ACCOMPANY CREDITOR'S FIRST
AMENDED PLAN OF LIQUIDATION**

Hearing Date: November 8, 2017

Hearing Time: 1:30 p.m.

Hearing Location:

**United States Bankruptcy Court
Foley Federal Bldg., Crtrm. No. 4
300 Las Vegas Blvd South, 2nd Floor
Las Vegas, Nevada 89101**

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FIRM NAME
— L.L.P. —
OFFICE ADDRESS

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INDEX OF EXHIBITS

Exhibit 1

Second Amended Plan of Liquidation

Exhibit 2

Order Approving Settlement (ECF No. 537)

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1 **I. INTRODUCTION AND SUMMARY**

2 Capitalized terms used in this Disclosure Statement have the same meanings as defined in
3 the Fann Contracting Inc.’s Creditor’s Second Amended Plan of Liquidation (the “Plan”) and the
4 Bankruptcy Code. Terms defined in this Disclosure Statement which are also defined in the Plan
5 are solely for convenience, and Fann Contracting, Inc. (“Fann” or the “Plan Proponent”) does not
6 intend to change the definitions of those terms from the Plan. If any inconsistency exists between
7 the Plan and this Disclosure Statement, the Plan is, and will be, controlling.

8 UNLESS OTHERWISE DEFINED IN THIS DISCLOSURE STATEMENT, ALL
9 CAPITALIZED TERMS CONTAINED HEREIN WILL HAVE THE MEANINGS ASCRIBED
10 TO THEM IN THE PLAN.

11 **A. Purpose Of Disclosure Statement**

12 Fann is the holder of an unsecured claim against Grand Canyon Ranch, the debtor in the
13 above-captioned bankruptcy case. Fann is furnishing this Disclosure Statement to all Creditors
14 and Interest Holders who are entitled to vote to accept or reject the Plan, which is on file with the
15 Court. Additionally, a copy of the Plan is attached to this Disclosure Statement as **Exhibit 1**.

16 The Disclosure Statement is to be used by each such Creditor and Interest Holder solely in
17 connection with evaluation of the Plan. Use of the Disclosure Statement for any other purpose is
18 not authorized by Fann or the Court. The purpose of this Disclosure Statement is to provide
19 “adequate information,” as that term is defined in Section 1125 of the Bankruptcy Code, to enable
20 Creditors whose Claims are impaired under the Plan and Interest Holders to make an informed
21 decision regarding whether to accept or reject the Plan. Fann believes that this Disclosure
22 Statement contains information that is material, important, and necessary for all such Creditors to
23 arrive at an informed decision in exercising their right to vote for acceptance of the Plan. As a
24 creditor plan proponent rather than a debtor, Fann has provided disclosures consistent with the
25 information available to the creditor in these proceedings.

26 -----
27 **FANN BELIEVES THAT THE PLAN IS IN THE BEST INTERESTS OF THE**
28 **CREDITORS. ACCORDINGLY, CREDITORS ENTITLED TO VOTE ON THE PLAN**

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1 ARE URGED TO VOTE IN FAVOR OF THE PLAN. (VOTING INSTRUCTIONS ARE
2 SET FORTH IN ARTICLE IV OF THIS DISCLOSURE STATEMENT.) TO BE
3 COUNTED, YOUR BALLOT MUST BE DULY COMPLETED, EXECUTED, AND
4 ACTUALLY RECEIVED NO LATER THAN _____, 2017 (THE “VOTING
5 DEADLINE”).

6 EACH CREDITOR AND INTEREST HOLDER SHOULD READ THIS
7 DISCLOSURE STATEMENT, THE PLAN, AND THE EXHIBITS TO THIS
8 DISCLOSURE STATEMENT AND THE PLAN IN THEIR ENTIRETY BEFORE
9 VOTING ON THE PLAN.

10 ALL EXHIBITS OR SCHEDULES TO THIS DISCLOSURE STATEMENT ARE
11 ANNEXED HERETO AND SUPPLEMENTED WITH CERTAIN ADDITIONAL
12 MATERIALS. ALL EXHIBITS OR SCHEDULES TO THIS DISCLOSURE
13 STATEMENT OR THE PLAN MAY BE OBTAINED, ONCE FILED, THROUGH THE
14 BANKRUPTCY COURT’S WEB SITE: <https://ecf.nvb.uscourts.gov/> WITH A VALID
15 PASSWORD, OR UPON WRITTEN REQUEST TO THE FOLLOWING ADDRESS:

16 SNELL & WILMER L.L.P.
17 3883 Howard Hughes Parkway, Suite 1100
18 Attention: Blakeley E. Griffith, Esq.
E-mail: bgriffith@swlaw.com

19 PLAN PROVISION SUMMARIES AND ALL OTHER STATEMENTS MADE IN
20 THIS DISCLOSURE STATEMENT ARE QUALIFIED IN THEIR ENTIRETY BY
21 REFERENCE TO THE PLAN, THE OTHER EXHIBITS AND SCHEDULES HERETO
22 AND THERETO, AND ANY OTHER DOCUMENTS REFERENCED HEREIN OR
23 THEREIN.

24 IN MAKING A DECISION TO VOTE, CREDITORS MUST RELY ON THEIR
25 OWN EXAMINATION OF THE PLAN, INCLUDING THE MERITS AND RISKS
26 INVOLVED AND THE OPINIONS OF THEIR OWN ATTORNEYS OR OTHER
27 ADVISORS.

28 NEITHER FANN NOR ANY OF ITS ATTORNEYS HAS PROVIDED OR WILL

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1 PROVIDE ANY OPINION OR HAS MADE ANY REPRESENTATION IN THIS PLAN
2 OR IN ANY OTHER DOCUMENT TO ANY PERSON AS TO ANY TAX ISSUES,
3 INCLUDING WHETHER ANY PROVISION OF THE PLAN WILL ELIMINATE ANY
4 CANCELLATION OF DEBT INCOME TO ANY PERSON. FANN ENCOURAGES ALL
5 CREDITORS AND INTEREST HOLDERS TO RETAIN THEIR OWN TAX
6 PROFESSIONALS TO PROVIDE AN OPINION BASED ON EACH SUCH PERSON'S
7 INDIVIDUAL CIRCUMSTANCES.

8 CREDITORS AND INTEREST HOLDERS SHOULD NOT CONSTRUE THE
9 CONTENTS OF THIS DISCLOSURE STATEMENT AS PROVIDING OR RENDERING
10 ANY LEGAL, BUSINESS, FINANCIAL, OR TAX ADVICE. EACH CREDITOR AND
11 INTEREST HOLDER SHOULD CONSULT WITH ITS OWN LEGAL, BUSINESS,
12 FINANCIAL, AND TAX ADVISORS WITH RESPECT TO ANY SUCH MATTERS
13 CONTEMPLATED THEREBY.

14 **B. Limitations On Information Contained In Disclosure Statement**

15 The statements contained in this Disclosure Statement are made as of the date hereof,
16 unless another time is specified, and the delivery of this Disclosure Statement will not, under any
17 circumstance, create any implication that the information contained herein is correct at any time
18 subsequent to the date hereof.

19 Any estimates of Claims and Interests set forth in this Disclosure Statement may vary
20 from the amounts of Claims or Interests ultimately allowed by the Bankruptcy Court. The
21 summaries of the Plan and other documents contained in this Disclosure Statement are qualified
22 in their entirety by reference to the Plan itself, the Exhibits thereto, and all documents described
23 therein. The information contained in this Disclosure Statement, including, but not limited to, the
24 information regarding the history, business, and operations of the Debtor, the historical financial
25 information of the Debtor, and the liquidation analysis, is included herein for purposes of
26 soliciting acceptances of the Plan. AS TO CONTESTED MATTERS, HOWEVER, THE
27 INFORMATION IN THE DISCLOSURE STATEMENT IS NOT TO BE CONSTRUED AS
28 ADMISSIONS OR STIPULATIONS BUT RATHER AS STATEMENTS MADE IN

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1 SETTLEMENT NEGOTIATIONS.

2 The financial information regarding the Debtor, including the assets and the liabilities of
3 the Debtor, has been derived from numerous sources including, but not limited to, the Debtor’s
4 schedules of assets and liabilities and statements of financial affairs, proofs of Claim, and other
5 documents filed with the Bankruptcy Court. The information contained herein has not been
6 audited and is accurate to the best of Fann’s knowledge, information and belief. Fann and its
7 respective professionals do not know whether any of the information obtained from Debtor or the
8 Trustee or documents filed by Debtor or the Trustee are accurate or true and cannot and do not
9 warrant or represent that the information contained in this Disclosure Statement is without
10 inaccuracy.

11 The approval by the Bankruptcy Court of the Disclosure Statement does not constitute an
12 endorsement by the Bankruptcy Court of the Plan or a guaranty of the accuracy and completeness
13 of the information contained herein.

14 **C. Order Governing Plan Confirmation Process**

15 On _____, 2017, the Bankruptcy Court entered its order (i) approving this Disclosure
16 Statement as containing “adequate information” pursuant to 11 U.S.C. § 1125 of the Bankruptcy
17 Code, (ii) fixing _____, 2017 as the deadline for filing and serving any objections to
18 Confirmation of the Plan, (iii) fixing _____, 2017 as the deadline for voting to accept or reject
19 the Plan, and (iv) setting _____, 2017, at __:___.m. P.S.T. as the date and time for a
20 hearing on the confirmation of the Plan.

21 Section 1128(b) of the Code provides that any party in interest may object to confirmation
22 of a plan. Any objection(s) to confirmation of the Plan must be in writing, must state with
23 specificity the grounds for any such objections, and must be filed with the Bankruptcy Court and
24 served upon the following parties so as to be received on or before the time fixed by the
25 Bankruptcy Court:

26 United States Trustee:
27 OFFICE OF THE UNITED STATES TRUSTEE
28 300 Las Vegas Blvd. So., Suite 4300
Las Vegas, NV 89101, AZ 85003-1706
Telephone Number: (602) 682-2600

1 Attn: Nicholas Strozza

2 The Plan Proponent (Fann Contracting):
3 Fann Contracting, Inc.
4 c/o SNELL & WILMER L.L.P.
5 Attention: Blakeley E. Griffith, Esq.
3883 Howard Hughes Parkway, Suite 1100
E-mail: bgriffith@swlaw.com

6 **II. INFORMATION REGARDING PLAN AND DISCLOSURE STATEMENT**

7 If practical, a Chapter 11 case attempts to proceed to the confirmation (*i.e.*, approval by
8 the Bankruptcy Court) of a plan of reorganization or plan of liquidation. A plan describes in
9 detail (and in language appropriate for a legal contract) the means for satisfying the claims against
10 and interests in a debtor. After a plan has been filed, most holders of such claims and interests are
11 permitted to vote to accept or reject the plan. Before a plan proponent can solicit acceptances of a
12 plan, 11 U.S.C. § 1125 requires the plan proponent to prepare a disclosure statement containing
13 adequate information of a kind, and in sufficient detail, to enable those parties entitled to vote on
14 the plan to make an informed judgment about the plan and whether they should accept or reject
15 the plan.

16 The purpose of this Disclosure Statement is to provide sufficient information about the
17 Debtor and the Plan to enable you to make an informed decision in exercising your right to accept
18 or reject the Plan.

19 This Disclosure Statement will be used to solicit acceptances of the Plan only after the
20 Bankruptcy Court has entered an order approving this Disclosure Statement. Bankruptcy Court
21 approval of this Disclosure Statement means only that the Bankruptcy Court has found that this
22 Disclosure Statement meets the statutory requirement of 11 U.S.C. § 1125 to provide adequate
23 information. Such approval by the Bankruptcy Court is not an opinion or ruling on any other
24 merits of this Disclosure Statement. It does not mean that the Plan has been approved, or will be
25 approved, by the Bankruptcy Court.

26 After this Disclosure Statement has been approved by the Bankruptcy Court and voting on
27 the Plan has been completed, a hearing on the Plan will be held to determine whether the Plan
28 should be confirmed. At the hearing, the Bankruptcy Court will consider whether the Plan

1 satisfies the various requirements of the Code. The Bankruptcy Court also will receive and
2 consider a ballot report prepared by Fann which will present a tally of the votes accepting or
3 rejecting the Plan cast by those entitled to vote. Once confirmed, the Plan is treated as a contract
4 and is binding on all Creditors, holders of equity interests, the Trustee, and other parties-in-
5 interest in the Debtor's bankruptcy case.

6 THIS DISCLOSURE STATEMENT IS NOT THE PLAN. FOR THE CONVENIENCE
7 OF CREDITORS AND INTEREST HOLDERS OF THE DEBTOR, THE PLAN IS
8 SUMMARIZED IN THIS DISCLOSURE STATEMENT. ALL SUMMARIES ARE
9 QUALIFIED IN THEIR ENTIRETY BY THE PLAN ITSELF. IN THE EVENT OF ANY
10 INCONSISTENCY BETWEEN THIS DISCLOSURE STATEMENT AND THE PLAN, THE
11 PLAN WILL CONTROL.

12 The Bankruptcy Court will hold a hearing on confirmation of the Plan, and, before that
13 hearing, the report of Ballots cast will be prepared and filed with the Bankruptcy Court.
14 Accordingly, all votes are important because they can determine whether the Plan will be
15 confirmed.

16 **A. Summary Of The Plan**

17 The Plan proposes to use proceeds received by the Estate pursuant to the Settlement
18 Agreement entered into by the Canyon Rock Parties, the Mared Parties and the Trustee which
19 consists of the sale of the Frontier Property to Mared for a \$1.75 million payment and the Canyon
20 Rock Parties receiving a payment of \$900,000 with the Estate receiving \$850,000. A copy of the
21 Order Approving the Settlement Arising out of Settlement Conference pursuant to 11 U.S.C. §§
22 105(A) and 363 is attached hereto as **Exhibit 2** (the "Settlement Order").

23 Prior to the Settlement Order being entered, the Bankruptcy Court previously ruled that
24 part of the Frontier was not property of the Estate. Although there has been no specific finding by
25 the Court as to which parts of the Frontier are property of the Estate, the Trustee has represented
26 that the southeastern portion of the Frontier remains property of the Estate. There has not been a
27 specific finding as to the allocation of value between the southern and northern portions of the
28 Frontier, although the representations from other parties and the Trustee have been that the value

1 of the southeastern part of the Frontier is negligible.

2 In addition, within thirty days after the Effective Date, Liberty Mutual and Gallagher
3 Basset are to each pay \$100,000 into the Estate, for a total contribution of \$200,000, in order to
4 fully and finally settle all issues in the Fann Litigation and in exchange for full releases of Liberty
5 Mutual, Gallagher Basset, and Fann by the Estate.

6 Further, Fann intends to seek an equitable marshaling of the claims of the AZDOR, the
7 Mohave County Attorney's Office, the IRS and the NDTER (collectively the "Tax Claimants"),
8 as those claims are believed to be the co-responsibility of the Mared Parties and the Canyon Rock
9 Parties. The Plan provides that the Tax Claimants must first pursue their claims against such non-
10 debtor entities before seeking any distribution from the Estate.

11 Under the Plan, the Trustee will be discharged no later than Confirmation, and Fann will
12 serve as disbursing agent and agent for the winding up of the Estate. The Unsecured Creditors
13 will receive a pro-rata distribution of the Estate's cash on hand following the consummation of
14 the Settlement Agreement and the payment received from Liberty Mutual and Gallagher Basset
15 and a distribution of specified Estate funds to Fann.

16 **III. LIMITATIONS ON REPRESENTATIONS**

17 Other than as stated in this Disclosure Statement, Fann has not authorized any
18 representations or assurances concerning the Debtor or the value of its assets. Therefore, in
19 deciding whether to accept or reject the Plan, you should not rely on any information relating to
20 the Debtor or the Plan other than that contained in this Disclosure Statement or in the Plan itself.

21 You should report any unauthorized representations or inducements to counsel for Fann:

22 Donald L. Gaffney
23 Snell & Wilmer L.L.P.
24 One Arizona Center
25 400 E. Van Buren
26 Phoenix, Arizona 85004-2202
27 E-mail: dgaffney@swlaw.com

28 Fann's counsel may present any such information regarding representations and/or
inducements to the Bankruptcy Court for such action as may be appropriate.

This is a solicitation by Fann only and is not a solicitation by its attorneys, agents,

1 financial advisors, accountants, or any other professionals employed by Fann.

2 **IV. VOTING PROCEDURES AND REQUIREMENTS**

3 **A. Who Is Entitled To Vote**

4 If you are the holder of an Allowed Claim which is “impaired” under the Plan, you are
5 entitled to vote to accept or reject the Plan. Accordingly, to be entitled to vote, your Claim must
6 be both “allowed” and “impaired.”

