

E-filed: January 2, 2018

1 Blakeley E. Griffith (NV Bar No. 12386)  
SNELL & WILMER L.L.P.  
2 3883 Howard Hughes Pkwy., Suite 1100  
Las Vegas, NV 89169  
3 Telephone: (702) 784-5200  
Facsimile: (702) 784-5252  
4 Email: bgriffith@swlaw.com

5 Donald L. Gaffney (AZ Bar No. 005717)  
*Pro hac*  
6 SNELL & WILMER L.L.P.  
One Arizona Center, Suite 1900  
7 400 East Van Buren Street  
Phoenix, AZ 85004-2202  
8 Telephone: (602) 382-6000  
Facsimile: (602) 382-6070  
9 Email: dgaffney@swlaw.com

10 *Co-Counsel for Creditor Fann*  
*Contracting, Inc.*

Robert P. Mougine (NV Bar No. 7104)  
Merielle R. Enriquez (NV Bar No. 11116)  
KRING & CHUNG, LLP  
1050 Indigo Drive, Suite 200  
Las Vegas, NV 89145-8870  
Telephone: (702) 260-9500  
Facsimile: (702) 260-9434  
Email: rmougine@kringandchung.com  
menriquez@kringandchung.com

*Local Counsel for Creditor Fann Contracting, Inc.*

D. Kim Lough, Esq.  
Matthew H. Sloan, Esq.  
*Admitted pro hac vice*  
JENNINGS, HAUG & CUNNINGHAM L.L.P.  
2800 North Central Avenue, Suite 1800  
Phoenix, AZ 85004  
Telephone: (602) 234-7800  
Email: dkl@jhc-law.com  
mhs@jhc-law.com

*Counsel for Creditor Fann Contracting, Inc.*

SNELL & WILMER  
L.L.P.  
LAW OFFICES  
3883 HOWARD HUGHES PARKWAY  
SUITE 1100  
LAS VEGAS, NEVADA 89169

11  
12  
13 **UNITED STATES BANKRUPTCY COURT**  
14 **DISTRICT OF NEVADA**

15 In re

16  
17 GRAND CANYON RANCH, LLC,

18 Debtor.

Case No. 15-14145-btb

Chapter 11

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

**Hearing Date: December 11, 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**

**TABLE OF CONTENTS**

1			
2			<b>Page</b>
3	I.	INTRODUCTION AND SUMMARY .....	1
4		A. Purpose Of Disclosure Statement .....	1
5		B. Limitations On Information Contained In Disclosure Statement .....	3
6		C. Order Governing Plan Confirmation Process .....	4
7	II.	INFORMATION REGARDING PLAN AND DISCLOSURE STATEMENT.....	5
8		A. Summary Of The Plan.....	6
9	III.	LIMITATIONS ON REPRESENTATIONS .....	8
10	IV.	VOTING PROCEDURES AND REQUIREMENTS.....	9
11		A. Who Is Entitled To Vote .....	9
12		1. Allowed Claims.....	9
13		2. Impaired Claims .....	9
14		B. Procedures For Voting .....	9
15		1. Submission Of Ballots .....	9
16		2. Incomplete Ballots .....	10
17		3. Withdrawal Of Ballots .....	10
18		4. Questions And Lost Or Damaged Ballots.....	10
19		C. Summary Of Voting Requirements.....	10
20	V.	BACKGROUND AND EVENTS PRECIPITATING THE CHAPTER 11 FILING AND SIGNIFICANT EVENTS DURING THE CHAPTER 11 CASE.....	12
21		A. The Debtor, Its Property, And Pre-Bankruptcy Events .....	12
22		B. Post Petition Events and Management Of The Debtor .....	13
23		C. Employment Of Trustee’s Professionals.....	13
24		D. The Settlement Motions .....	13
25		E. Plans .....	15
26	VI.	OVERVIEW OF THE PLAN .....	15
27		A. Brief Explanation Of Chapter 11 Plan of Liquidation .....	15
28		B. Solicitation Of Acceptances Of The Plan .....	16
		C. Unimpaired Classes.....	17
		D. Classification Of Claims .....	17
		1. Treatment Of Claims Under The Plan .....	18
		E. Implementation And Funding Of The Plan.....	22\4
		F. Objections to Claims .....	24
		G. Treatment of Disputed Claims .....	25
		H. Allowance of Claims Subject to Bankruptcy Code Section 502(d).....	25

**SNELL & WILMER**  
 LLP  
 LAW OFFICES  
 3883 HOWARD HUGHES PARKWAY, SUITE 1100  
 LAS VEGAS, NEVADA 89169  
 702.784.5200