7 **1. Allowed Claims**

8 You have an Allowed Claim if: (i) you timely filed a proof of claim and no objection has
9 been filed to your Claim; or (ii) you timely filed a proof of claim and an objection was filed to
10 your Claim upon which the Bankruptcy Court has ruled and allowed your Claim. If your Claim is
11 not an Allowed Claim, it is a Disputed Claim, and you will not be entitled to vote on the Plan
12 unless the Bankruptcy Court temporarily or provisionally allows or estimates your Claim for
13 voting purposes pursuant to Bankruptcy Rule 3018. **IF YOU ARE UNCERTAIN
14 REGARDING THE STATUS OF YOUR CLAIM, YOU SHOULD CHECK THE
15 BANKRUPTCY COURT RECORD CAREFULLY. YOU SHOULD SEEK
16 APPROPRIATE LEGAL ADVICE IF YOU HAVE ANY DISPUTE. FANN AND ITS
17 PROFESSIONALS ARE POTENTIALLY ADVERSE PARTIES AND CANNOT ADVISE
18 YOU ABOUT SUCH MATTERS.**

19 **2. Impaired Claims**

20 Claims and Interests are “impaired” when the full amounts of the Allowed Claims will not
21 be paid under the Plan, no distributions will be made on account of the Allowed Interests, or
22 when the holder’s legal, equitable, or contractual rights are otherwise altered by the Plan.
23 Creditors and Interest Holders who are not “impaired” under the Plan are deemed to have
24 accepted the Plan pursuant to 11 U.S.C. § 1126(f), and their acceptances of the Plan need not be
25 solicited.

26 **B. Procedures For Voting**

27 **1. Submission Of Ballots**

28 All Creditors whose votes are solicited will be sent a Ballot, together with instructions for

1 voting, with a copy of this Disclosure Statement as approved by the Bankruptcy Court and a copy
2 of the Plan. You should read the Ballot carefully and follow the instructions contained therein.
3 Please use only the Ballot which was sent with this Disclosure Statement. You should complete
4 your Ballot and return it to **Snell & Wilmer L.L.P., Attn: Blakeley Griffith**, 3883 Howard
5 Hughes Parkway, Suite 1100, Las Vegas, Nevada, 89169 (bgriffith@swlaw.com). Ballots
6 returned by e-mail will be accepted; ballots returned by facsimile are not valid and will not be
7 counted.

8 **TO BE COUNTED, YOUR BALLOT MUST BE RECEIVED
AT THE ADDRESS LISTED ABOVE BY _____, 2017.**

9 **Ballots received after the Voting Deadline will not be counted. Ballots should not be
10 delivered directly to Fann, the Court, or the Office of the United States Trustee.**

11 **2. Incomplete Ballots**

12 Unless otherwise ordered by the Bankruptcy Court, Ballots which are signed, dated, and
13 timely received, but on which a vote to accept or reject the Plan has not been indicated, will not
14 be counted as a vote on the Plan.

15 **3. Withdrawal Of Ballots**

16 A Ballot may not be withdrawn or changed after it is cast unless the Bankruptcy Court
17 permits you to do so after notice and a hearing to determine whether sufficient cause exists to
18 permit the change.

19 **4. Questions And Lost Or Damaged Ballots**

20 If you have any questions concerning voting procedures, if your Ballot is damaged or lost,
21 or if you believe you should have received a Ballot but did not receive one, you may contact
22 Blakeley Griffith at the address, telephone number and e-mail address listed above.

23 **C. Summary Of Voting Requirements**

24 For the Plan to be confirmed, the Plan must be accepted by at least one impaired class of
25 Claims. For a class of Claims to vote to accept the Plan, votes representing at least two-thirds
26 (2/3) in amount and a majority in number of the Claims voted in that class must be cast for
27 acceptance of the Plan. As more fully described in Article VI of this Disclosure Statement, Fann
28 is seeking acceptances from holders of Allowed Claims in the following classes, which are, or

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1 may be, “impaired” under the Plan, provided, however that the Plan Proponent has the right to
 2 supplement this Disclosure Statement as to any other impaired classes, if any.

<u>Class</u>	<u>Description</u>
3 Class 3A	Fann Contracting
4 Class 3B	General Unsecured Claims

5
 6 **IT IS IMPORTANT THAT HOLDERS OF ALLOWED IMPAIRED CLAIMS**
 7 **EXERCISE THEIR RIGHTS TO VOTE TO ACCEPT OR REJECT THE PLAN.**

8 The specific treatment of each Class under the Plan is described in the Plan and is
 9 summarized in Article VI of this Disclosure Statement. A more detailed description of
 10 confirmation requirements and related issues is discussed in Article IX of this Disclosure
 11 Statement.

12 Section 1129(b) of the Code provides that if the Plan is rejected by one or more impaired
 13 classes of Claims, the Plan (or any modification thereof) nevertheless may be confirmed by the
 14 Court if it determines that the Plan does not discriminate unfairly and is fair and equitable with
 15 respect to the rejecting class or classes of Claims impaired under the Plan.

16 A VOTE FOR ACCEPTANCE OF THE PLAN BY THOSE HOLDERS OF CLAIMS
 17 AND INTERESTS WHO ARE ENTITLED TO VOTE IS VERY IMPORTANT. THE PLAN
 18 PROPONENT ASSERTS THAT THE TREATMENT OF CREDITORS UNDER THE PLAN IS
 19 THE BEST ALTERNATIVE FOR CREDITORS AND THE PLAN PROPONENT
 20 RECOMMENDS THAT THE HOLDERS OF ALLOWED CLAIMS VOTE IN FAVOR OF
 21 THE PLAN. SPECIFICALLY, FANN BELIEVES THAT THE TREATMENT OF, AND
 22 RETURN TO, UNSECURED CREDITORS UNDER THE PLAN IS SUBSTANTIALLY
 23 BETTER AND LESS RISKY FOR THE UNSECURED CREDITORS THAN THE
 24 CONVERSION TO A CHAPTER 7 CASE SUGGESTED BY THE TRUSTEE.

25 **V. BACKGROUND AND EVENTS PRECIPITATING THE CHAPTER 11 FILING**
 26 **AND SIGNIFICANT EVENTS DURING THE CHAPTER 11 CASE**

27 **A. The Debtor, Its Property, And Pre-Bankruptcy Events**

28 This Chapter 11 case was preceded by disputes surrounding two pieces of property and

1 the operation of a tourist ranch in Mohave County, Arizona. Pre-petition, Debtor was involved in
2 litigation in the Nevada State Court, case number A-13-690801-B (the “State Court Action”) with
3 Canyon Rock, LLC (“Canyon Rock”), Canyon Land Holdings, LLC (“Holdings”), Oriental Tours
4 d/b/a Oriental Tours, Inc. (“OTI”), Canyon Ranch Adventures, LLC (“Adventures” and, together
5 with Canyon Rock, Holdings, OTI, the “Canyon Rock Parties”). Among the more pertinent
6 issues subject to litigation in the State Court Action were: (i) which entities were responsible for
7 the millions of dollars of development costs incurred in developing the “Frontier”, certain real
8 property located in Mohave County, Arizona (parcel no. 318-08-016); (ii) what entity or person
9 now owns or holds rights in the Frontier, including improvements, fixtures, and personal property
10 left on the land; and (iii) what person(s) or entity(ies) hold authority to control Holdings and
11 Adventures.

12 The other dispute involved Mared, LLC (“Mared”) and its principals, Marios Savvides,
13 Gina Savvides, Edward Frymer, and Madeline Frymer (collectively the “Mared Parties”). This
14 dispute centered on a pre-petition transaction with Debtor in which real property adjacent to the
15 Frontier (the “Ranch”) was sold to Mared for \$2.8 million, and in connection with which Debtor
16 and Mared formed Grand Canyon Ranch Resort LLC (“GCR”), governed by a Partnership,
17 Management, and Operating Agreement (the “Resort PMOA”). While Mared asserted a claim in
18 the amount of \$3.2 million arising out of this transaction, to which claim the Trustee had objected
19 (ECF No. 305), Debtor contended that the Ranch was worth significantly more than the \$2.8
20 million purchase price, and commenced an adversary action styled Grand Canyon Ranch LLC vs.
21 Marios Savvides, et al., (the “Adversary Action”) adversary number 15-01126-BTB, wherein
22 Debtor asserted three causes of action against the Mared Parties, and the Mared Parties asserted
23 five counterclaims (the “Mared Adversary”). See ECF Nos. 1 and 26, in Adv. No. 15-01126-
24 BTB.

25 Debtor filed its voluntary petition for relief under Chapter 11 of the Bankruptcy Code on
26 July 20, 2015, thereby commencing the Chapter 11 case. See ECF No. 1. As of the filing of the
27 Chapter 11 Case, Nigel Turner held an 85% equity interest in the Debtor, Leslie Turner held a 5%
28 interest in the Debtor, and Tony Marriott held a 10% interest in the Debtor (the “Interest”

1 Holders”). ECF No. 16.

2 **B. Post Petition Events and Management Of The Debtor**

3 On October 13, 2015, Mared filed a Motion to Dismiss, or in the Alternative to Appoint a
4 Chapter 11 Trustee (“Motion to Appoint a Trustee”) (ECF No 52). On December 30, 2015, the
5 Court entered the Order Granting the Motion to Appoint a Chapter 11 Trustee (ECF No. 109).
6 On January 5, 2016, Brian D. Shapiro was appointed as the Chapter 11 Trustee (the “Trustee”).

7 **C. Employment Of Trustee’s Professionals**

8 On February 10, 2016, the Trustee filed its Application to Employ Garman Turner Gordon
9 LLP (“GTG”) as Attorneys for the Chapter 11 Trustee (ECF No. 130). The Application provided
10 that the Trustee will pay GTG on a contingency basis of 35% which would be increased to 40% if
11 a plan of was reorganization filed, and up to 45% if a notice of appeal was also filed. The
12 Application further provides that: “[t]he contingent fee is calculated prior to the payment of
13 expenses, and the fee will be calculated based on any sums recovered, held, or distributed by the
14 estate, including the value of in-kind or non-monetary distributions.” (Application, ECF No. 130
15 at ¶ 9.) To date, GTG has not submitted an application for fees and no fees or costs have been
16 approved by the Bankruptcy Court.¹

17 **D. The Settlement Motions**

18 On August 30, 2016, the Trustee brought a Motion for Order Approving Settlement
19 Between the Trustee and Canyon Rock Parties Pursuant to 11 U.S.C. §§ 105(A) and 363 and
20 Bankruptcy Rule 9010 (ECF No. 290) (the “First Settlement Motion”). The First Settlement
21 Motion essentially provided for the Trustee to sell the Frontier Property to the Canyon Rock
22 Parties for \$780,000.

23 On April 24, 2017, the Trustee filed a Motion for Order Approving Settlement Arising out
24 of Settlement Conference Pursuant to 11 U.S.C. §§ 105(A) and 363 and Bankruptcy Rule 9019

25
26 ¹ On November 3, 2017, the Trustee’s counsel submitted a “Notice of Contingency Fee Pursuant to Order
27 Approving Employment of Garman Turner Gordon LLP as Attorneys for Chapter 11 Trustee Pursuant to
28 11 U.S.C. § 327(a) and Compensation pursuant to 11 U.S.C. § 328(a), Nunc Pro Tunc to January 5, 2016”
(the “Notice”). Fann does not believe that the Notice complies with relevant bankruptcy law and believes
that the Trustee’s counsel will need to file a fee application pursuant to Bankruptcy Rule of Procedure
2016(a).

1 (ECF No. 383) (the “Settlement Motion”) to approve a settlement agreement between the Mared
2 Parties and the Canyon Rock Parties, as set forth in the transcript attached as Exhibit 1 to the
3 Settlement Motion (the “Settlement Agreement”). The central terms of the Settlement Agreement
4 consist of the Estate selling the Frontier to Mared for \$1.75 million payment and the Canyon
5 Rock Parties receiving a secured claim of \$900,000 with the Estate receiving \$850,000. In
6 exchange, the Mared Parties and Canyon Rock Parties agree to withdraw their proof of claims.
7 The Settlement Agreement was never reduced to writing.

8 Subsequently, the Bankruptcy Court ruled that part of the Frontier was not property of the
9 Estate. Although there has been no specific finding by the Court of the part of the Frontier that is
10 not property of the Estate, the Trustee has represented that the southeastern portion of the Frontier
11 remains property of the estate. There has never been a finding as to the allocation of value
12 between the southern and northern portions of the Frontier and the representations from the
13 Trustee have been that the value of the southeastern part of the Frontier is negligible. On August
14 23, 2017 the Bankruptcy Court approved the Settlement Motion. On September 18, 2017, the
15 Settlement Order was entered on the Docket. A true and correct copy of the Settlement Order is
16 attached hereto as **Exhibit 2**. The Settlement Agreement placed on the record did not articulate
17 the means of effectuation of the settlement, and the Trustee through counsel gave conflicting
18 statements whether the settlement was to occur by a Section 363 sale free and clear or some other
19 means.

20 **E. Plans**

21 On August 15, 2017, Fann filed its Plan of Liquidation (ECF No. 506); no other party,
22 including the Trustee, has filed a plan. On September 13, 2017, Fann filed its Amended Plan of
23 Liquidation, and concurrently with filing this Amended Disclosure Statement, Fann files its
24 Second Amended Plan of Liquidation which is attached hereto as **Exhibit 1**.

25 **VI. OVERVIEW OF THE PLAN**

26 The following is a general overview of the Plan and certain provisions of the Plan. This
27 overview has been prepared to describe the Plan and some of its more pertinent provisions in
28 basic terms. Fann does not offer it as a comprehensive analysis of the Plan, which is a

1 complicated legal document. If it is important to you to understand every nuance of the Plan as a
2 complicated and precise legal contract, you are urged to read the Plan in its entirety and to consult
3 with legal counsel to understand the Plan fully. A copy of the Plan accompanies this Disclosure
4 Statement as **Exhibit 1**.

5 **A. Brief Explanation Of Chapter 11 Plan of Liquidation**

6 Chapter 11 of the Bankruptcy Code is the chapter of the Code which allows for the
7 liquidation or reorganization of companies such as the Debtor. In general, a Chapter 11 plan of
8 liquidation (a) divides Claims and Interests into separate classes, (b) specifies the property that
9 each class is to receive under the plan, and (c) contains other provisions necessary to the
10 liquidation of the debtor. A Chapter 11 plan may specify that certain classes of Claims or
11 Interests are either to be paid in full upon the effective date of the plan, reinstated, or their legal,
12 equitable and contractual rights are to remain unchanged. Such classes are referred to under the
13 Bankruptcy Code as “unimpaired” and, because of such favorable treatment, are deemed to accept
14 the plan. Accordingly, it is not necessary to solicit votes from the holders of Claims or Interests
15 in such classes. A Chapter 11 plan also may specify that certain classes will not receive any
16 distribution of property. Such classes are deemed to reject the plan.

17 All other classes of Claims and Interests that contain “impaired” Claims and Interests are
18 entitled to vote on the plan. As a condition to confirmation, the Code generally requires that each
19 impaired class of Claims or Interests votes to accept a plan. Acceptances must be received (a)
20 from the holders of Claims constituting at least two-thirds in dollar amount and more than one-
21 half in number of the allowed claims in each impaired class of claims that have voted to accept or
22 reject the plan, and (b) from the holders of at least two-thirds in amount of the allowed Interests in
23 each impaired class of equity interest that have voted to accept or reject the plan. If any class or
24 classes of Claims or Interests entitled to vote with respect to the plan rejects the plan, upon
25 request of the plan proponent, the Bankruptcy Court may nevertheless confirm the plan if certain
26 minimum treatment standards are met with respect to such class or classes.

27 Chapter 11 of the Bankruptcy Code does not require each holder of a Claim or Interest to
28 vote in favor of a plan of liquidation in order for the Bankruptcy Court to confirm the plan.

1 However, the Bankruptcy Court must find that the plan meets a number of statutory tests (other
2 than the voting requirements described in this section) before it may confirm, or approve, the
3 plan. Many of these tests are designed to protect the interests of holders of Claims or Interests
4 that do not vote to accept the plan but who will nonetheless be bound by the plan's provisions if it
5 is confirmed by the Bankruptcy Court.

6 **B. Solicitation Of Acceptances Of The Plan**

7 Fann is seeking acceptances of the Plan from holders of Allowed Claims and Interests
8 classified in Classes 3A and 3B under the Plan, which are the only Classes entitled to vote under
9 the Plan, or not deemed by law to have already rejected the Plan. If the requisite acceptances are
10 received, Fann will use the acceptances, as evidenced by Ballots solicited in accordance with this
11 Disclosure Statement and the order approving the Disclosure Statement, to seek confirmation of
12 the Plan under Chapter 11 of the Code.

13 If any impaired Class is determined to have rejected the Plan in accordance with 11
14 U.S.C. § 1126, Fann may use the provisions of Section 1129(b) of the Code to satisfy the
15 requirements for confirmation of the Plan. See "ACCEPTANCE AND CONFIRMATION OF
16 THE PLAN—Confirmation Over Dissenting Class (Cram Down)."

17 Fann believes that this Disclosure Statement complies with applicable bankruptcy and
18 non-bankruptcy law. This Disclosure Statement and the Plan are being transmitted to all known
19 holders of impaired Claims and Interests. Fann believes that this Disclosure Statement contains
20 adequate information for all holders of impaired Claims and Interests to cast an informed vote to
21 accept or reject the Plan. Furthermore, Fann believes that holders of impaired Claims and
22 Interests will obtain a greater recovery under the Plan than they would otherwise obtain if the
23 Debtor's assets were liquidated under Chapter 7 of the Bankruptcy Code.

24 If the Plan is confirmed by the Bankruptcy Court, each holder of an impaired Claim will
25 receive the same *pro rata* consideration as other holders of Claims in the same Class, whether or
26 not such holder voted to accept the Plan. Moreover, upon Confirmation, the Plan will bind all
27 Creditors and Interest Holders regardless of whether or not such Creditors and Interest Holders
28 voted to accept Plan.

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1 **C. Unimpaired Classes**

2 The following Classes of Claims are not impaired under the Plan and, under Section
3 1126(f) of the Code, are conclusively deemed to accept the Plan and are not entitled to vote on the
4 Plan:

- 5 Administrative Claims
- 6 Priority Tax Claims
- 7 Claims of the Mared Parties and Canyon Rock Parties
- 8 Class 1 Secured Claims of Arizona Department of Revenue and Mohave
 County Attorneys' office
- 9 Class 2 Priority Unsecured Claims (Non-tax)

10 **D. Classification Of Claims**

11 The Classes under the Plan take into account the differing nature and priority of Claims
12 against the Debtor. Section 101(5) of the Code defines "claim" as a "right to payment, whether or
13 not such right is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured,
14 unmatured, disputed, undisputed, legal, equitable, secured, or unsecured;" or a "right to an
15 equitable remedy for breach of performance if such breach gives rise to a right to payment,
16 whether or not such right to an equitable remedy is reduced to judgment, fixed, contingent,
17 matured, unmatured, disputed, undisputed, secured, or unsecured." A "claim" against the Debtor
18 also includes a claim against the Debtor's property as provided in § 102(2) of the Bankruptcy
19 Code.

20 For the holder of a Claim to participate in a reorganization plan and receive the treatment
21 offered to the class in which it is classified, its claim must be allowed. Under the Plan, an
22 Allowed Claim shall mean a Claim, of any type, against the Estate only to the extent that (1) a
23 proof of such Claim was timely filed or deemed filed pursuant to § 1111(a) of the Bankruptcy
24 Code, without an objection having been filed or asserted; and (2) the proof of Claim was not
25 objected to, or was Allowed (and only to the extent Allowed) by an order of the Bankruptcy
26 Court that has become final and not subject to possible appeal, review, certiorari, or stay.

27 **1. Treatment Of Claims Under The Plan**

28 The following describes the Plan's classification of Claims against the Debtor and the

1 treatment the holders of Allowed Claims would receive under the Plan. The treatment of Claims
2 set forth below is consistent with the requirements of 11 U.S.C. § 1129(a)(9).

3 **a. Unclassified Claims**

4 **Administrative Claims**

5 Administrative expenses are claims for costs or expenses of administering the Debtor's
6 Chapter 11 case which are allowed under Code section 507(a)(1). The Code requires that all
7 administrative claims be paid on the Effective Date of the Plan, unless a particular claimant
8 agrees to a different treatment. The following chart lists all of the Debtor's section 507(a)(1)
9 administrative claims and their treatment under the Plan:

<u>Name of Claimant</u>	<u>Amount Claimed²</u>	<u>Treatment</u>
Garman Turner Gordon LLP L.L.P. ("GTG")	\$281,487.50	Unless otherwise agreed to by the administrative claimant, this claim will be satisfied in full by payment of \$281,487.50 or in an amount to be determined by a final order allowing GTG's fees on the later of the Effective Date or the date allowed by a final order. This amount is based on the employment application of GTG on file with the Court that provides for a thirty-five percent contingency fee. The amount is calculated from the \$850,000 that comes into the Estate from the Trustee's Settlement Agreement, after subtracting \$45,750 for the Trustee's fees (\$850,000-\$45,750).
Brian Shapiro Chapter 11 Trustee	\$45,750	Unless otherwise agreed to by the administrative claimant, this claim will be satisfied by payment in full of the \$45,750 or in an amount determined by a final order on the later of the Effective Date or the date allowed by a final order. The Trustee's fee is calculated from the \$850,000 coming into the Estate from the Settlement Agreement.
Office of the United States Trustee	Unknown	The Debtor remains current on all post-petition obligations to the Office of the United States Trustee. Unless otherwise agreed to by the administrative claimant, this claim will be satisfied by payment in full of Allowed Claim in cash on the later of the

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² Stated amounts are estimates of total fees through the Effective Date, and are based on information available as of November 7, 2017. There is a dispute between the Trustee and Fann regarding what the base computation for calculation of the Trustee's fees and its attorneys' fees should be. These amounts do not include an estimate of the costs that are recoverable by GTG. Any requests must comply with the applicable provisions of the Bankruptcy Code, the Bankruptcy Rules, and the Local Bankruptcy Rules.

<u>Name of Claimant</u>	<u>Amount Claimed²</u>	<u>Treatment</u>
		Effective Date or the date allowed by the Court.
Total:	~ \$325,000	

GTG's claim is for professional services and cannot be paid by the Estate until approved draw down requests are submitted or such fees and costs are otherwise approved by the Court. For all such fees and costs, the professional in question must file and serve a properly noticed fee application and the Court must rule on it. Only the amount of professional fees and costs allowed by the Court will be owed and required to be paid under the Plan.³

With respect to the UST's fees, pursuant to 28 U.S.C. Section 1930(a)(6), Chapter 11 debtors who have confirmed a plan are required to continue making quarterly payments based upon disbursements until the case is converted, dismissed or closed. Pre-confirmation fees and costs incurred by the Debtor shall be pro-rated and paid on the Effective Date of the Plan. Post-confirmation fees and costs will be due quarterly and will be paid from income generated by the Settlement Agreement.

As indicated above, the Debtor may likely be liable for approximately \$325,000 in administrative claims on the Effective Date of the Plan, depending on the amount of administrative claims ultimately allowed by the Court and the extent to which claimant(s) agree to receive their payments over time. As discussed below, the proceeds from the Settlement Agreement will be able to satisfy the payment to the Administrative Claimants.

The Administrative Expense Claims are unimpaired and do not vote.

Priority Tax Claims

Priority tax claims include certain unsecured income, employment and other taxes described by Code Section 507(a)(8). Bankruptcy Code Section 1129(a)(9)(C) requires that each holder of such a Section 507(a)(8) priority tax claim receive the present value of such claim in deferred cash payments, over a period not exceeding sixty months from the petition date of July

³ Based on communications to date and the Notice, the Trustee and GTG may seek larger compensations based on inclusion of the \$900,000 payout to the Canyon Rock Parties as part of a base computation.

20, 2015. The following chart lists all of the Debtor's Section 507(a)(8) priority tax claims and their treatment under the Plan:

<u>Name of Claimant</u>	<u>Amount Claimed</u>	<u>Treatment</u>
Arizona Department of Revenue (" <u>AZDOR</u> ")	\$46,674.92	Fann intends to object to this claim as it believes this amount is overstated. In addition, Fann believes that this claim is the co-responsibility of non-Debtor entities. Fann will reserve funds in the amount of \$46,674.92 on account of this claim. This claim, to the extent Allowed, will be paid in full, in cash, upon the later of: (1) the conclusion of the AZDOR's exhaustive attempt to seek repayment of this claim from non-debtor entities; or (2) fourteen days following a final order allowing or disallowing in part the claim following a claim objection. • Est. Pmt. Amt. = \$46,674.92
Nevada Dept. Employment, Training, and Rehabilitation (" <u>NDETR</u> ")	\$4,187.60	Fann intends to object to this claim as it believes this amount is overstated. In addition, Fann believes that this claim is the co-responsibility of non-debtor entities. Fann will reserve funds in the amount of \$4,187.60 on account of this claim. This claim, to the extent Allowed, will be paid in full, in cash, upon the later of: (1) the conclusion of the NDETR's exhaustive attempt to seek repayment of this claim from non-debtor entities; or (2) fourteen days following a final order allowing or disallowing in part the claim following a claim objection. • Est. Pmt. Amt. = \$4,187.60

The Claims of the Mared Parties and the Canyon Rock Parties

The Claims of the Mared Parties and the Canyon Rock Parties are not classified in the Plan as they are being resolved pursuant to the Settlement Agreement.

b. Classified Claims

As additionally described below, the treatment of Claims (classified under Article III of the Plan) and the provisions governing distributions on account of Allowed Claims are set forth in Article III of the Plan. You should refer to the Plan itself for the complete provisions governing the treatment of your particular Claim.

Class 1 – Secured Claims of Arizona Department of Revenue and Mohave County Attorney’s Office.

Class 1 is comprised of the Arizona Department of Revenue (“AZDOR”) and Mohave County Attorney’s Office in the combined amount of \$51,789.33. The Secured Claim of the AZDOR and Mohave County Attorney’s Office shall be treated as follows:

Class 1-A consists of the Arizona Department of Revenue. Fann disputes this Claim and intends to file a claim objection. This claim is the co-responsibility of non-Debtor entities, specifically of the Mared Parties and/or the Canyon Rock Parties, and this claim shall be equitably marshalled so that the AZDOR must seek repayment of its claim from these entities prior to seeking a distribution from the Estate.

Fann will reserve funds in the amount of the AZDOR’s claim (in the amount of \$48,490.45). This claim, to the extent Allowed, will be paid in full, in cash, upon the later of: (1) the conclusion of the AZDOR’s exhaustive attempt to seek repayment of this claim from non-debtor entities; or (2) fourteen days following a final order allowing or disallowing in part the claim following a claim objection.

This Class is not impaired and its holders are not entitled to vote on the Plan.

Class 1-B consists of the Mohave County Attorney’s Office. Fann disputed this Claim and filed a claim objection on August 30, 2017. The objection was sustained by the Court on October 27, 2017 (ECF no. 571). Thus, this claim is not allowed. This Class is not impaired and its holders are not entitled to vote on the Plan.

Class 2 – Priority Unsecured Claims (Non-Tax)

Certain priority claims that are referred to in Code Sections 507(a) (4), (5), (6) and (7) are required to be placed in classes. Those types of claims are entitled to priority treatment as follows: The Code requires that each holder of such a claim receives cash on the Effective Date equal to the allowed amount of such claim. However, a class of unsecured priority claim holders may vote to accept deferred cash payments of a value, as of the Effective Date, equal to the allowed amount of such claim. The Debtor does not have any classes of priority unsecured claims that are required to be classified.

1 **Class 3 – Classes of General Unsecured Claims**

2 Class 3A consists of the claim of Fann. Fann will receive a pro rata distribution of all
3 funds received by the Estate in an amount of no less than \$500,000. Distributions to Class 3A
4 will be made sixty days following the Effective Date of the Plan or on the Effective Date of the
5 Plan.

6 Class 3A is impaired and is entitled to vote.

7 Class 3B consists of the allowed general unsecured claims, excepting Fann. Holders of
8 allowed general unsecured claims shall receive pro rata distributions on account of their claims
9 from the Estate's cash on hand following the consummation of the Settlement Agreement. Class
10 3B's pro rata distribution shall be reduced, if necessary, to ensure that Fann receives no less than
11 a \$500,000 distribution. Distributions to Class 3B will be made sixty days following the
12 Effective Date of the Plan or as soon as a base number for distribution can be calculated, but all
13 payments will be made no later than three (3) years after the Effective Date.

14 Class 3B includes a claim from the Internal Revenue Service ("IRS") in the amount of
15 \$34,111.91 and the unsecured claim of the AZDOR in the amount of \$7,539.95 (the "Unsecured
16 Tax Claims"). The Unsecured Tax Claims are the co-responsibility of non-Debtor entities,
17 specifically the Mared Parties and/or the Canyon Rock Parties, and the Unsecured Tax Claims
18 shall be equitably marshalled so that the AZDOR and the IRS must seek repayment of their
19 respective claim from these entities prior to seeking a distribution from the Estate. The
20 Unsecured Tax Claims to the extent Allowed, will be paid their pro rata distribution as set forth
21 above, upon the later of: (1) conclusion of the AZDOR's and IRS's exhaustive attempt to seek
22 repayment of this claim from non-debtor entities; or (2) fourteen days following a final order
23 allowing or disallowing in part the Unsecured Tax Claims following a claim objection.
24 Additionally, Fann believes that there are other claims that are the co-responsibility of the Mared
25 Parties and/or the Canyon Rock Parties and will be bringing objections to those claims so that
26 they must first seek repayment from non-debtor entities.

27 Class 3B is impaired and is entitled to vote.
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Class 4 – Claims Of The Interest Holders

Class 4 consists of the claims of interest holders. Interest holders are the parties who hold an ownership interest (i.e., equity interest) in the Debtor. If the debtor is a corporation, entities holding preferred or common stock in the debtor are interest holders. If the debtor is a partnership, the interest holders include both general and limited partners. If the debtor is an individual, the debtor is the interest holder. In the present case, according to the Debtor's Statement of Financial Affairs, Nigel Turner owns an 85% membership interest in the Debtor, Lesley Turner owns a 5% membership interest in the Debtor, and Tony Marriott owns a 10% membership interest in the Debtor. The following chart identifies the Plan's treatment of the class of interest holders:

<u>Class</u>	<u>Description</u>	<u>Impaired?</u>	<u>Treatment</u>
4	Equity interest holders holding 100% of the Debtor's shares.	Yes	Class 4 Equity Interests will be cancelled.

This Class is impaired and is deemed to reject the Plan. Its holders are not entitled to vote on the Plan.

E. Implementation And Funding Of The Plan

The funding for the Plan consists of the proceeds received by the Estate pursuant to the Settlement Agreement and purchase of the Frontier Property by Mared for \$1,750,000 of which the Estate will net \$850,000 as \$900,000 is earmarked for, and will be immediately transferred to, the Canyon Rock Parties outside of this Plan.

In addition, within thirty days after the Effective Date, Liberty Mutual and Gallagher Basset will each pay \$100,000 into the Estate, for a total contribution of \$200,000, in order to fully and finally settle the Fann Litigation and in exchange for full releases of Liberty Mutual, Gallagher Basset, and Fann by the Estate.

Further, Fann intends to equitably marshal the claims of the AZDOR, the Mohave County Attorney's Office, the IRS and the NDTER (collectively the "Tax Claimants"), among other claims, as those claims are the co-responsibility of the Mared Parties and the Canyon Rock

1 Parties. The Plan provides that the Tax Claimants must first pursue their claims against the non-
2 debtor entities before seeking a distribution from the Estate.

3 **F. Objections to Claims.**

4 As provided by Bankruptcy Code section 502(c), the Court may estimate any contingent
5 or unliquidated disputed claim for purposes of confirmation of the Plan.

6 Fann and creditors shall have the authority to file any objections to Claims following Plan
7 Confirmation until the Claims Objection Deadline, and the Court shall retain jurisdiction of the
8 Debtor and this Bankruptcy Case to resolve such objections to Claims following Plan
9 Confirmation.

10 **G. Treatment of Disputed Claims.**

11 Notwithstanding any other provisions of the Plan, no payments or distributions will be
12 made on account of any Claim until such Claim becomes an Allowed Claim. The Court will
13 retain jurisdiction to estimate any contingent or unliquidated Claim at any time during litigation
14 concerning any objection to the Claim, including during the pendency of any appeal relating to
15 any such objection. If the Court estimates any contingent or unliquidated Claim, that estimated
16 amount will constitute either the Allowed Amount of such Claim or a maximum limitation on
17 such Claim, as determined by the Court.

18 **H. Allowance of Claims Subject to Bankruptcy Code Section 502(d).**

19 Allowance of Claims shall be in all respects subject to the provisions of Section 502(d) of
20 the Bankruptcy Code.

21 **I. Disbursing Agent.**

22 Fann will act as the disbursing agent for the purpose of making all disbursements provided
23 for under the Plan. On the Confirmation Date, unless the Trustee seeks an earlier discharge, the
24 Trustee will be discharged along with his counsel and Fann will be vested with all rights,
25 obligations and duties necessary to carry out the terms of the Plan.