SNELL & WILMER  
 L.L.P.  
 LAW OFFICES  
 3883 HOWARD HUGHES PARKWAY, SUITE 1100  
 LAS VEGAS, NEVADA 89169  
 702.784.5200

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**TABLE OF CONTENTS**  
**(continued)**

	<b>Page</b>
I. Disbursing Agent .....	25
J. Distribution of Property Under the Plan .....	25
1. Manner of Cash Payments Under the Plan .....	25
2. No Distributions with Respect to Disputed Claims .....	25
3. Delivery of Distributions and Undeliverable/Unclaimed Distributions.....	26
4. Undeliverable and Unclaimed Distributions.....	26
K. No Recourse .....	27
L. The Effective Date .....	27
M. Treatment of Nonconsenting Members of Consenting Classes (Chapter 7 Liquidation Analysis).....	27
N. Other Plan Provisions.....	28
1. Executory Contracts and Unexpired Leases (11 U.S.C. Section 365).....	28
2. Retention of Jurisdiction .....	28
3. Administration Pending Effective Date .....	30
O. Modification of the Plan.....	30
P. Post-Confirmation Status Reports.....	31
Q. Post-Confirmation Conversion / Dismissal.....	31
R. Final Decree .....	31
VII. BAR DATES FOR ALL CLAIMS .....	31
VIII. LIMITATION OF LIABILITY .....	32
A. Exemption From Transfer Taxes .....	32
B. Method Of Payment .....	33
IX. ACCEPTANCE AND CONFIRMATION OF THE PLAN.....	33
A. Confirmation Hearing .....	33
B. Objections To Confirmation Of The Plan.....	33
C. Requirements For Confirmation Of The Plan.....	34
1. Best Interests Of Creditors Test .....	34
2. Feasibility .....	34
3. Accepting Impaired Class .....	34
4. Confirmation Over Dissenting Class (Cram Down) .....	35
5. No Unfair Discrimination .....	35
6. Fair And Equitable .....	35
X. RISK FACTORS.....	36
A. Liquidation Factors .....	37

**TABLE OF CONTENTS**  
**(continued)**

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**Page**

B.	Certain Bankruptcy-Related Considerations.....	37
1.	Risk Of Non-Confirmation Of The Plan.....	37
2.	Nonconsensual Confirmation.....	37
XI.	TAX CONSEQUENCES OF THE PLAN.....	38
XII.	ALTERNATIVES TO THE PLAN AND CONSEQUENCES OF REJECTION .....	38
A.	Liquidation Under Chapter 7 .....	38
B.	Alternative Plans .....	39
XIII.	LIQUIDATION ANALYSIS.....	39
XIV.	RECOMMENDATION AND CONCLUSION.....	40

**SNELL & WILMER**  
LLP  
 LAW OFFICES  
 3883 HOWARD HUGHES PARKWAY, SUITE 1100  
 LAS VEGAS, NEVADA 89169  
 702.784.5200

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**INDEX OF EXHIBITS**

**Exhibit 1**

**Third Amended Plan of Liquidation**

**Exhibit 2**

**Order Approving Settlement (ECF No. 537)**

FIRM NAME  
— L.L.P. —  
OFFICE ADDRESS

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 Third 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**

SNELL & WILMER  
L.L.P.  
LAW OFFICES  
3883 HOWARD HUGHES PARKWAY  
SUITE 1100  
LAS VEGAS, NEVADA 89169

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 JANUARY 31, 2018 (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 One Arizona Center, Suite 1900  
18 400 East Van Buren Street  
19 Phoenix, AZ 85004-2202  
Attention: Donald L. Gaffney, Esq.  
E-mail: [dgaffney@swlaw.com](mailto:dgaffney@swlaw.com)

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

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



SNELL & WILMER  
L.L.P.  
LAW OFFICES  
3883 HOWARD HUGHES PARKWAY  
SUITE 1100  
LAS VEGAS, NEVADA 89169

1 NEITHER FANN NOR ANY OF ITS ATTORNEYS HAS PROVIDED OR WILL  
2 PROVIDE ANY OPINION OR HAS MADE ANY REPRESENTATION IN THIS PLAN  
3 OR IN ANY OTHER DOCUMENT TO ANY PERSON AS TO ANY TAX ISSUES,  
4 INCLUDING WHETHER ANY PROVISION OF THE PLAN WILL ELIMINATE ANY  
5 CANCELLATION OF DEBT INCOME TO ANY PERSON. FANN ENCOURAGES ALL  
6 CREDITORS AND INTEREST HOLDERS TO RETAIN THEIR OWN TAX  
7 PROFESSIONALS TO PROVIDE AN OPINION BASED ON EACH SUCH PERSON'S  
8 INDIVIDUAL CIRCUMSTANCES.

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

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

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

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



1 ADMISSIONS OR STIPULATIONS BUT RATHER AS STATEMENTS MADE IN  
2 SETTLEMENT NEGOTIATIONS.

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

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

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

16 On December 21, 2017, the Bankruptcy Court entered its order (i) approving this  
17 Disclosure Statement as containing “adequate information” pursuant to 11 U.S.C. § 1125 of the  
18 Bankruptcy Code, (ii) fixing **January 31, 2018** as the deadline for filing and serving any  
19 objections to Confirmation of the Plan, (iii) fixing **January 31, 2018** as the deadline for voting to  
20 accept or reject the Plan, and (iv) setting **February 14, 2018, at 9:30 a.m. P.S.T.** as the date and  
21 time for a hearing on the confirmation of the Plan.

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

27 ///  
28 ///

SNELL & WILMER  
L.L.P.  
LAW OFFICES  
3883 HOWARD HUGHES PARKWAY  
SUITE 1100  
LAS VEGAS, NEVADA 89169

SNELL & WILMER  
L.L.P.  
LAW OFFICES  
3883 HOWARD HUGHES PARKWAY  
SUITE 1100  
LAS VEGAS, NEVADA 89169

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

United States Trustee:  
OFFICE OF THE UNITED STATES TRUSTEE  
300 Las Vegas Blvd. So., Suite 4300  
Las Vegas, NV 89101  
Telephone Number: (702) 388-6600  
Attn: Nicholas Strozza

The Plan Proponent (Fann Contracting):  
Fann Contracting, Inc.  
c/o SNELL & WILMER L.L.P.  
Attention: Donald L. Gaffney, Esq.  
One Arizona Center, Suite 1900  
400 East Van Buren Street  
Phoenix, AZ 85004  
E-mail: dgaffney@swlaw.com

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

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

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

This Disclosure Statement will be used to solicit acceptances of the Plan only after the Bankruptcy Court has entered an order approving this Disclosure Statement. Bankruptcy Court approval of this Disclosure Statement means only that the Bankruptcy Court has found that this Disclosure Statement meets the statutory requirement of 11 U.S.C. § 1125 to provide adequate information. Such approval by the Bankruptcy Court is not an opinion or ruling on any other

1 merits of this Disclosure Statement. It does not mean that the Plan has been approved, or will be  
2 approved, by the Bankruptcy Court.

3 After this Disclosure Statement has been approved by the Bankruptcy Court and voting on  
4 the Plan has been completed, a hearing on the Plan will be held to determine whether the Plan  
5 should be confirmed. At the hearing, the Bankruptcy Court will consider whether the Plan  
6 satisfies the various requirements of the Code. The Bankruptcy Court also will receive and  
7 consider a ballot report prepared by Fann which will present a tally of the votes accepting or  
8 rejecting the Plan cast by those entitled to vote. Once confirmed, the Plan is treated as a contract  
9 and is binding on all Creditors, holders of equity interests, the Trustee, and other parties-in-  
10 interest in the Debtor's bankruptcy case.

11 THIS DISCLOSURE STATEMENT IS NOT THE PLAN. FOR THE CONVENIENCE  
12 OF CREDITORS AND INTEREST HOLDERS OF THE DEBTOR, THE PLAN IS  
13 SUMMARIZED IN THIS DISCLOSURE STATEMENT. ALL SUMMARIES ARE  
14 QUALIFIED IN THEIR ENTIRETY BY THE PLAN ITSELF. IN THE EVENT OF ANY  
15 INCONSISTENCY BETWEEN THIS DISCLOSURE STATEMENT AND THE PLAN, THE  
16 PLAN WILL CONTROL.

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

21 **A. Summary Of The Plan**

22 The Plan proposes to use proceeds received by the Estate pursuant to the Settlement  
23 entered into by the Canyon Rock Parties, the Mared Parties and the Trustee which consists of the  
24 sale of the Frontier Property to Mared for a \$1.75 million payment and the Canyon Rock Parties  
25 receiving a payment of \$900,000 with the Estate receiving \$850,000. A copy of the Order  
26 Approving the Settlement Arising out of Settlement Conference pursuant to 11 U.S.C. §§ 105(A)  
27 and 363 is attached hereto as **Exhibit 2** (the "Settlement Order").  
28

1 Prior to the Settlement Order being entered, the Bankruptcy Court previously ruled that  
2 part of the Frontier was not property of the Estate. Although there has been no specific finding by  
3 the Court as to which parts of the Frontier are property of the Estate, the Trustee has represented  
4 that the southeastern portion of the Frontier remains property of the Estate. There has not been a  
5 specific finding as to the allocation of value between the southern and northern portions of the  
6 Frontier, although the representations from other parties and the Trustee have been that the value  
7 of the southeastern part of the Frontier is negligible.