26 **J. Distribution of Property Under the Plan.**

27 The following procedures set forth in the Plan apply to all distributions made pursuant to
28 the Plan.

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1. Manner of Cash Payments Under the Plan

Cash payments to domestic entities holding Allowed Claims will be tendered in United States dollars and will be made by checks drawn on a United States domestic bank.

2. No Distributions with Respect to Disputed Claims

No payments of cash or distributions of other property or other consideration of any kind shall be made on account of any Disputed Claim unless and until such Claim becomes an Allowed Claim or is deemed to be such for purposes of distribution, and then only to the extent that the Claim becomes, or is deemed to be for distribution purposes, an Allowed Claim. The presence of a Disputed Claim in any Class will not be a cause to delay distribution to Allowed Claims in that Class or in other Classes, so long as a reserve is created for the Disputed Claim in accordance herewith. Any holder of a Claim that becomes an Allowed Claim after the Effective Date will receive any distribution that it would have received had its Allowed Claim been Allowed as of the Effective Date within thirty (30) days from the date that such Claim becomes an Allowed Claim.

3. Delivery of Distributions and Undeliverable/Unclaimed Distributions

Fann shall make distributions to each holder of an Allowed Claim by mail as follows: (1) at the address set forth on the proof of Claim filed by such holder of an Allowed Claim; or (2) at the address set forth in any written notice of address change delivered to Fann after the date of any related proof of Claim.

4. Undeliverable and Unclaimed Distributions

If the distribution to the holder of any Allowed Claim is returned as undeliverable, no further distribution shall be made to such holder unless and until Fann is notified in writing of such holder's then current address. Subject to the other provisions of the Plan, undeliverable distributions shall remain in the possession of Fann pursuant to this Section until such time as a distribution becomes deliverable. All undeliverable cash distributions will be held in unsegregated, interest-bearing bank accounts for the benefit of the entities entitled to the distributions. These entities will be entitled to interest actually earned on account of undeliverable distributions. The bank account will be maintained in the name of Fann.

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1 Any holder of an Allowed Claim who does not assert a claim in writing for an
2 undeliverable distribution within ninety (90) days after the date of the first attempted distribution
3 shall no longer have any claim or interest in such undeliverable distribution.

4 Any undeliverable distributions that are not claimed under this Section will be transferred
5 to Fann to be distributed to holders of Allowed Class 3A and 3B Claims in accordance with
6 Article VI hereof.

7 **K. No Recourse**

8 Notwithstanding that the Allowed amount of a particular Disputed Claim is recovered
9 under the applicable provisions of the Bankruptcy Code and Bankruptcy Rules or is Allowed in
10 an amount for which there is insufficient cash to provide a recovery equal to that received by
11 other holders of Allowed Claims in the relevant Class, no Claim holder shall have recourse to the
12 Debtor, Fann, or any of their respective Professionals, or their successors or assigns, or the holder
13 of any other Claim, or any of their respective property. However, nothing in the Plan shall
14 modify any right of a holder of a Claim under Bankruptcy Code section 502(j).

15 **L. The Effective Date**

16 The Plan shall not become binding unless and until the Effective Date occurs. The
17 Effective Date is the first Business Day, fourteen days after entry of the Confirmation Order, on
18 which no stay of the Confirmation Order is in effect.

19 **M. Treatment of Nonconsenting Members of Consenting Classes (Chapter 7**
20 **Liquidation Analysis)**

21 A plan must provide that a nonconsenting impaired claimant or interest holder of a
22 consenting class receive at least as much as would be available had the debtor filed a Chapter 7
23 petition instead. In a chapter 7 case, the general rule is that the debtor's assets are sold by a
24 trustee. Unsecured creditors generally share in the proceeds only after secured creditors and
25 administrative claimants are paid. Certain unsecured creditors get paid before other unsecured
26 creditors do. Unsecured creditors with the same priority share in proportion to the amount of
27 their allowed claim in relationship to the total amount of allowed claims.

28 This Plan provides for the distribution of assets pursuant to the distribution scheme that

1 would be applicable in a Chapter 7 case. Accordingly, Fann believe that no creditor will receive
2 less under this Plan than such creditor would have received in a Chapter 7 case.

3 **N. Other Plan Provisions.**

4 **1. Executory Contracts and Unexpired Leases (11 U.S.C. Section 365).**

5 The Debtor has no executory contracts or unexpired leases that will be assumed under this
6 Plan or that require cure amounts as a condition to assumption. In the event a Claimant asserts a
7 Claim arising from the rejection of an unexpired lease or executory contract which is rejected, the
8 deadline to file such Claim will be thirty (30) days after the Confirmation Order. Any Claim
9 based on the rejection of an unexpired lease or executory contract will be barred if the proof of
10 Claim was not timely filed, unless the Court orders otherwise.

11 **2. Retention of Jurisdiction.**

12 Notwithstanding the entry of the Confirmation Order and occurrence of the Effective
13 Date, the Court will retain such jurisdiction over the Case after the Effective Date to the full
14 extent permitted by law, including, without limitation, jurisdiction to:

15 (a) Allow, disallow, determine, liquidate, classify, subordinate, estimate or establish
16 the priority or secured or unsecured status of any Claim or interest, including the resolution of any
17 request for payment of any Administrative Claim, the resolution of any objections to the
18 allowance or priority of Claims or Interests and the resolution of any dispute related thereto;

19 (b) Grant or deny applications for the allowance of compensation or reimbursement of
20 expenses authorized pursuant to the Bankruptcy Code or the Plan, for periods ending before the
21 Effective Date;

22 (c) Resolve any matters related to the assumption or rejection of any executory
23 contract or unexpired lease to which the Debtor is a party or with respect to which the Debtor
24 may be liable, and to hear, determine, and if necessary, liquidate any Claims arising therefrom;

25 (d) Ensure that distributions to holders of Allowed Claims are accomplished pursuant
26 to the provisions of the Plan;

27 (e) Decide or resolve any motions, adversary proceedings, contested or litigated
28 matters and any other matters and grant or deny any applications involving the Debtor, the

1 Debtor or the Chapter 11 Case that may be pending on the Effective Date;

2 (f) Enter such Orders as may be necessary or appropriate to implement or
3 consummate the provisions of the Plan and all contracts, instruments, releases, indentures, and
4 other agreements or documents created in connection with the Plan, the Disclosure Statement or
5 the Confirmation Order, except as otherwise provided herein;

6 (g) Resolve any cases, controversies, suits or disputes that may arise in connection
7 with the consummation, interpretation, or enforcement of the Plan or the Confirmation Order,
8 including the release and injunction provisions set forth in and contemplated by the Plan and the
9 Confirmation Order, or any entity's rights arising under or obligations incurred in connection
10 with the Plan or the Confirmation Order;

11 (h) Subject to any restrictions on modifications provided in any contract, instrument,
12 release, indenture or other agreement or document created in connection with the Plan, modify
13 the Plan before or after the Effective Date pursuant to Section 1127 of the Bankruptcy Code or
14 modify the Disclosure Statement, the Confirmation Order or any contract, instrument, release,
15 indenture or other agreement or document created in connection with the Plan, the Disclosure
16 Statement or the Confirmation Order; or remedy any defect or omission or reconcile any
17 inconsistency in any Court Order, the Plan, the Disclosure Statement, the Confirmation Order or
18 any contract, instrument, release, indenture, or other agreement or document created in
19 connection with the Plan, the Disclosure Statement or the Confirmation Order, as such manner as
20 may be necessary or appropriate to consummate the Plan, to the extent authorized by the
21 Bankruptcy Code;

22 (i) Issue injunctions, enter and implement other Orders or take such other actions as
23 may be necessary or appropriate to restrain interference by any entity with consummation,
24 implementation or enforcement of the Plan or the Confirmation Order;

25 (j) Enter and implement such Orders as are necessary or appropriate if the
26 Confirmation Order is for any reason modified, stayed, reversed, revoked, or vacated;

27 (k) Determine any other matters that may arise in connection with or relating to the
28 Plan, the Disclosure Statement, the Confirmation Order or any contract, instrument, release,

1 indenture, or other agreement or document created in connection with the Plan, the Disclosure
2 Statement or the Confirmation Order, except as otherwise provided in the Plan; and

3 (l) Enter a final decree or an Order closing or concluding the Case.

4 The foregoing list is illustrative only and not intended to limit in any way the Court's
5 exercise of jurisdiction. If the Court abstains from exercising jurisdiction or is otherwise without
6 jurisdiction over any matter arising out of the Case, including, without limitation the matters set
7 forth in this Article, this Article shall have no effect upon and shall not control, prohibit or limit
8 the exercise of jurisdiction by any other court having competent jurisdiction with respect to such
9 matter.

10 **3. Administration Pending Effective Date**

11 Before the Confirmation Date, the Trustee may continue to operate the affairs of the
12 Debtor. Under the Plan, the Trustee will be discharged as of the Confirmation Date, and Fann
13 will serve as disbursing agent, representative of the post-Confirmation entity for purposes of
14 liquidating claims, and any other actions or proceeding required to effectuate the winding up of
15 the confirmed Plan. The Trustee and its professionals may voluntarily be discharged prior to the
16 Confirmation Date.

17 **O. Modification of the Plan.**

18 Fann may modify the Plan at any time before confirmation. However, the Court may
19 require a new disclosure statement and/or re-voting of the Plan. Fann may also seek to modify
20 the Plan at any time after confirmation only if (1) the Plan has not been substantially
21 consummated and (2) the Court authorizes the proposed modifications after notice and a hearing.

22 Fann further reserves the right to revoke or withdraw the Plan at any time before the
23 Confirmation Date. If the Plan is withdrawn or revoked, then the Plan is deemed null and void
24 and nothing contained in the Plan may be deemed a waiver of any Claims by or against the
25 Debtor or any other Person in any further proceedings involving the Debtor or an admission of
26 any sort, and the Plan and any transaction contemplated by the Plan may not be admitted into
27 evidence in any proceeding.

28

1 **P. Post-Confirmation Status Reports.**

2 Within 120 days of the entry of the order confirming the Plan, Fann will file a status
3 report with the Court explaining what progress has been made toward consummation of the
4 confirmed Plan. The status report shall be served on the UST and those parties who have
5 requested special notice. Further status reports shall be filed every 180 days and served on the
6 same entities until the entry of a final decree closing the case.

7 **Q. Post-Confirmation Conversion / Dismissal.**

8 A creditor or party in interest may bring a motion to convert or dismiss the case under
9 Code Section 1112(b), after the Plan is confirmed, if there is a default in performing the Plan. If
10 the Court orders the case converted to Chapter 7 after the Plan is confirmed, then all property that
11 had been property of the Chapter 11 estate, and that has not been disbursed pursuant to the Plan,
12 will revert in the Chapter 7 estate. The automatic stay will be reimposed upon any revested
13 property.

14 The order confirming the Plan may also be revoked under very limited circumstances.
15 The Court may revoke the order if the order of confirmation was procured by fraud and if a party
16 in interest brings an adversary proceeding to revoke confirmation within 180 days after the entry
17 of the order of confirmation.

18 **R. Final Decree.**

19 Once the estate has been fully administered as defined in Bankruptcy Rule 3022, or at
20 such other time as may be appropriate under applicable law, Fann, or such other party as the
21 Court shall designate in the Plan Confirmation Order, shall file a motion with the Court to obtain
22 a final decree to close the case.

23 **VII. BAR DATES FOR ALL CLAIMS**

24 Except as expressly provided in the Plan or Confirmation Order, any Claims (other than
25 Administrative Claims) asserted against the Debtor that may have arisen prior to (or may have
26 been deemed to have arisen prior to) or after the Petition Date, of Creditors who failed to file a
27 proof of Claim on or before November 18, 2015 (the "Bar Date"), are forever barred, stopped,
28 and enjoined from asserting such Claims (or filing proofs of Claim with respect thereto) in any

1 manner against the Debtor or its property or assets. Any Administrative Claims asserted against
 2 the Debtor or the Estate that fail to file a proof of Claim, an Application for Allowance or
 3 requests for payment on or before the Administrative Claim Bar Date shall be forever barred,
 4 stopped, and enjoined from asserting such Claims (or filing proofs of Claim with respect thereto)
 5 in any manner against the Debtor or its property or assets. Further, any such unasserted Claims
 6 shall not be permitted to vote on the Plan or to participate in any distribution in this Chapter 11
 7 case on account of such Claim, or to receive further notices regarding such Claims and shall be
 8 bound by the terms of the Plan.

9 **VIII. LIMITATION OF LIABILITY**

10 Neither Fann nor any of its employees, representatives, agents, attorneys or other
 11 professionals will have or incur any liability to any person for any act taken or omission made in
 12 connection with or related to formulating, implementing, confirming or consummating the Plan,
 13 this Disclosure Statement, or any contract, instrument, release or other agreement or document
 14 created in connection with the Plan.

15 **A. Exemption From Transfer Taxes**

16 In accordance with Section 1146 of the Code:

- 17 (a) the issuance, distribution, transfer, or exchange of Estate
 18 property;
- 19 (b) the creation, modification, consolidation, or recording of any
 20 mortgage, deed of trust or other security interest, the securing
 21 of additional indebtedness by such means or by other means in
 22 furtherance of, or connection with, the Plan or the
 23 Confirmation Order;
- 24 (c) the making, assignment, modification, or recording of any
 lease or sublease; or
- (d) the making, delivery, or recording of a deed or other
 instrument of transfer under, in furtherance of, or in
 connection with the Plan,

25 the Confirmation Order, or any transaction contemplated above, or any transactions arising out of,
 26 contemplated by, or in any way related to the foregoing are not subject to any document recording
 27 tax, stamp tax, conveyance fee, intangibles or similar tax, mortgage tax, stamp act or real estate
 28 transfer tax, mortgage recording tax or other similar tax or governmental assessment, and the

1 appropriate state or local government officials or agents are directed to forego the collection of
2 any such tax or assessment and to accept for filing or recordation any of the foregoing instruments
3 or other documents without the payment of any such tax or assessment.

4 **B. Method Of Payment**

5 Payments of cash required to be made under the Plan are to be made by check drawn on a
6 domestic bank or by wire transfer from a domestic bank at the election of the person or entity
7 making such payment. Whenever any payment or distribution to be made under the Plan is due
8 on a day other than a business day, such payment or distribution may instead be made, without
9 interest, on the immediately following business day.

10 **IX. ACCEPTANCE AND CONFIRMATION OF THE PLAN**

11 The following is a brief summary of the provisions of the Bankruptcy Code relevant to
12 acceptance and confirmation of a plan of reorganization. Holders of Claims are encouraged to
13 review the relevant provisions of the Bankruptcy Code with their own attorneys.

14 **A. Confirmation Hearing.**

15 Pursuant to Bankruptcy Code Section 1128(a), the Bankruptcy Court will hold a hearing
16 regarding confirmation of the Plan at the United States Bankruptcy Court, Foley Federal
17 Building, Courtroom No. 4, 300 Las Vegas Blvd., South, Las Vegas, NV 89101, commencing on
18 _____, 2017, at __: __ .m., P.S.T. (Nevada Time).

19 **B. Objections To Confirmation Of The Plan.**

20 Bankruptcy Code Section 1128(b) provides that any party in interest may object to
21 confirmation of a plan. Any objection(s) to confirmation of the Plan must be in writing; must
22 state with specificity the grounds for any such objections; and must be filed with the Bankruptcy
23 Court and served upon the following parties so as to be received on or before the time fixed by
24 the Bankruptcy Court:

25 Snell & Wilmer L.L.P.
26 Attn: Donald L. Gaffney, Esq.
Blakeley Griffith, Esq.
27 3883 Howard Hughes Parkway, Suite 1100
28 Las Vegas, NV 89169
E-mail: dgaffney@swlaw.com

bgriffith@swlaw.com

C. Requirements For Confirmation Of The Plan.

For the Plan to be confirmed, the Plan must satisfy the requirements stated in 11 U.S.C. § 1129. In this regard, the Plan must satisfy, among other things, the following requirements:

1. Best Interests Of Creditors Test.

Pursuant to Section 1129(a)(7) of the Code, for the Plan to be confirmed, it must provide that Creditors will receive at least as much under the Plan as they would receive in a liquidation of the Debtor under Chapter 7 of the Bankruptcy Code. Fann believes that the distributions to Creditors under the Plan will exceed the recoveries which Creditors would receive in a Chapter 7 liquidation of the Debtor and its Estate.

Notwithstanding the Fann's belief that the Plan provides an equal or better return to Creditors than they can otherwise receive under Chapter 7, there can be no assurances that the Bankruptcy Court will conclude that the "best interests of creditors" test has been met. The test will be the subject of evidence presented in conjunction with the hearing on Confirmation of the Plan.

2. Feasibility.

Section 1129(a)(11) of the Code includes what is commonly described as the "feasibility" standard. When the feasibility standard applies, it requires that confirmation of a plan will not be followed by liquidation or the need for further financial reorganization unless the plan provides for that alternative. Fann believes that the Plan satisfies the feasibility requirements in that it is a liquidating plan.

3. Accepting Impaired Class.

For the Plan to be confirmed, the Plan must be accepted by at least one impaired Class of Claims. For an impaired Class of Claims to accept the Plan, votes representing at least two-thirds (2/3) in amount and a majority in number of the Allowed Claims voted in that Class must be cast for acceptance of the Plan (not including the votes of insiders of the Debtor).

4. Confirmation Over Dissenting Class (Cram Down).

Even if an impaired Class of Claims does not accept the Plan, the Bankruptcy Court

1 nevertheless may confirm the Plan at the Plan Proponent's request. Section 1129(b) of the Code
 2 provides that if all other requirements of Section 1129(a) are satisfied and if the Bankruptcy Court
 3 finds that: (i) the Plan does not discriminate unfairly; and (ii) the Plan is fair and equitable with
 4 respect to the rejecting Class(es) of Claims impaired under the Plan, the Bankruptcy Court may
 5 confirm the Plan despite the rejection of the Plan by a dissenting impaired Class.

6 **5. No Unfair Discrimination.**

7 A plan of reorganization "does not discriminate unfairly" if: (i) the legal rights of a non-
 8 accepting class are treated in a manner that is consistent with the treatment of other classes whose
 9 legal rights are related to those of the non-accepting class; and (ii) no class receives payments in
 10 excess of those which it is legally entitled to receive on account of its Claims. Fann asserts that
 11 under the Plan: (a) all Classes of impaired Claims are being treated in a manner which is fairly
 12 consistent with the treatment of other similar Classes of Claims; and (b) no Class of Claims will
 13 receive payments or property with an aggregate value greater than the sum of the Allowed Claims
 14 in the Class. Fann believes that the Plan does not discriminate unfairly as to any impaired Class
 15 of Claims.

16 **6. Fair And Equitable.**

17 The Bankruptcy Code establishes different "fair and equitable" tests for creditors as
 18 follows:

19 **a. Secured Creditors.**

20 Either: (i) each impaired Secured Creditor retains its lien and receives deferred cash
 21 payments having a present value equal to the amount of its Allowed secured Claim; (ii) each
 22 impaired secured Creditor realizes the "indubitable equivalent" of its Allowed secured Claim; or
 23 (iii) the property securing the Claim is sold free and clear of liens (subject to Bankruptcy Code
 24 § 363(k) credit bidding rights) with such liens attaching to the sale proceeds, and those liens are
 25 treated in accordance with clause (i) or (ii) of this subsection.

26 **b. Unsecured Creditors.**

27 Either: (i) each impaired Unsecured Creditor receives or gains under the Plan property of
 28 a value equal to the amount of its Allowed Claim as of the Effective Date; or (ii) the holders of

1 Claims which are junior to the Claims of the non-accepting Class do not receive any property
 2 under the Plan on account of such Claims, except as may be permitted by the new value corollary
 3 to the absolute priority rule. To satisfy the new value corollary to the absolute priority rule,
 4 equity holders must contribute new capital to the debtor that is: (1) an infusion of new value that
 5 does not already constitute property of the estate or arise from a prior ownership interest, (2)
 6 necessary to the success of the reorganization, (3) substantial in comparison to the amount of
 7 unsecured claims in the case, (4) reasonably equivalent to the value retained by equity holders
 8 and the resulting benefit conferred upon creditors, and (5) in the form of money or money's
 9 worth. Fann believes that the Plan satisfies the "fair and equitable" test with respect to all
 10 impaired classes.

11 Fann has requested, if necessary, confirmation of the Plan pursuant to 11 U.S.C. § 1129(b)
 12 with respect to any impaired Class of Claims which does not vote to accept the Plan. Fann
 13 believes that the Plan satisfies all of the statutory requirements for confirmation as discussed
 14 above; that Fann has complied or will have complied with all the statutory requirements for
 15 confirmation of the Plan; and that the Plan is proposed in good faith. At the hearing on
 16 confirmation of the Plan, the Bankruptcy Court will determine whether the Plan satisfies the
 17 statutory requirements for confirmation of the Plan.

18 **X. RISK FACTORS**

19 As with any restructuring, the restructuring of the Debtor involves a degree of risk. The
 20 actual results of the Plan could differ significantly from those anticipated as a result of a variety
 21 of factors, including those set forth in the following risk factors and elsewhere in this Disclosure
 22 Statement. **HOLDERS OF CLAIMS SHOULD CONSIDER CAREFULLY THE**
 23 **FOLLOWING FACTORS, IN ADDITION TO THE OTHER INFORMATION**
 24 **CONTAINED IN THIS DISCLOSURE STATEMENT, BEFORE SUBMITTING A VOTE**
 25 **TO ACCEPT OR REJECT THE PLAN.**

26 **A. Liquidation Factors.**

27 As with any plan or other financial transaction, there are certain risk factors that must be
 28 considered. All risk factors cannot be anticipated, some events will develop in ways that were not

1 foreseen, and many or all of the assumptions that have been used in connection with this
 2 Disclosure Statement and the Plan may not prove correct in the future. While efforts have been
 3 made to be reasonable in selecting assumptions, there can be no assurance that subsequent events
 4 will match those assumptions. Holders of Claims should be aware of some of the principal risks
 5 associated with the reorganization which include:

6 There is a risk that one or more of the required conditions or obligations under the Plan
 7 will not occur, or not be satisfied and not waived, which will result in the Plan not being
 8 confirmed.

9 **B. Certain Bankruptcy-Related Considerations.**

10 **1. Risk Of Non-Confirmation Of The Plan.**

11 Although Fann believes that the Plan will satisfy all requirements necessary for
 12 confirmation by the Bankruptcy Court, there can be no assurance that the Bankruptcy Court will
 13 reach the same conclusion. Amendments or modifications to the Plan may also be required by the
 14 Bankruptcy Court for confirmation, and these amendments or modifications could adversely
 15 affect the holders of Claims' rights to receive money and other property under the Plan. Any
 16 amendment may also necessitate the re-solicitation of votes.

17 **2. Nonconsensual Confirmation.**

18 Some Classes could choose not to accept the Plan. The Bankruptcy Court could still
 19 confirm the Plan even though that Class rejected the Plan in the following circumstances (in
 20 accordance with § 1129(b) of the Code):

- 21 • at least one impaired Class accepts the Plan (without including the acceptance of
- 22 any "insider" in such Class); and
- 23 • with respect to each impaired Class that has not accepted the Plan, the Bankruptcy
- 24 Court determines that the Plan does not discriminate unfairly and is fair and
- 25 equitable with respect to rejecting impaired Classes.

26 If any Class fails to accept the Plan in accordance with § 1129(a)(8) of the Bankruptcy
 27 Code, the Fann reserves the right to request confirmation of the Plan in accordance with the
 28 circumstances described above and § 1129(b) of the Bankruptcy Code.

1 **XI. TAX CONSEQUENCES OF THE PLAN**

2 It is not practicable to present a detailed explanation of all of the possible federal income
3 tax ramifications of the Plan and the following is only a summary discussion of certain of the
4 significant consequences which may affect Creditors and others. This summary is based upon
5 laws, regulations, rulings, and decisions now in effect and upon proposed regulations, all of
6 which are subject to change (possibly with retroactive effect) by legislation, administrative action,
7 or judicial decision.

8 ACCORDINGLY, ALL HOLDERS OF CLAIMS ARE URGED TO CONSULT THEIR
9 OWN INDIVIDUAL TAX ADVISORS WITH SPECIFIC REFERENCE TO THE FEDERAL,
10 STATE, AND LOCAL TAX CONSEQUENCES OF THE PLAN WITH RESPECT TO THEIR
11 CLAIM(S). NEITHER FANN NOR FANN'S COUNSEL OR OTHER FINANCIAL
12 ADVISORS MAKE ANY REPRESENTATIONS REGARDING THE PARTICULAR TAX
13 CONSEQUENCES OF CONFIRMATION AND CONSUMMATION OF THE PLAN AS TO
14 ANY CREDITOR, NOR ARE FANN OR FANN'S COUNSEL RENDERING ANY FORM OF
15 LEGAL OPINION AS TO SUCH TAX CONSEQUENCES.

16 **XII. ALTERNATIVES TO THE PLAN AND CONSEQUENCES OF REJECTION**

17 If the Plan is not confirmed or consummated, the alternatives include: (i) liquidation of
18 Debtor under Chapter 7 of the Bankruptcy Code; or (ii) confirmation of an alternative Chapter 11
19 plan.

20 **A. Liquidation Under Chapter 7.**

21 In evaluating the Plan, Fann has considered the alternative of a liquidation of the Debtor's
22 assets under Chapter 7 of the Bankruptcy Code. Fann believes that the Plan will significantly
23 enhance the prospects for recovery, which may be achieved under the Plan as opposed to Chapter
24 7 liquidation.

25 In a Chapter 7, an independent trustee would be appointed to liquidate the estate. The
26 Chapter 7 trustee would make all of his or her own decisions with respect to the liquidation of the
27 estate, the hiring of professionals, the pursuit of any Claims or litigation, the payment of or
28 objection to Claims, and the distribution of any ultimate dividend. The Chapter 7 trustee would

1 be paid pursuant to the provisions of the Bankruptcy Code, although, in certain circumstances, a
2 Chapter 7 trustee can apply to the Bankruptcy Court for a different type of compensation.

3 It is difficult to compare with any certainty what Creditors might receive under Chapter 7
4 liquidation versus what Creditors will receive under the Plan. Fann believes, however, that the
5 Plan will result in a timelier and greater ultimate recovery to Creditors than would be the case
6 under Chapter 7.

7 **B. Alternative Plans.**

8 If the Plan is not confirmed, the Court could confirm a plan of another creditor or the
9 Trustee. No other plans have been proposed and Fann believes that it is highly unlikely that any
10 alternative plan could be developed or confirmed that would provide greater value or certainty of
11 closure than the Plan.

12 **XIII. LIQUIDATION ANALYSIS**

13 The Plan is a liquidating plan, and all funds will be available for final distribution under
14 the liquidating Plan.

15 **XIV. RECOMMENDATION AND CONCLUSION**

16 Fann believes that the Plan is the best possible means of satisfying the Claims of
17 Creditors. Therefore, Fann recommends confirmation of the Plan and urges all holders of
18 Impaired Claims to vote to accept the Plan, and to indicate that acceptance by returning their
19 Ballots so that they are received by no later than the Voting Deadline.

20 DATED this 7th day of November 2017.

21 SNELL & WILMER L.L.P.

KRING & CHUNG, LLP

22
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EXHIBIT 1

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E-filed: November 7, 2017

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UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEVADA

16 In re
17
18 GRAND CANYON RANCH, LLC,
19
20 Debtor.

Case No. 15-14145-btb
Chapter 11
**FANN CONTRACTING, INC.'S CREDITOR'S
SECOND AMENDED PLAN OF
LIQUIDATION**
Hearing Date: TBD
Hearing Time: TBD
Hearing Location:
United States Bankruptcy Court
Foley Federal Bldg., Crtrm. No. 4
300 Las Vegas Blvd South, 2nd Floor
Las Vegas, Nevada 89101

I.

INTRODUCTION

On July 20, 2015, Grand Canyon Ranch (the "Debtor") filed a voluntary petition for relief under Chapter 11 of the BANKRUPTCY CODE. On January 5, 2016, Brian D. Shapiro was appointed as the Chapter 11 Trustee (the "Trustee").

The document you are reading is Creditor Fann Contracting, Inc.'s ("Fann") proposed First Amended Plan of Liquidation (the "Plan"). Fann is proposing the Plan to treat the claims of the Debtor's creditors. The Court has not yet confirmed the Plan, which means the terms of the Plan are not now binding on anyone.

This Chapter 11 case was preceded by disputes surrounding two pieces of property and the operation of a tourist ranch in Mohave County, Arizona. Pre-petition, Debtor was involved in litigation in the Nevada State Court, case number A-13-690801-B (the "State Court Action") with Canyon Rock, LLC ("Canyon Rock"), Canyon Land Holdings, LLC ("Holdings"), Oriental Tours d/b/a Oriental Tours, Inc. ("OTI"), Canyon Ranch Adventures, LLC ("Adventures" and, together with Canyon Rock, Holdings, OTI, the "Canyon Rock Parties"). Among the more pertinent issues subject to litigation in the State Court Action were: (i) which entities were responsible for the millions of dollars of development costs incurred in developing the "Frontier", certain real property located in Mohave County, Arizona (parcel no. 318-08-016); (ii) what entity or person now owns or holds rights in the Frontier, including improvements, fixtures, and personal property left on the land; and (iii) what person(s) or entity(ies) hold authority to control Holdings and Adventures.

The other dispute involved Mared, LLC ("Mared") and its principals, Marios Savvides, Gina Savvides, Edward Frymer, and Madeline Frymer (collectively the "Mared Parties"). This dispute centered on a pre-petition transaction with Debtor in which real property adjacent to the Frontier (the "Ranch") was sold to Mared for \$2.8 million, and in connection with which Debtor and Mared formed Grand Canyon Ranch Resort LLC ("GCR"), governed by a Partnership, Management, and Operating Agreement (the "Resort PMOA"). While Mared asserted a claim in the amount of \$3.2 million arising out of this transaction, to which claim the Trustee had objected

1 (ECF No. 305), Debtor contended that the Ranch was worth significantly more than the \$2.8
2 million purchase price, and commenced an adversary action styled Grand Canyon Ranch LLC vs.
3 Marios Savvides, et al., (the "Adversary Action") adversary number 15-01126-BTB, wherein
4 Debtor asserted three causes of action against the Mared Parties, and the Mared Parties asserted
5 five counterclaims (the "Mared Adversary"). See ECF Nos. 1 and 26, in Adv. No. 15-01126-
6 BTB.

7 On April 24, 2017, the Trustee filed a Motion for Order Approving Settlement Arising out
8 of Settlement Conference Pursuant to 11 U.S.C. §§ 105(A) and 363 and Bankruptcy Rule 9019
9 (ECF No. 383) (the "Settlement Motion") to approve a settlement agreement between the Mared
10 Parties and the Canyon Rock Parties, as set forth in the transcript attached as Exhibit 1 to the
11 Settlement Motion (the "Settlement Agreement"). The Settlement Agreement was not
12 memorialized in writing. The central terms of the Settlement Agreement consist of the Estate
13 selling the Frontier to Mared for \$1.75 million payment and the Canyon Rock Parties deemed to
14 have a secured claim of \$900,000 with the Estate only receiving \$850,000 of the Mared payment.
15 Subsequently, the Bankruptcy Court ordered that part of the Frontier was not property of the
16 Estate making the Settlement Agreement, as written, no longer possible. Although there has been
17 no specific finding by the Court as to what part of the Frontier is property of the Estate, the
18 Trustee has represented that the southeastern portion of the Frontier remains property of the
19 Estate. There has never been a finding as to the allocation of value between the southern and
20 northern portions of the Frontier and the representations from other parties have been that the
21 value of the southeastern part of the Frontier is negligible.

22 On August 23, 2017, the Bankruptcy Court approved the Settlement Motion, and on
23 September 18, 2017, the Order Approving Settlement Arising out of Settlement Conference
24 Pursuant to 11 U.S.C. §§ 105(a) and 363 and Bankruptcy Rule 9019 was entered (the "Settlement
25 Order") (ECF No. 537). The Settlement Agreement placed on the record did not articulate the
26 means of effectuation of the settlement, and the Trustee, through counsel, gave conflicting
27 statements whether the settlement was to occur by a Section 363 sale free and clear of liens or by
28 some other means.

1 Fann has reserved _____ at _____ in Foley Federal Building and U.S.
 2 Courthouse, 300 Las Vegas Blvd South, Las Vegas, Nevada, 89101 for a hearing to determine
 3 whether the Court will confirm the Plan. Any party that desires further information about this
 4 Plan should contact Donald L. Gaffney at Snell & Wilmer L.L.P., 400 East Van Buren Street,
 5 Suite 1900, Phoenix, Arizona 85004-2202, Telephone: (310) 407-4000, E-mail:
 6 dgaffney@swlaw.com.

7 II.

8 DEFINITIONS AND RULES OF CONSTRUCTION

9 Definitions.

10 In addition to such other terms as are defined elsewhere herein, the following terms
 11 (which appear herein as capitalized terms) have the following meanings as used herein:

12 “**Administrative Claim**” means a Claim against the Estate for administrative costs or
 13 expenses entitled to priority under Bankruptcy Code section 507(a)(2) or (b).