8 In addition, within thirty days after the Effective Date, Liberty Mutual and Gallagher  
9 Basset are to each pay \$100,000 into the Estate, for a total contribution of \$200,000, in order to  
10 fully and finally settle all issues in the Fann Litigation and in exchange for full releases of Liberty  
11 Mutual, Gallagher Basset, and Fann by the Estate. The Fann Litigation concerns the case of  
12 *Grand Canyon Ranch, LLC v. Fann Contracting, Inc. et al.*, Yavapai County Superior Court,  
13 Case No. P1300CV2013-00913, which arises out of the construction of the Diamond Bar Road on  
14 the west rim of the Grand Canyon, in Mohave County, Arizona. Prior to the Bankruptcy, the  
15 Debtor filed a lawsuit asserting various contract and tort-based claims against Fann Contracting  
16 based on its alleged breach of an agreement between the parties and alleged acts committed  
17 during the course of Fann's construction activities within a right-of-way near and across a portion  
18 of Debtor's property in Mohave County, Arizona. In turn, Fann Contracting filed a Counterclaim  
19 against Debtor and its principal Nigel Turner (and his spouse Lesley Turner), asserting multiple  
20 contract and tort-based claims arising out of the counter-defendants' asserted material breaches of  
21 the agreement, conversion of Fann's equipment, and other wrongful/bad faith conduct. Fann's  
22 Counterclaim against the Debtor forms the basis for the proof of claim that Fann filed in this  
23 Bankruptcy Case in the amount of \$1,111,630.81. To date, no party has objected to Fann's proof  
24 of claim; however, the deadline to object has not passed. On April 26, 2016, Fann moved for  
25 relief from stay to pursue the Fann Litigation which request was opposed by the Trustee and  
26 denied by the Court. The Fann Litigation has sat dormant throughout the Bankruptcy Case.

27 Further, in order to implement the Plan, Fann intends to seek reimbursement for, and/or  
28 equitable marshaling of, the claims of the Arizona Department of Revenue ("AZDOR") and the

1 Nevada Dept. Employment, Training, and Rehabilitation (“NDTER”) from the Mared Parties and  
 2 the Canyon Rock Parties as those claims are believed to be the co-responsibility of the Mared  
 3 Parties and the Canyon Rock Parties. The Plan provides that the NDTER must first pursue their  
 4 claims against such non-debtor entities before seeking any distribution from the Estate.

5 Under the Plan, the Trustee will be discharged no later than the Effective Date, and Fann  
 6 will serve as disbursing agent and agent for the winding up of the Estate. The Unsecured  
 7 Creditors will receive a pro-rata distribution of the Estate’s cash on hand following the  
 8 consummation of the Settlement and the payment received from Liberty Mutual and Gallagher  
 9 Basset and a distribution of specified Estate funds to Fann. Specifically, as Fann is responsible  
 10 for bringing in \$200,000 from Liberty Mutual and Gallagher Basset, Fann will receive a pro rata  
 11 distribution of the Estate’s cash on hand following the consummation of the Settlement and the  
 12 payment received from Liberty Mutual and Gallagher Basset, in an amount of no less than  
 13 \$500,000. Fann may receive a larger pro rata distribution than other Unsecured Creditors as a  
 14 result of this contribution as Fann’s claim is not substantially similar to other Unsecured Creditors  
 15 based upon applicable Ninth Circuit Law.

### 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  
 Phoenix, Arizona 85004-2202  
 E-mail: [dgaffney@swlaw.com](mailto:dgaffney@swlaw.com)

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

28 ///

1 This is a solicitation by Fann only and is not a solicitation by its attorneys, agents,  
2 financial advisors, accountants, or any other professionals employed by Fann.

3 **IV. VOTING PROCEDURES AND REQUIREMENTS**

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

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

8 **1. Allowed Claims**

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

20 **2. Impaired Claims**

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

27  
28 ///



1           **B.     Procedures For Voting**

2                   **1.     Submission Of Ballots**

3           All Creditors whose votes are solicited will be sent a Ballot, together with instructions for  
4 voting, with a copy of this Disclosure Statement as approved by the Bankruptcy Court and a copy  
5 of the Plan. You should read the Ballot carefully and follow the instructions contained therein.  
6 Please use only the Ballot which was sent with this Disclosure Statement. You should complete  
7 your Ballot and return it to **Snell & Wilmer L.L.P., Attn: Donald L. Gaffney**, One Arizona  
8 Center, Suite 1900, 400 East Van Buren Street, Phoenix, AZ (dgaffney@swlaw.com). Ballots  
9 returned by e-mail will be accepted; ballots returned by facsimile are not valid and will not be  
10 counted.