14 “**Allowed**” means any Claim against the Debtor: (a)(i) as to which a proof of such Claim
 15 has been filed within the time fixed by the Bankruptcy Court or (ii) if such Claim arises from the
 16 rejection of an Executory Contract, on or before the first Business Day which is the earlier of
 17 thirty (30) days after the entry of the order rejecting the Executory Contract or thirty (30) days
 18 after the Confirmation Date, and: (b)(i) as to which no objection to the allowance of such Claim
 19 has been filed within any applicable time period fixed by the Bankruptcy Court, or (ii) as to
 20 which an objection is filed and the order allowing such Claim has become a Final Order. If any
 21 Claim or the Creditor holding such Claim is subject to any defense, set off, counterclaim,
 22 recoupment, or other adverse claim of any kind of the Debtor, that Claim will be deemed a
 23 Disputed Claim; and it will not become an Allowed Claim unless and until all such matters are
 24 resolved or adjudicated fully and finally, with all appellate rights and remedies having been
 25 exhausted. The term “Allowed,” when used to modify a reference in the Plan to any Claim or
 26 Class of Claims shall mean a Claim (or any Claim in such Class) that is allowed, pursuant to the
 27 requirements of this definition.

28 “**Bankruptcy Code**” means title 11 of the United States Code, 11 U.S.C. §§ 101 *et seq.*

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1 **“Bankruptcy Rules”** means the Federal Rules of Bankruptcy Procedure.

2 **“Business Day”** means a day that is not a Saturday, Sunday, or legal holiday.

3 **“Claim”** means a claim, as defined in Bankruptcy Code section 101(5).

4 **“Claims Objection Deadline”** means the last day by which Fann or a creditor may file

5 objections to Claims, which day shall be, except with respect to Administrative Claims, one year

6 after the Effective Date, unless extended by the Court. The filing of a motion to extend the

7 Claims Objections Deadline by any party shall automatically extend the Claims Objection

8 Deadline. If such motion to extend the Claims Objection Deadline is denied by the Court, or

9 approved by the Court and reserved on appeal, the Claims Objection Deadline shall be the later of

10 the then-current Claims Objection Deadline (as previously extended, if applicable) or 30 days

11 after the entry of a Final Order denying the motion to extend the Claims Objection Deadline.

12 **“Class”** means a category of holders of Claims or Interests as classified in Article III.

13 **“Confirmation Date”** means the date of the entry of the Confirmation Order.

14 **“Confirmation Hearing”** means the hearing by the Court on confirmation of the Plan.

15 **“Confirmation Order”** means the Court order confirming the Plan.

16 **“Effective Date”** means the first Business Day following the Confirmation Order being a

17 final order and no stay of the Confirmation Order is in effect.

18 **“Estate”** means the estate of the Debtor created in the Bankruptcy Cases under

19 Bankruptcy Code section 541.

20 **“Final Order”** means an order or judgment of the Court entered on the Court’s official

21 docket:

22 (a) that has not been reversed, rescinded, stayed, modified, or amended; and

23 (b) that is in full force and effect.

24 **“Fann Litigation”** refers to the case pending in Yavapai County Superior Court, *Grand*

25 *Canyon Ranch, LLC v. Fann Contracting, Inc. et al.*, Case No. P1300CV2013-00913 between the

26 Debtor and Fann.

27 **“Frontier”** refers to certain real property known as the “Frontier,” parcel no. 318-08-016

28 in Mohave County, Arizona.

1 They are not considered impaired and they do not vote on the Plan because they are automatically
 2 entitled to specific treatment provided for them in the Code. As such, Fann has **not** placed the
 3 following claims in a class:

4 **1. Administrative Expense Claims.**

5 Administrative expenses are claims for costs or expenses of administering the Debtor's
 6 Chapter 11 case which are allowed under Code section 507(a)(1). The Code requires that all
 7 administrative claims be paid on the Effective Date of the Plan, unless a particular claimant
 8 agrees to a different treatment.

9 The following chart lists all of the Debtor's section 507(a)(1) administrative claims and
 10 their treatment under the Plan:

<u>Name of Claimant</u>	<u>Amount Claimed¹</u>	<u>Treatment</u>
Garman Turner Gordon LLP L.L.P. ("GTG")	\$281,487.50	Unless otherwise agreed to by the administrative claimant, this claim will be satisfied in full by payment of \$281,487.50 or an amount to be determined by final order on the later of the Effective Date or the date allowed by final order. This amount is based on the employment application of GTG on file with the Court that provides for a thirty-five percent contingency fee. The amount is calculated from the \$850,000 that comes into the Estate from the Trustee's Settlement Agreement, after subtracting \$45,750 for the Trustee's fees (\$850,000-\$45,750).
Brian Shapiro Chapter 11 Trustee	\$45,750	Unless otherwise agreed to by the administrative claimant, this claim will be satisfied by payment in full of the \$45,750 or an amount to be determined by final order on the later of the Effective Date or the date allowed by final order. The Trustee's fee is calculated from the \$850,000 coming into the Estate from the Settlement Agreement.
Office of the United States Trustee	Unknown	The Debtor remains current on all post-petition obligations to the Office of the United States Trustee. Unless otherwise agreed to by the administrative claimant, this claim will be satisfied by payment in

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¹ Stated amounts are estimates of total fees through the Effective Date, and are based on information available as of September 14, 2017. These amounts do not include an estimate of the costs that are recoverable by GTG. Any requests must comply with the applicable provisions of the Bankruptcy Code, the Bankruptcy Rules, and the Local Bankruptcy Rules.

<u>Name of Claimant</u>	<u>Amount Claimed¹</u>	<u>Treatment</u>
		full of Allowed Claim in cash on the later of the Effective Date or the date allowed by the Court.
Total:	~ \$325,000	

GTG's claim is for professional services and cannot be paid by the Estate until approved draw down requests are submitted or such fees and costs are otherwise approved by the Court. For all such fees and costs, the professional in question must file and serve a properly noticed fee application and the Court must rule on it. Only the amount of professional fees and costs allowed by the Court will be owed and required to be paid under the Plan.

With respect to the UST's fees, pursuant to 28 U.S.C. Section 1930(a)(6), Chapter 11 debtors who have confirmed a plan are required to continue making quarterly payments based upon disbursements until the case is converted, dismissed or closed. Pre-confirmation fees and costs incurred by the Debtor shall be pro-rated and paid on the Effective Date of the Plan. Post-confirmation fees and costs will be due quarterly and will be paid from income generated by the Settlement Agreement.

As indicated above, the Debtor will likely be liable for approximately \$325,000 in administrative claims on the Effective Date of the Plan, depending on the amount of administrative claims ultimately allowed by the Court and the extent to which claimant(s) agree to receive their payments over time. As discussed below, the proceeds from the Settlement Agreement will be able to satisfy the payment to the Administrative Claimants.

2. The Claims of the Mared Parties and the Canyon Rock Parties

The Claims of the Mared Parties and the Canyon Rock Parties are not classified in the Plan as they are being resolved pursuant to the Settlement Agreement.

3. Priority Tax Claims.

Priority tax claims include certain unsecured income, employment and other taxes described by Code Section 507(a)(8). Bankruptcy Code Section 1129(a)(9)(C) requires that each

holder of such a Section 507(a)(8) priority tax claim receive the present value of such claim in deferred cash payments, over a period not exceeding sixty months from the petition date of July 20, 2015. The following chart lists all of the Debtor’s Section 507(a)(8) priority tax claims and their treatment under the Plan:

<u>Name of Claimant</u>	<u>Amount Claimed</u>	<u>Treatment</u>
Arizona Department of Revenue (“AZDOR”)	\$46,674.92	Fann intends to object to this claim as it believes this amount is overstated. In addition, Fann believes that this claim is the co-responsibility of non-Debtor entities. Fann will reserve funds in the amount of \$46,674.92 on account of this claim. This claim, to the extent Allowed, will be paid in full, in cash, upon the later of: (1) the conclusion of the AZDOR’s exhaustive attempt to seek repayment of this claim from non-debtor entities; or (2) fourteen days following a final order allowing or disallowing in part the claim following a claim objection. • Est. Pmt. Amt. = \$46,674.92
Nevada Dept. Employment, Training, and Rehabilitation (“NDETR”)	\$4,187.60	Fann intends to object to this claim as it believes this amount is overstated. In addition, Fann believes that this claim is the co-responsibility of non-debtor entities. Fann will reserve funds in the amount of \$4,187.60 on account of this claim. This claim, to the extent Allowed, will be paid in full, in cash, upon the later of: (1) the conclusion of the NDETR’s exhaustive attempt to seek repayment of this claim from non-debtor entities; or (2) fourteen days following a final order allowing or disallowing in part the claim following a claim objection. • Est. Pmt. Amt. = \$4,187.60

C. Classified Claims and Interests.

1. Classes of Secured Claims.

Secured claims are claims secured by liens on property of the Estate. The following chart lists all classes of the Debtor’s secured pre-petition claims and their treatment under the Plan:

<u>Class</u>	<u>Description</u>	<u>Insider?</u>	<u>Impaired?</u>	<u>Treatment</u>
1A	Secured claim of Arizona Department of Revenue Total Claim Amount: \$48,490.45	No.	No.	Fann intends to object to this claim as it believes this amount is overstated. In addition, Fann believes that this claim is the co-responsibility of non-Debtor entities. Fann will reserve funds in the amount of \$48,490.45 on account of this claim. This claim, to the extent Allowed, will be paid in full, in cash, upon the later of: (1) the conclusion of the AZDOR's exhaustive attempt to seek repayment of this claim from non-debtor entities; or (2) fourteen days following a final order allowing or disallowing in part the claim following a claim objection.
1B	Secured claim of Mohave County Attorney's Office Total Claim Amount: \$3,298.88	No	No	This claim was disallowed by the Court on October 27, 2017 and will not be receiving a distribution under the Plan.

The Debtor's Secured Claims and their treatment under the Plan are described as follows:

Class 1-A consists of the Arizona Department of Revenue. Fann disputes this Claim and intend to file a claim objection. This claim is the co-responsibility of non-Debtor entities, specifically of the Mared Parties and/or the Canyon Rock Parties, and this claim shall be equitably marshalled so that the AZDOR must seek repayment of its claim from these entities prior to seeking a distribution from the Estate.

Fann will reserve funds in the amount of the AZDOR's claim (in the amount of \$48,490.45). This claim, to the extent Allowed, will be paid in full, in cash, upon the later of: (1) the conclusion of the AZDOR's exhaustive attempt to seek repayment of this claim from non-debtor entities; or (2) fourteen days following a final order allowing or disallowing in part the claim following a claim objection.

1 This Class is not impaired and its holders are not entitled to vote on the Plan.

2 Class 1-B consists of the Mohave County Attorney's Office. Fann disputed this Claim
3 and filed a claim objection. The Court disallowed this claim on October 27, 2017 (ECF No. 571).
4 As such, this claim is not allowed and will not be receiving a distribution under the Plan. This
5 Class is not impaired and its holders are not entitled to vote on the Plan.

6 **2. Classes of Priority Unsecured Claims (Non-Tax).**

7 Certain priority claims that are referred to in Code Sections 507(a) (4), (5), (6) and (7) are
8 required to be placed in classes.² Those types of claims are entitled to priority treatment as
9 follows: The Code requires that each holder of such a claim receives cash on the Effective Date
10 equal to the allowed amount of such claim. However, a class of unsecured priority claim holders
11 may vote to accept deferred cash payments of a value, as of the Effective Date, equal to the
12 allowed amount of such claim. The Debtor does not have any classes of priority unsecured
13 claims that are required to be classified.

14 **3. Classes of General Unsecured Claims.**

15 General unsecured claims are unsecured claims not entitled to priority under Code Section
16 507(a). The following chart identifies the Plan's treatment of the classes containing all of the
17 Debtor's general unsecured claims.

<u>Class</u>	<u>Description</u> ³	<u>Impaired?</u>	<u>Treatment</u>
3A	Fann Contracting Amount: \$1,111,630.81	Yes.	Fann will receive a pro rata distribution of all funds received by the estate in an amount of no less than \$500,000. Distributions to Class 3A will be made

23 ² Section 507(a)(4) – Wages, salary or commissions earned by an individual within 180 days from the
petition date of no more than \$10,950;

24 Section 507(a)(5) – Claims for contribution to employee benefit plans within 180 days of the petition date;
25 Section 507(a)(6) – Claims of up to \$5,400 by persons raising grain against a debtor operating a grain
storage facility or engaged as a United States fisherman against a person operating a fish storage or
processing facility; and

26 Section 507(a)(7) – Claims of up to \$2,425 by individuals for a pre-petition deposit in connection with the
purchase, lease or rental of undelivered property or services intended for the personal use of the individual.

27 ³ The amounts set forth do not include Mared, LLC's \$3,200,000 claim, Oriental Tours, Inc.'s \$5,000,000
28 claim, or Canyon Land Holdings, LLC's 5,000,000 claim, all of which are being resolved under the
Settlement Agreement.

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<u>Class</u>	<u>Description</u> ³	<u>Impaired?</u>	<u>Treatment</u>
			sixty days following the Effective Date of the Plan or on the Effective Date of the Plan.
3B	Allowed general unsecured claims. Amount of claims in Class: \$151,192.16	Yes.	Holders of allowed general unsecured claims shall receive pro rata distributions on account of their claims from the Estate’s cash on hand following the consummation of the Settlement Agreement. Class 3B’s pro rata distribution shall be reduced, if necessary, to ensure that Fann receives no less than a \$500,000 distribution. Distributions to Class 3A will be made sixty days following the Effective Date of the Plan or as soon as a base number for distribution can be calculated, but all payments will be made no later than three (3) years after the Effective Date.

Class 3A consists of the claim of Fann. Fann will receive a pro rata distribution of all funds received by the estate in an amount of no less than \$500,000. Distributions to Class 3A will be made sixty days following the Effective Date of the Plan or on the Effective Date of the Plan. Class 3A is impaired and is entitled to vote

Class 3B consists of the allowed general unsecured claims, excepting Fann. Holders of allowed general unsecured claims shall receive pro rata distributions on account of their claims from the Estate’s cash on hand following the consummation of the Settlement Agreement. Class 3B’s pro rata distribution shall be reduced, if necessary, to ensure that Fann receives no less than a \$500,000 distribution. Distributions to Class 3B will be made sixty days following the Effective Date of the Plan or as soon as a base number for distribution can be calculated, but all payments will be made no later than three (3) years after the Effective Date.

Class 3B includes a claim from the Internal Revenue Service (“IRS”) in the amount of \$34,111.91 and the unsecured claim of the AZDOR in the amount of \$7,539.95 (the “Unsecured

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1 Tax Claims”). The Unsecured Tax Claims are the co-responsibility of non-Debtor entities,
 2 specifically the Mared Parties and/or the Canyon Rock Parties, and the Unsecured Tax Claims
 3 shall be equitably marshalled so that the AZDOR and the IRS must seek repayment of their
 4 respective claim from these entities prior to seeking a distribution from the Estate. The
 5 Unsecured Tax Claims to the extent Allowed, will be paid their pro rata distribution as set forth
 6 above, upon the later of: (1) conclusion of the AZDOR’s and IRS’s exhaustive attempt to seek
 7 repayment of this claim from non-debtor entities; or (2) fourteen days following a final order
 8 allowing or disallowing in part the Unsecured Tax Claims following a claim objection.
 9 Additionally, Fann believes that there are other claims that are the co-responsibility of the Mared
 10 Parties and/or the Canyon Rock Parties and will be bringing objections to those claims so that
 11 they must first seek repayment from non-debtor entities.

12 Class 3B is impaired and is entitled to vote.

13 **4. Classes of Interest Holders.**

14 Interest holders are the parties who hold an ownership interest (i.e., equity interest) in the
 15 Debtor. If the debtor is a corporation, entities holding preferred or common stock in the debtor
 16 are interest holders. If the debtor is a partnership, the interest holders include both general and
 17 limited partners. If the debtor is an individual, the debtor is the interest holder. In the present
 18 case, according to the Debtor’s Statement of Financial Affairs, Nigel Turner owns an 85%
 19 membership interest in the Debtor, Lesley Turner owns a 5% membership interest in the Debtor,
 20 and Tony Marriott owns a 10% membership interest in the Debtor. The following chart identifies
 21 the Plan’s treatment of the class of interest holders:

<u>Class</u>	<u>Description</u>	<u>Impaired?</u>	<u>Treatment</u>
4	Equity interest holders holding 100% of the Debtor’s shares.	Yes	Class 4 Equity Interests will be canceled.