11                   **TO BE COUNTED, YOUR BALLOT MUST BE RECEIVED  
12 AT THE ADDRESS LISTED ABOVE BY January 31, 2018.**

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

15                   **2.     Incomplete Ballots**

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

19                   **3.     Withdrawal Of Ballots**

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

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

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

27           **C.     Summary Of Voting Requirements**

28           For the Plan to be confirmed, the Plan must be accepted by at least one impaired class of  
Claims. For a class of Claims to vote to accept the Plan, votes representing at least two-thirds

1 (2/3) in amount and a majority in number of the Claims voted in that class must be cast for  
 2 acceptance of the Plan. As more fully described in Article VI of this Disclosure Statement, Fann  
 3 is seeking acceptances from holders of Allowed Claims in the following classes, which are, or  
 4 may be, "impaired" under the Plan, provided, however that the Plan Proponent has the right to  
 5 supplement this Disclosure Statement as to any other impaired classes, if any.

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

6  
 7  
 8  
 9 **IT IS IMPORTANT THAT HOLDERS OF ALLOWED IMPAIRED CLAIMS**  
 10 **EXERCISE THEIR RIGHTS TO VOTE TO ACCEPT OR REJECT THE PLAN.**

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

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

19 A VOTE FOR ACCEPTANCE OF THE PLAN BY THOSE HOLDERS OF CLAIMS  
 20 AND INTERESTS WHO ARE ENTITLED TO VOTE IS VERY IMPORTANT. THE PLAN  
 21 PROPONENT ASSERTS THAT THE TREATMENT OF CREDITORS UNDER THE PLAN IS  
 22 THE BEST ALTERNATIVE FOR CREDITORS AND THE PLAN PROPONENT  
 23 RECOMMENDS THAT THE HOLDERS OF ALLOWED CLAIMS VOTE IN FAVOR OF  
 24 THE PLAN. SPECIFICALLY, FANN BELIEVES THAT THE TREATMENT OF, AND  
 25 RETURN TO, UNSECURED CREDITORS UNDER THE PLAN IS SUBSTANTIALLY  
 26 BETTER AND LESS RISKY FOR THE UNSECURED CREDITORS THAN THE  
 27 CONVERSION TO A CHAPTER 7 CASE SUGGESTED BY THE TRUSTEE.  
 28

1 **V. BACKGROUND AND EVENTS PRECIPITATING THE CHAPTER 11 FILING**  
 2 **AND SIGNIFICANT EVENTS DURING THE CHAPTER 11 CASE**

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

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

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

1 Debtor filed its voluntary petition for relief under Chapter 11 of the Bankruptcy Code on  
 2 July 20, 2015, thereby commencing the Chapter 11 case. *See* ECF No. 1. As of the filing of the  
 3 Chapter 11 Case, Nigel Turner held an 85% equity interest in the Debtor, Leslie Turner held a 5%  
 4 interest in the Debtor, and Tony Marriott held a 10% interest in the Debtor (the “Interest  
 5  Holders”). ECF No. 16.

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

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

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

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

21 **D. The Settlement Motions**

22 On August 30, 2016, the Trustee brought a Motion for Order Approving Settlement  
 23 Between the Trustee and Canyon Rock Parties Pursuant to 11 U.S.C. §§ 105(A) and 363 and

24  
 25 <sup>1</sup> On November 3, 2017, the Trustee’s counsel submitted a “Notice of Contingency Fee Pursuant to Order  
 26 Approving Employment of Garman Turner Gordon LLP as Attorneys for Chapter 11 Trustee Pursuant to  
 27 11 U.S.C. § 327(a) and Compensation pursuant to 11 U.S.C. § 328(a), Nunc Pro Tunc to January 5, 2016”  
 28 (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). Fann has filed a procedural objection to the Notice which is set for hearing on December 19,  
 2017 at 1:30 p.m. Garman Turner Gordon filed its (I) Notice of Calculation of Contingency Fee and  
 Request for Order Confirming Award; and (II) Application for Reimbursement of Expenses for the Period  
 of January 5, 2016 through October 31, 2017, which is set for hearing on December 19, 2017 at 1:30 p.m.

1 Bankruptcy Rule 9010 (ECF No. 290) (the “First Settlement Motion”). The First Settlement  
2 Motion essentially provided for the Trustee to sell the Frontier Property to the Canyon Rock  
3 Parties for \$780,000. Fann and the Mared Parties opposed the First Settlement Motion and the  
4 Court scheduled a settlement conference for January 11, 2017 which was further continued for a  
5 second full day of settlement conference on April 14, 2017.

6 On April 24, 2017, the Trustee filed a Motion for Order Approving Settlement Arising out  
7 of Settlement Conference Pursuant to 11 U.S.C. §§ 105(A) and 363 and Bankruptcy Rule 9019  
8 (ECF No. 383) (the “Settlement Motion”) to approve a settlement agreement between the Mared  
9 Parties and the Canyon Rock Parties, as set forth in the transcript attached as Exhibit 1 to the  
10 Settlement Motion (the “Settlement”) which was placed on the record at the conclusion of the  
11 settlement conference. The central terms of the Settlement consist of the Estate selling the  
12 Frontier to Mared for \$1.75 million payment and the Canyon Rock Parties receiving a secured  
13 claim of \$900,000 with the Estate receiving \$850,000. In exchange, the Mared Parties and  
14 Canyon Rock Parties agree to withdraw their proofs of claim. Fann contends that the Settlement  
15 was never reduced to writing. The Trustee contends that the terms of the Settlement were  
16 included in the proposed order approving the Settlement and on the record at the Settlement  
17 Conference.

18 Prior to the Settlement, ten 2004 examinations were conducted and participated in by the  
19 Trustee, the Mared Parties, the Canyon Rock Parties and Fann.

20 On the Petition Date, the Frontier was titled solely in Debtor’s name. Subsequently, the  
21 Bankruptcy Court ruled that part of the Frontier was not property of the Estate. Although there  
22 has been no specific finding by the Court of the part of the Frontier that is not property of the  
23 Estate, the Trustee has represented that the southeastern portion of the Frontier remains property  
24 of the estate. There has never been a finding as to the allocation of value between the southern  
25 and northern portions of the Frontier and the representations from the Trustee have been that the  
26 value of the southeastern part of the Frontier is negligible. On August 23, 2017 the Bankruptcy  
27 Court approved the Settlement Motion. On September 18, 2017, the Settlement Order was  
28 entered on the Docket. A true and correct copy of the Settlement Order is attached hereto as



1 **Exhibit 2.** Fann contends that the Settlement placed on the record did not articulate the means of  
2 effectuation of the settlement, and the Trustee through counsel gave conflicting statements  
3 whether the Settlement was to occur by a Section 363 sale free and clear or some other means.

4 The Trustee's position is that the transcript of the Settlement and Settlement Order clearly  
5 articulated the terms of the Settlement and that the Court confirmed that the entire Frontier was  
6 transferred as property of the Estate. The Trustee disagrees with Fann's statements regarding the  
7 Settlement.

8 **E. Plans**

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

13 **VI. OVERVIEW OF THE PLAN**

14 The following is a general overview of the Plan and certain provisions of the Plan. This  
15 overview has been prepared to describe the Plan and some of its more pertinent provisions in  
16 basic terms. Fann does not offer it as a comprehensive analysis of the Plan, which is a  
17 complicated legal document. If it is important to you to understand every nuance of the Plan as a  
18 complicated and precise legal contract, you are urged to read the Plan in its entirety and to consult  
19 with legal counsel to understand the Plan fully. A copy of the Plan accompanies this Disclosure  
20 Statement as **Exhibit 1.**

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

22 Chapter 11 of the Bankruptcy Code is the chapter of the Code which allows for the  
23 liquidation or reorganization of companies such as the Debtor. In general, a Chapter 11 plan of  
24 liquidation (a) divides Claims and Interests into separate classes, (b) specifies the property that  
25 each class is to receive under the plan, and (c) contains other provisions necessary to the  
26 liquidation of the debtor. A Chapter 11 plan may specify that certain classes of Claims or  
27 Interests are either to be paid in full upon the effective date of the plan, reinstated, or their legal,  
28 equitable and contractual rights are to remain unchanged. Such classes are referred to under the



1 Bankruptcy Code as “unimpaired” and, because of such favorable treatment, are deemed to accept  
2 the plan. Accordingly, it is not necessary to solicit votes from the holders of Claims or Interests  
3 in such classes. A Chapter 11 plan also may specify that certain classes will not receive any  
4 distribution of property. Such classes are deemed to reject the plan.

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

15 Chapter 11 of the Bankruptcy Code does not require each holder of a Claim or Interest to  
16 vote in favor of a plan of liquidation in order for the Bankruptcy Court to confirm the plan.  
17 However, the Bankruptcy Court must find that the plan meets a number of statutory tests (other  
18 than the voting requirements described in this section) before it may confirm, or approve, the  
19 plan. Many of these tests are designed to protect the interests of holders of Claims or Interests  
20 that do not vote to accept the plan but who will nonetheless be bound by the plan’s provisions if it  
21 is confirmed by the Bankruptcy Court.