26 This Class is impaired and is deemed to reject the Plan. Its holders are not entitled to vote on the
 27 Plan.

1 **D. Procedures for Resolving Claims Objections.**

2 Fann intends to file objections to certain claims prior to the Effective Date. In addition to
 3 the objections detailed above, Fann anticipates objecting to the claim of the IRS as it was incurred
 4 by the Debtor in relation to operation of the Ranch and should be borne by the Mared Parties who
 5 purchased that interest. Fann anticipates resolving many such objections prior to the date
 6 required for payment on account of any claim which has been the subject of an objection. To the
 7 extent a claim objection has not been resolved prior to the date that such claim would otherwise
 8 be required to be paid pursuant to this Plan, then no payment shall be made on account of such
 9 claim until the objection to such claim is resolved.

10 **IV.**

11 **IMPLEMENTATION OF THE PLAN**

12 **A. Funding for the Plan.**

13 The funding for the Plan consists of the proceeds received by the Estate pursuant to the
 14 Settlement Agreement and purchase of the Frontier Property by Mared for \$1,750,000 of which
 15 the Estate will net \$850,000 as \$900,000 is earmarked for, and will be immediately transferred to,
 16 the Canyon Rock Parties outside of this Plan.

17 In addition, within thirty days after the Effective Date, Liberty Mutual and Gallagher
 18 Basset will each pay \$100,000 into the Estate, for a total contribution of \$200,000, in order to
 19 fully and finally settle the Fann Litigation and in exchange for full releases of Liberty Mutual,
 20 Gallagher Basset, and Fann by the Estate.

21 Further, Fann intends to equitably marshal the claims of the AZDOR, the Mohave County
 22 Attorney's Office, the IRS and the NDTER (collectively the "Tax Claimants"), among other
 23 claims, as those claims are the co-responsibility of the Mared Parties and the Canyon Rock
 24 Parties. The Plan provides that the Tax Claimants must first pursue their claims against the non-
 25 debtor entities before seeking a distribution from the Estate.

26 **B. Objections to Claims.**

27 As provided by Bankruptcy Code section 502(c), the Court may estimate any contingent
 28 or unliquidated disputed claim for purposes of confirmation of the Plan.

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1 Fann and creditors shall have the authority to file any objections to Claims following Plan
2 Confirmation until the Claims Objection Deadline, and the Court shall retain jurisdiction of the
3 Debtor and this Bankruptcy Case to resolve such objections to Claims following Plan
4 Confirmation.

5 **1. Treatment of Disputed Claims.**

6 Notwithstanding any other provisions of the Plan, no payments or distributions will be
7 made on account of any Claim until such Claim becomes an Allowed Claim. The Court will
8 retain jurisdiction to estimate any contingent or unliquidated Claim at any time during litigation
9 concerning any objection to the Claim, including during the pendency of any appeal relating to
10 any such objection. If the Court estimates any contingent or unliquidated Claim, that estimated
11 amount will constitute either the Allowed Amount of such Claim or a maximum limitation on
12 such Claim, as determined by the Court.

13 **2. Allowance of Claims Subject to Bankruptcy Code Section 502(d).**

14 Allowance of Claims shall be in all respects subject to the provisions of Section 502(d) of
15 the Bankruptcy Code.

16 **C. Disbursing Agent.**

17 Fann will act as the disbursing agent for the purpose of making all disbursements provided
18 for under the Plan. On the Effective Date, unless the Trustee seeks an earlier discharge, the
19 Trustee will be discharged along with his counsel and Fann will be vested with all rights,
20 obligations and duties necessary to carry out the terms of the Plan.

21 **D. Distribution of Property Under the Plan.**

22 The following procedures set forth in the Plan apply to all distributions made pursuant to
23 the Plan.

24 **1. Manner of Cash Payments Under the Plan**

25 Cash payments to domestic entities holding Allowed Claims will be tendered in United
26 States dollars and will be made by checks drawn on a United States domestic bank.

27 **2. No Distributions with Respect to Disputed Claims**

28 No payments of cash or distributions of other property or other consideration of any kind

1 shall be made on account of any Disputed Claim unless and until such Claim becomes an
 2 Allowed Claim or is deemed to be such for purposes of distribution, and then only to the extent
 3 that the Claim becomes, or is deemed to be for distribution purposes, an Allowed Claim. The
 4 presence of a Disputed Claim in any Class will not be a cause to delay distribution to Allowed
 5 Claims in that Class or in other Classes, so long as a reserve is created for the Disputed Claim in
 6 accordance herewith. Any holder of a Claim that becomes an Allowed Claim after the Effective
 7 Date will receive any distribution that it would have received had its Allowed Claim been
 8 Allowed as of the Effective Date within thirty (30) days from the date that such Claim becomes
 9 an Allowed Claim.

10 **3. Delivery of Distributions and Undeliverable/Unclaimed Distributions**

11 Fann shall make distributions to each holder of an Allowed Claim by mail as follows: (1)
 12 at the address set forth on the proof of Claim filed by such holder of an Allowed Claim; and (2) at
 13 the address set forth in any written notice of address change delivered to Fann after the date of
 14 any related proof of Claim.

15 **4. Undeliverable and Unclaimed Distributions**

16 If the distribution to the holder of any Allowed Claim is returned as undeliverable, no
 17 further distribution shall be made to such holder unless and until Fann is notified in writing of
 18 such holder's then current address. Subject to the other provisions of the Plan, undeliverable
 19 distributions shall remain in the possession of Fann pursuant to this Section until such time as a
 20 distribution becomes deliverable. All undeliverable cash distributions will be held in
 21 unsegregated, interest-bearing bank accounts for the benefit of the entities entitled to the
 22 distributions. These entities will be entitled to interest actually earned on account of
 23 undeliverable distributions. The bank account will be maintained in the name of Fann.

24 Any holder of an Allowed Claim who does not assert a claim in writing for an
 25 undeliverable distribution within ninety (90) days after the date of the first attempted distribution
 26 shall no longer have any claim or interest in such undeliverable distribution.

27 Any undeliverable distributions that are not claimed under this Section will be transferred
 28 to Fann to be distributed to holders of Allowed Class 3A and 3B Claims in accordance with

1 Article III hereof.

2 **5. No Recourse**

3 Notwithstanding that the Allowed amount of a particular Disputed Claim is recovered
4 under the applicable provisions of the Bankruptcy Code and Bankruptcy Rules or is Allowed in
5 an amount for which there is insufficient cash to provide a recovery equal to that received by
6 other holders of Allowed Claims in the relevant Class, no Claim holder shall have recourse to the
7 Debtor, Fann, or any of their respective Professionals, or their successors or assigns, or the holder
8 of any other Claim, or any of their respective property. However, nothing in the Plan shall
9 modify any right of a holder of a Claim under Bankruptcy Code section 502(j).

10 **E. The Effective Date**

11 The Plan shall not become binding unless and until the Effective Date occurs. The
12 Effective Date is the first Business Day, fourteen days after entry of the Confirmation Order, on
13 which no stay of the Confirmation Order is in effect.

14 **F. Treatment of Nonconsenting Members of Consenting Classes (Chapter 7 Liquidation
15 Analysis)**

16 A plan must provide that a nonconsenting impaired claimant or interest holder of a
17 consenting class receive at least as much as would be available had the debtor filed a Chapter 7
18 petition instead. In a chapter 7 case, the general rule is that the debtor's assets are sold by a
19 trustee. Unsecured creditors generally share in the proceeds only after secured creditors and
20 administrative claimants are paid. Certain unsecured creditors get paid before other unsecured
21 creditors do. Unsecured creditors with the same priority share in proportion to the amount of
22 their allowed claim in relationship to the total amount of allowed claims.

23 This Plan provides for the distribution of assets pursuant to the distribution scheme that
24 would be applicable in a Chapter 7 case. Accordingly, Fann believe that no creditor will receive
25 less under this Plan than such creditor would have received in a Chapter 7 case.

26 **G. Other Plan Provisions.**

27 **1. Executory Contracts and Unexpired Leases (11 U.S.C. Section 365).**

28 The Debtor has no executory contracts or unexpired leases that will be assumed under this

1 Plan or that require cure amounts as a condition to assumption. In the event a Claimant asserts a
2 Claim arising from the rejection of an unexpired lease or executory contract which is rejected, the
3 deadline to file such Claim will be thirty (30) days after the Confirmation Order. Any Claim
4 based on the rejection of an unexpired lease or executory contract will be barred if the proof of
5 Claim was not timely filed, unless the Court orders otherwise.

6 **2. Retention of Jurisdiction.**

7 Notwithstanding the entry of the Confirmation Order and occurrence of the Effective
8 Date, the Court will retain such jurisdiction over the Case after the Effective Date to the full
9 extent permitted by law, including, without limitation, jurisdiction to:

10 (a) Allow, disallow, determine, liquidate, classify, subordinate, estimate or establish
11 the priority or secured or unsecured status of any Claim or interest, including the resolution of any
12 request for payment of any Administrative Claim, the resolution of any objections to the
13 allowance or priority of Claims or Interests and the resolution of any dispute related thereto;

14 (b) Grant or deny applications for the allowance of compensation or reimbursement of
15 expenses authorized pursuant to the Bankruptcy Code or the Plan, for periods ending before the
16 Effective Date;

17 (c) Resolve any matters related to the assumption or rejection of any executory
18 contract or unexpired lease to which the Debtor is a party or with respect to which the Debtor
19 may be liable, and to hear, determine, and if necessary, liquidate any Claims arising therefrom;

20 (d) Ensure that distributions to holders of Allowed Claims are accomplished pursuant
21 to the provisions of the Plan;

22 (e) Decide or resolve any motions, adversary proceedings, contested or litigated
23 matters and any other matters and grant or deny any applications involving the Debtor, the
24 Reorganized Debtor or the Chapter 11 Case that may be pending on the Effective Date;

25 (f) Enter such Orders as may be necessary or appropriate to implement or
26 consummate the provisions of the Plan and all contracts, instruments, releases, indentures, and
27 other agreements or documents created in connection with the Plan, the Disclosure Statement or
28 the Confirmation Order, except as otherwise provided herein;

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1 (g) Resolve any cases, controversies, suits or disputes that may arise in connection
2 with the consummation, interpretation, or enforcement of the Plan or the Confirmation Order,
3 including the release and injunction provisions set forth in and contemplated by the Plan and the
4 Confirmation Order, or any entity's rights arising under or obligations incurred in connection
5 with the Plan or the Confirmation Order;

6 (h) Subject to any restrictions on modifications provided in any contract, instrument,
7 release, indenture or other agreement or document created in connection with the Plan, modify
8 the Plan before or after the Effective Date pursuant to Section 1127 of the Bankruptcy Code or
9 modify the Disclosure Statement, the Confirmation Order or any contract, instrument, release,
10 indenture or other agreement or document created in connection with the Plan, the Disclosure
11 Statement or the Confirmation Order; or remedy any defect or omission or reconcile any
12 inconsistency in any Court Order, the Plan, the Disclosure Statement, the Confirmation Order or
13 any contract, instrument, release, indenture, or other agreement or document created in
14 connection with the Plan, the Disclosure Statement or the Confirmation Order, as such manner as
15 may be necessary or appropriate to consummate the Plan, to the extent authorized by the
16 Bankruptcy Code;

17 (i) Issue injunctions, enter and implement other Orders or take such other actions as
18 may be necessary or appropriate to restrain interference by any entity with consummation,
19 implementation or enforcement of the Plan or the Confirmation Order;

20 (j) Enter and implement such Orders as are necessary or appropriate if the
21 Confirmation Order is for any reason modified, stayed, reversed, revoked, or vacated;

22 (k) Determine any other matters that may arise in connection with or relating to the
23 Plan, the Disclosure Statement, the Confirmation Order or any contract, instrument, release,
24 indenture, or other agreement or document created in connection with the Plan, the Disclosure
25 Statement or the Confirmation Order, except as otherwise provided in the Plan; and

26 (l) Enter a final decree or an Order closing or concluding the Case.

27 The foregoing list is illustrative only and not intended to limit in any way the Court's
28 exercise of jurisdiction. If the Court abstains from exercising jurisdiction or is otherwise without

1 jurisdiction over any matter arising out of the Case, including, without limitation the matters set
2 forth in this Article, this Article shall have no effect upon and shall not control, prohibit or limit
3 the exercise of jurisdiction by any other court having competent jurisdiction with respect to such
4 matter.

5 V.

6 EFFECT OF CONFIRMATION OF THE PLAN

7 **A. Binding Effect.**

8 Confirmation of the Plan will bind the Debtor, its creditors, interest holders, their
9 successors-in-interest, and any other person or entity acquiring property under the Plan, to the
10 provisions of the Plan.

11 **B. Injunction.**

12 Upon confirmation of the Plan, all Persons that have held, currently hold or may hold a
13 Claim or other debt or liability against the Debtor, are permanently enjoined from taking any of
14 the following actions on account of any such Claims, debts or liabilities to the extent discharged
15 as set forth in Section V.A above: (a) commencing or continuing in any manner any action or
16 other proceeding against the Debtor; (b) enforcing, attaching, collecting or recovering in any
17 manner any judgment, award, decree or order against the Debtor; (c) creating, perfecting or
18 enforcing any lien or encumbrance against the Debtor; (d) asserting a setoff, right of subrogation
19 or recoupment of any kind against any obligation due to the Debtor, and (e) commencing or
20 continuing any action, in any manner, in any place that does not comply with or is inconsistent
21 with the provisions of the Plan.

22 Any Person injured by any willful violation of such injunction shall recover actual
23 damages, including costs and attorneys' fees, and in appropriate circumstances, may recover
24 punitive damages, from the willful violator.

25 **C. Cramdown.**

26 To the extent that any class does not accept the Plan, Fann hereby seeks confirmation
27 pursuant to the "cramdown" provisions of Code Section 1129(b).
28

1 **D. Other Documents and Actions.**

2 Fann is authorized to execute such documents and take such other actions as are necessary
3 to effectuate the transactions provided for in the Plan. In the event any party in interest fails to
4 prepare, deliver or execute a document required under this Plan, or take any act required under
5 this Plan, Fann is authorized to prepare, deliver, or execute such document or take such act on
6 that party's behalf.

7 **E. Limitation on Liability.**

8 Neither Fann nor any of its employees, representatives, agents, attorneys or other
9 professionals will have or incur any liability to any person for any act taken or omission made in
10 connection with or related to formulating, implementing, confirming or consummating this Plan,
11 the Disclosure Statement, or any contract, instrument, release or other agreement or document
12 created in connection with this Plan.

13 **F. Modification of the Plan.**

14 Fann may modify the Plan at any time before confirmation. However, the Court may
15 require a new disclosure statement and/or revoting of the Plan. Fann may also seek to modify the
16 Plan at any time after confirmation only if (1) the Plan has not been substantially consummated
17 and (2) the Court authorizes the proposed modifications after notice and a hearing.

18 **G. Post-Confirmation Status Reports.**

19 Within 120 days of the entry of the order confirming the Plan, Fann will file a status
20 report with the Court explaining what progress has been made toward consummation of the
21 confirmed Plan. The status report shall be served on the UST and those parties who have
22 requested special notice. Further status reports shall be filed every 180 days and served on the
23 same entities until the entry of a final decree closing the case.

24 **H. Post-Confirmation Conversion / Dismissal.**

25 A creditor or party in interest may bring a motion to convert or dismiss the case under
26 Code Section 1112(b), after the Plan is confirmed, if there is a default in performing the Plan. If
27 the Court orders the case converted to Chapter 7 after the Plan is confirmed, then all property that
28 had been property of the Chapter 11 estate, and that has not been disbursed pursuant to the Plan,

1 will revert in the Chapter 7 estate. The automatic stay will be reimposed upon any reverted
2 property.

3 The order confirming the Plan may also be revoked under very limited circumstances.
4 The Court may revoke the order if the order of confirmation was procured by fraud and if a party
5 in interest brings an adversary proceeding to revoke confirmation within 180 days after the entry
6 of the order of confirmation.

7 **I. Final Decree.**

8 Once the estate has been fully administered as defined in Bankruptcy Rule 3022, or at
9 such other time as may be appropriate under applicable law, Fann, or such other party as the
10 Court shall designate in the Plan Confirmation Order, shall file a motion with the Court to obtain
11 a final decree to close the case.

12 DATED this 7th day of November 2017.

13 SNELL & WILMER L.L.P.

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14
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EXHIBIT 2

EXHIBIT 2

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Bruce T Beesley
Honorable Bruce T. Beesley
United States Bankruptcy Judge



Entered on Docket
September 18, 2017

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**UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF NEVADA**

In re:	Case No.: BK-S-15-14145-BTB
GRAND CANYON RANCH, LLC,	Chapter 11
Debtor.	Date: August 23, 2017
	Time: 3:00 p.m.