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

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

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

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

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

17 **C. Unimpaired Classes**

18 The following Classes of Claims are not impaired under the Plan and, under Section  
 19 1126(f) of the Code, are conclusively deemed to accept the Plan and are not entitled to vote on the  
 20 Plan:

	Administrative Claims
	Priority Tax Claims
Class 1	Secured Claims of Arizona Department of Revenue and Mohave County Attorneys’ office
Class 2	Priority Unsecured Claims (Non-tax)

25 **D. Classification Of Claims**

26 The Classes under the Plan take into account the differing nature and priority of Claims  
 27 against the Debtor. Section 101(5) of the Code defines “claim” as a “right to payment, whether or  
 28 not such right is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured,

SNELL & WILMER  
L.L.P.  
LAW OFFICES  
3883 HOWARD HUGHES PARKWAY  
SUITE 1100  
LAS VEGAS, NEVADA 89169

1 unmatured, disputed, undisputed, legal, equitable, secured, or unsecured;” or a “right to an  
2 equitable remedy for breach of performance if such breach gives rise to a right to payment,  
3 whether or not such right to an equitable remedy is reduced to judgment, fixed, contingent,  
4 matured, unmatured, disputed, undisputed, secured, or unsecured.” A “claim” against the Debtor  
5 also includes a claim against the Debtor’s property as provided in § 102(2) of the Bankruptcy  
6 Code.

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

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

15 The following describes the Plan’s classification of Claims against the Debtor and the  
16 treatment the holders of Allowed Claims would receive under the Plan. The treatment of Claims  
17 set forth below is consistent with the requirements of 11 U.S.C. § 1129(a)(9).

18 **a. Unclassified Claims**

19 **Administrative Claims**

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

25 ///  
26 ///  
27 ///  
28 ///

<u>Name of Claimant</u>	<u>Amount Claimed<sup>2</sup></u>	<u>Trustee and GTG's statement of Amount Claimed</u>	<u>Treatment</u>
Garman Turner Gordon LLP L.L.P. ("GTG")	\$281,487.50  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, after subtracting \$45,750 for the Trustee's fees (\$850,000-\$45,750).	\$590,836.93 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 \$1.75M recovered by the Trustee that comes into the Estate from the Trustee's Settlement, plus expenses paid by GTG for the benefit of the estate, minus a \$50,000 reduction voluntarily provided by GTG.	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.
Brian Shapiro Chapter 11 Trustee	\$45,750  The Trustee's fee is calculated from the \$850,000 disbursed or turned over from the Estate with respect to the Settlement.	\$75,750 The Trustee's fee is calculated from the \$1.75M disbursed or turned over from the Estate with respect to the Settlement.	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.
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

<sup>2</sup> Stated amounts are estimates of total fees through the Effective Date, and are based on information available as of December 11, 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.

**SNELL & WILMER**  
 LLP  
 LAW OFFICES  
 3883 HOWARD HUGHES PARKWAY  
 SUITE 1100  
 LAS VEGAS, NEVADA 89169

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

<u>Name of Claimant</u>	<u>Amount Claimed<sup>2</sup></u>	<u>Trustee and GTG's statement of Amount Claimed</u>	<u>Treatment</u>
			to by the administrative claimant, this claim will be satisfied by payment in full of Allowed Claim in cash on the later of the Effective Date or the date allowed by the Court.
Total:	~ \$325,000	\$688, 250	

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.<sup>3</sup>

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.

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. Also, as indicated above, the Trustee and GTG's contention

<sup>3</sup> Based on communications to date and the Notice, the Trustee and GTG seek larger compensations based on inclusion of the \$900,000 payout to the Canyon Rock Parties as part of a base computation, which payment was made from the Trustee's account and pursuant to the Order of the Bankruptcy Court.



1 is that the Estate will be liable to pay to GTG a fee of \$590,836.93. As discussed below, the  
2 proceeds from the Settlement will be able to satisfy the payment to the Administrative Claimants.