**ORDER APPROVING SETTLEMENT ARISING OUT OF SETTLEMENT
CONFERENCE PURSUANT TO 11 U.S.C. §§ 105(A) AND 363
AND BANKRUPTCY RULE 9019**

Brian Shapiro, in his capacity as Chapter 11 Trustee (“Trustee”) of the estate (the “Estate”) of Grand Canyon Ranch, LLC, filed his *Motion for Order Approving Settlement Arising Out of Settlement Conference Pursuant to U.S.C. §§ 105(A) and 363 and Bankruptcy Rule 9019* [ECF

1 No. 383] (the “Motion”),¹ which came on for hearing before the above-captioned court on June 8,
2 2017, at 10:00 a.m., August 2, 2017, at 1:30 p.m., August 16, 2017, at 10:30 a.m. and August 23,
3 2017, at 3:00 p.m. (collectively the “Hearing”). All appearances were noted on the record at the
4 Hearing.

5 The Court read and considered: (i) the Motion and the supporting declaration of Brian
6 Shapiro [ECF No. 384]; (ii) the Sidhu Law Firm, LLC’s (“SLF”) joinder to the Motion [ECF No.
7 447 and Mared LLC’s (“Mared”) joinder to the Motion [ECF No. 404] and the supporting
8 declaration of Marios Savvides [ECF No. 405]; (iii) Fann Contracting, Inc.’s (“Fann”) *Motion*
9 *to Vacate Motion for Order Approving Settlement Arising Out of Settlement Conference Pursuant*
10 *to U.S.C. §§ 105(A) and 363 and Bankruptcy Rule 9019 and to Vacate the Hearing Scheduled for*
11 *June 8, 2017 and in the Alternative, Objection to Motion to Approve Settlement* [ECF No. 429]
12 (the “Motion to Vacate”); (iv) the *Joint Opposition to Fann Contracting, Inc.’s Objection to*
13 *Motion to Approve Settlement* [ECF No. 442]; (v) JEB Vermillion Cliffs, LLC’s opposition to the
14 Motion [ECF No. 443]; (vi) the joint objection to the Motion to Vacate [ECF No. 444]; (vii) Fann’s
15 supplement to its Motion to Vacate [ECF No. 449]; (viii) the notice of filing of the proposed
16 amended order approving the Motion [ECF No. 456]; (ix) the Trustee’s supplemental brief in
17 support of approval of the Motion [ECF No. 468] and the supporting declaration of Brian Shapiro
18 [ECF No. 469], the joinder filed by Mared [ECF No. 471], the joinder filed by SLF [ECF No. 473],
19 and the joinder filed by Oriental Tours, Inc. and Canyon Rock, LLC [ECF No. 481]; (x) Fann’s
20 response to the Trustee’s supplemental brief in support of the Motion [ECF No. 483]; and (xi) the
21 Trustee’s reply in support of the Trustee’s supplemental brief in support of approval of the Motion
22 [ECF No. 490].

23 The Court further relied upon and took judicial notice pursuant to Rule 201 of the Federal
24 Rules of Evidence of the docket in the Chapter 11 Case including, without limitation, all filed
25 pleadings and declarations, all entered orders, and all evidence and arguments made, proffered, or
26 adduced at the hearings held before the Court during the pendency of the Chapter 11 Case,

27 _____
28 ¹ All capitalized, undefined terms shall have the meaning ascribed to them in the Motion.

1 including at the Hearing. The Court additionally heard and considered the evidence and argument
2 presented at the Hearing.

3 The principal terms of the binding Settlement were set forth on the record before the
4 Honorable Judge Spraker on April 13, 2017, during which time the parties agreed that this Order
5 would more fully enumerate the terms of the Settlement. The parties to the Settlement are: (i) the
6 Estate by and through the Trustee; (ii) Mared, Marios Savvides, Gina Savvides, Edward Frymer,
7 Madeline Frymer, and Anthony Marriott (collectively, the "Mared Parties"); and (iii) Oriental
8 Tours, Inc., Canyon Rock, LLC, Canyon Land Holdings, LLC, Canyon Land Adventures, Yvonne
9 Tang, Bart MacKay, Piper Hernandez, and Theodore Quasula (collectively, the "Canyon Rock
10 Parties," and together with the Estate and the Mared Parties, the "Parties"). In compromise of all
11 disputes by and between the Parties, the Parties have agreed to the following settlement terms,
12 which, upon entry of this Order, shall be binding in all respects:

- 13 1. Unless otherwise agreed to in writing by each of the Parties, the transfer of assets from the
14 Estate to Mared as set forth herein will close on the first business day that is fourteen days
15 after the entry of this Order (the "Closing"), which Closing shall be conducted at Chicago
Title. If the Closing does not occur by December 31, 2017, unless extended in writing by
each of the Parties, the Settlement shall be void and of no further effect.
- 16 2. At Closing, Mared shall pay the Estate \$1.75 million (the "Settlement Payment"). The
17 Settlement Payment has been deposited into Marjorie Guymon, Esq.'s trust account and
shall be held in such trust account until the earlier of the Closing and December 31, 2017,
18 unless such date is extended as set forth herein.
- 19 3. At Closing, the real property titled in the name of Grand Canyon Ranch, LLC and located
20 in Mohave County, Arizona having APN 318-08-016 (the "Frontier") shall be transferred
to Mared or its designee free and clear of all liens, claims, and encumbrances; provided,
21 however, that the portion of the Frontier included in the Quit Claim Deed dated on May
25, 2012 by the Grantor, Nigel Turner as the manager as Grand Canyon Ranch, LLC, and
22 attached hereto as Exhibit 1 shall be transferred subject to the Lease Agreement by and
between Canyon Land Holdings, LLC and JEB Vermillion Cliffs, LLC, recorded as
23 document number 2015024772 in the Official Records of Mohave County (the "Disputed
Lease"). For the avoidance of doubt, nothing contained in this Order affirms the validity
24 or invalidity of the Disputed Lease and all rights are reserved. The Trustee, through his
counsel, agrees to use reasonable efforts to seek an order from the Eighth Judicial District
Court, Clark County, Nevada determining that the Disputed Lease is invalid.
- 25 4. The Canyon Rock Parties stipulate that the Frontier is property of the Estate that may be
26 transferred to Mared in accordance with the terms of this Settlement free and clear of all
liens, claims, and encumbrances, with the sole exception being the Disputed Lease as set
27 forth in Paragraph 3 above and that any of the Canyon Rock Parties' personal property
thereon is property of the Estate that may be transferred to Mared or its designee in
28 accordance with Paragraph 6 below.

- 1 5. The Estate shall retain all of its rights, claims, and causes of action against Fann
2 Contracting, Inc., Jim Barnes, and JEB Vermillion Cliffs, LLC (the "Retained Assets"),
3 and all other avoidance claims against parties other than the Mared Parties and the Canyon
4 Rock Parties.
- 5 6. At Closing, the Estate shall transfer all of the Estate's assets except the Retained Assets to
6 Mared or its designee as-is, where-is, including without limitation: (i) the Estate's rights
7 and benefits under the Management and Operating Agreement entered into by Mared and
8 Grand Canyon Ranch Resort that were transferred to the Estate by the Assignment and
9 Assumption Agreement dated January 25, 2016; (ii) the Estate's interest, if any, in the real
10 property located in Mohave County and identified by the following APNs: 31808014,
11 31816005, 31816040, 31816046, 31816048, 31816055, 31816105, 31817008, 31804031,
12 31816002, 31816039, 31816045, 31816047, 31816052, 31816054, 31816057, 31816106,
13 31816111, 31816112, 31816001, 31816003, 31816042, 31816044, 31816051, 31816053,
14 31816058, 31816104, 31816108, 31804026, 31804029, 31804030, 31816004, 31816041,
15 31816043, 31816049, 31816050, 31816056, 31816103, 31816107, 31816109, 31816110;
16 (iii) all personal property of the Estate located on the Frontier; and (iv) any claims the
17 Estate may hold against Nigel Turner individually.
- 18 7. The Estate and Mared will each pay 50% of the Closing costs, including without limitation
19 recording costs and any transfer taxes.
- 20 8. The Parties to the Settlement acknowledge that time is of the essence and all Parties shall
21 act in good faith to ensure that there is no delay in the Closing.
- 22 9. At Closing, all proofs of claim filed against the Estate by the Mared Parties, including proof
23 of claim number 7, shall be deemed withdrawn for all purposes.
- 24 10. At Closing, the proofs of claim filed against the Estate by the Canyon Rock Parties,
25 including proof of claim numbers 9, 10, and 11, shall be deemed withdrawn for all purposes
26 and Canyon Rock shall solely have an allowed secured claim in the amount of \$900,000.00,
27 which shall attach to the Settlement Payment.
- 28 11. The Mared Parties waive any and all claims asserted against the Estate, the Trustee, and
the Trustee's professionals.
12. Within seven days of the Closing, or as soon as reasonably practicable thereafter, the
Trustee and the Mared Parties shall dismiss with prejudice all claims asserted against the
Parties in Adversary Number 15-01126-btb pending before this Court.
13. Within seven days of the Closing, or as soon as reasonably practicable thereafter, the
Trustee and the Canyon Rock Parties shall dismiss with prejudice all claims asserted
against the Parties in Case Number A690801 pending in the Eighth Judicial District Court,
Clark County, Nevada (the "State Court Case").
14. The Estate, on behalf of itself, its successors, assigns, agents, representatives, and all
persons acting by, through or under the Estate, for good and valuable consideration, the
receipt and adequacy of which is hereby acknowledged, hereby releases and forever
discharges, to the fullest extent permissible by law, the Canyon Rock Parties and the Mared
Parties and all of their respective attorneys, accountants, and other agents acting on their
behalf, individually or in their representative or fiduciary capacities from all Claims and
Losses arising from, through or in any manner relating to any fact, act, matter, occurrence
or omission in existence, occurring or arising from the beginning of time up to, and
including, the entry of this Order (whether or not mature, whether known or unknown,
whether asserted or unasserted, whether absolute or contingent, whether accrued or

1 unaccrued, whether liquidated or unliquidated, and whether due or to become due);
2 provided, however, that this release provision expressly excludes Nigel Turner. For
3 purposes of the foregoing, "Claims" shall mean any demand, complaint, request for
4 redress, assertion of a cause of action, or other claim of whatsoever nature and "Losses"
5 shall mean any and all damages, liabilities, costs, expenses, fees (including, without
6 limitation, attorneys', accountants', investigators', witnesses', and professionals' fees),
7 charges, expenditures, and other losses of whatsoever nature. This release does not affect
8 any Claims for which the Canyon Rock Parties and Mared Parties might be subject to other
9 than a Claim held by the Trustee for the Estate.

10 15. The Mared Parties, on behalf of themselves, their successors, assigns, agents,
11 representatives, and all persons acting by, through or under them, for good and valuable
12 consideration, the receipt and adequacy of which is hereby acknowledged, hereby releases
13 and forever discharges, to the fullest extent permissible by law, the Canyon Rock Parties,
14 the Trustee, and the Estate and all of their respective attorneys, accountants, and other
15 agents acting on their behalf, individually or in their representative or fiduciary capacities
16 from all Claims and Losses arising from, through or in any manner relating to any fact, act,
17 matter, occurrence or omission in existence, occurring or arising from the beginning of
18 time up to, and including, the entry of this Order (whether or not mature, whether known
19 or unknown, whether asserted or unasserted, whether absolute or contingent, whether
20 accrued or unaccrued, whether liquidated or unliquidated, and whether due or to become
21 due); provided, however, that this release provision expressly excludes Nigel Turner. For
22 purposes of the foregoing, "Claims" shall mean any demand, complaint, request for
23 redress, assertion of a cause of action, or other claim of whatsoever nature and "Losses"
24 shall mean any and all damages, liabilities, costs, expenses, fees (including, without
25 limitation, attorneys', accountants', investigators', witnesses', and professionals' fees),
26 charges, expenditures, and other losses of whatsoever nature. This release does not affect
27 any Claims for which the Canyon Rock Parties might be subject to other than a Claim held
28 by the Trustee for the Estate.

16 16. The Canyon Rock Parties, on behalf of themselves, their successors, assigns, agents,
17 representatives, and all persons acting by, through or under them, for good and valuable
18 consideration, the receipt and adequacy of which is hereby acknowledged, hereby releases
19 and forever discharges, to the fullest extent permissible by law, the Mared Parties, the
20 Trustee, and the Estate and all of their respective attorneys, accountants, and other agents
21 acting on their behalf, individually or in their representative or fiduciary capacities from
22 all Claims and Losses arising from, through or in any manner relating to any fact, act,
23 matter, occurrence or omission in existence, occurring or arising from the beginning of
24 time up to, and including, the entry of this Order (whether or not mature, whether known
25 or unknown, whether asserted or unasserted, whether absolute or contingent, whether
26 accrued or unaccrued, whether liquidated or unliquidated, and whether due or to become
27 due); provided, however, that this release provision expressly excludes Nigel Turner. For
28 purposes of the foregoing, "Claims" shall mean any demand, complaint, request for
redress, assertion of a cause of action, or other claim of whatsoever nature and "Losses"
shall mean any and all damages, liabilities, costs, expenses, fees (including, without
limitation, attorneys', accountants', investigators', witnesses', and professionals' fees),
charges, expenditures, and other losses of whatsoever nature.

17 17. For the avoidance of doubt, the Mared Parties and the Canyon Rock Parties retain all rights,
18 claims, and causes of action they may hold against Nigel Turner. Notwithstanding the
19 foregoing, the Estate retains all rights to defend against any claim asserted against the
20 Estate by Nigel Turner or by any entity that Nigel Turner controls.

27 After due deliberation and sufficient cause appearing, the Court finds that the Settlement

1 is a good faith, arms-length compromise reached by the Parties through their participation in the
2 Court-ordered two-day Settlement Conference conducted before the Honorable Judge Gary
3 Spraker. The Settlement effectuates a resolution of many of the Estate's disputes with the largest
4 warring factions in the Chapter 11 Case, including the resolution of the Estate's involvement in
5 the Mared Adversary and the State Court Action, which has been pending since 2013. The
6 Settlement achieves a result that falls within the possible outcomes were the settled disputes to
7 be fully litigated without the considerable delay, expense, and inconvenience of several years of
8 additional litigation in multiple forums. The Settlement additionally liquidates much of the
9 Estate's assets, and is therefore in the best interest of the creditors. As such, the Settlement
10 satisfies the four-prong test articulated in Martin v. Kane (In re A&C Properties, Inc.), 784 F.2d
11 1377 (9th Cir. 1986) and is fair and equitable.

12 The Court further finds that for the reasons articulated in the Motion, the Trustee has
13 exercised sound business judgment in reaching the Settlement, the Settlement satisfies Section
14 363(b), and Mared or its designee is a good faith purchaser of the Frontier and the other personal
15 property assets acquired through the Settlement.

16 In accordance with Federal Rule of Civil Procedure 52, as incorporated pursuant to
17 Federal Rule of Bankruptcy Procedure 9014, the Court orally stated its additional findings of
18 fact and conclusions of law on the record and reported them in open Court at the Hearing and
19 such findings of fact and conclusions of law are incorporated herein by this reference. Good
20 cause appearing therefore,

21 **IT IS HEREBY ORDERED** that:

- 22 1. The Motion is granted in its entirety.
- 23 2. The Settlement is fair and equitable and is approved pursuant to Rule 9019 of the
24 Federal Rules of Bankruptcy Procedure.
- 25 3. The transfer of the Frontier and other Estate assets pursuant to the terms of the
26 Settlement is approved pursuant to Sections 363(b) and 363(f) of the Bankruptcy Code.

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28

1 4. The Parties are authorized to take any and all actions necessary to memorialize and
2 effectuate the terms of the Settlement, including without limitation, the execution of all deeds,
3 escrow instructions, and other documents necessary to cause the Frontier to be transferred to Mared
4 and/or its assignee free and clear of all liens, claims, and encumbrances, solely excluding the
5 Disputed Lease.

6 5. Canyon Rock, on account of its secured claim, will receive an allowed non-recourse
7 secured claim of \$900,000.00 which shall attach to and be paid exclusively from the Settlement
8 Payment.

9 6. This Court retains jurisdiction to hear and determine all matters arising from the
10 provisions of the Settlement and the implementation of this Order.

11 **IT IS SO ORDERED.**

12 PREPARED AND SUBMITTED:
13 GARMAN TURNER GORDON LLP

APPROVED:
GOLDSMITH & GUYMON, P.C.

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APPROVED:
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LR 9021 CERTIFICATION

In accordance with LR 9021, counsel submitting this document certifies as follows:

- The Court waived the requirement of approval under LR 9021(b)(1)..
- No party appeared at the hearing or filed an objection to the motion.
- I have delivered a copy of this proposed order to all counsel who appeared at the hearing, and any unrepresented parties who appeared at the hearing, and each has approved or disapproved the order as stated above.
- I have certified that under Chapter 7 or 13, that I have served a copy of this order with the motion pursuant to LR 9014(g), and that no party has objection to the form or content of the order.

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