3 The Administrative Expense Claims are unimpaired and do not vote.

4 **Priority Tax Claims**

5 Priority tax claims include certain unsecured income, employment and other taxes  
6 described by Code Section 507(a)(8). Bankruptcy Code Section 1129(a)(9)(C) requires that each  
7 holder of such a Section 507(a)(8) priority tax claim receive the present value of such claim in  
8 deferred cash payments, over a period not exceeding sixty months from the petition date of July  
9 20, 2015. The following chart lists all of the Debtor's Section 507(a)(8) priority tax claims and  
10 their treatment under the Plan:

<b><u>Name of Claimant</u></b>	<b><u>Amount Claimed</u></b>	<b><u>Treatment</u></b>
Arizona Department of Revenue ("AZDOR")	\$45,359.21	This claim will be paid in full, in cash, on the Effective Date • Est. Pmt. Amt. = \$45,359.21
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

23 **b. Classified Claims**

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

28 ///



**Class 1 – Secured Claims of Arizona Department of Revenue and Internal Revenue Service.**

Class 1 is comprised of the Arizona Department of Revenue (“AZDOR”) and Internal Revenue Services’ (“IRS”) claims in the combined amount of \$37,120.97. The Secured Claim of the AZDOR and the IRS shall be treated as follows: :

Class 1-A consists of the Arizona Department of Revenue. Fann filed an objection to this Claim that was resolved by the Stipulation to Vacate Hearing Date on Fann Contracting, Inc.’s Objection to Arizona Department of Revenue’s Amended Claim No. 3 on December 5, 2017. Pursuant to the Stipulation, the AZDOR shall have a secured claim of \$35,534.84. Fann believes that this claim is the co-responsibility of non-Debtor entities, specifically of the Mared Parties and/or the Canyon Rock Parties and Fann will be entitled on behalf of the Estate to seek repayment from non-Debtor third parties on behalf of the AZDOR. This claim will be paid in full, in cash, on the Effective Date. This Class is not impaired and its holders are not entitled to vote on the Plan.

Class 1-B consists of the secured claim of the IRS in the amount of \$1,586.13. This claim will be paid in full, in cash, on the Effective Date. 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.

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

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

1 will be made sixty days following the Effective Date of the Plan or on the Effective Date of the  
2 Plan.

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

4 **Class 3B consists of the allowed general unsecured claims, excepting Fann. Holders**  
5 **of allowed general unsecured claims shall receive pro rata distributions on account of their**  
6 **claims from all funds received by the Estate. Class 3B's pro rata distribution shall be**  
7 **reduced, if necessary, to ensure that Fann receives no less than a \$500,000 distribution and**  
8 **Fann may receive better treatment than Class 3B due to its contribution to the Plan by**  
9 **Gallagher Bassett and Liberty Mutual.**

10 If Fann's contention that the Trustee's counsel's fees should be in the amount of \$325,000  
11 is upheld, then Fann will not receive a larger pro rata distribution than other unsecured creditors.  
12 However, if the amount claimed by GTG of \$590,836.93 is allowed, then there will only be  
13 approximately \$80,000 remaining from the Settlement for distribution to unsecured creditors.  
14 Fann will not be able to receive a pro rata distribution of \$500,000 as there will not be funds  
15 available to satisfy this amount. Even including the \$200,000 contribution from Liberty Mutual  
16 and Gallagher Bassett, the amount available for unsecured creditors in total will be only  
17 \$280,000. Fann is the largest unsecured creditor and makes up approximately ninety percent of  
18 all unsecured creditors.

19 Distributions on Class 3B Allowed Claims will be made sixty days following the  
20 Effective Date of the Plan or as soon as a base number for distribution can be calculated, but all  
21 payments will be made no later than three (3) years after the Effective Date.

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

23 **Class 4 – Claims Of The Interest Holders**

24 Class 4 consists of the claims of interest holders. Interest holders are the parties who hold  
25 an ownership interest (i.e., equity interest) in the Debtor. If the debtor is a corporation, entities  
26 holding preferred or common stock in the debtor are interest holders. If the debtor is a  
27 partnership, the interest holders include both general and limited partners. If the debtor is an  
28 individual, the debtor is the interest holder. In the present case, according to the Debtor's

1 Statement of Financial Affairs, Nigel Turner owns an 85% membership interest in the Debtor,  
 2 Lesley Turner owns a 5% membership interest in the Debtor, and Tony Marriott owns a 10%  
 3 membership interest in the Debtor. The following chart identifies the Plan's treatment of the  
 4 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.

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

11 **E. Implementation And Funding Of The Plan**

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

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

20 Further, Fann intends to pursue reimbursement and/or equitably marshal the claims of the  
 21 AZDOR, and the NDTER among other claims, as those claims are the co-responsibility of the  
 22 Mared Parties and the Canyon Rock Parties. The Plan provides that NDTER must first pursue  
 23 their claims against the non-debtor entities before seeking a distribution from the Estate.

24 **F. Objections to Claims.**

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

27 Fann and creditors shall have the authority to file any objections to Claims following Plan  
 28 Confirmation until the Claims Objection Deadline, and the Court shall retain jurisdiction of the

1 Debtor and this Bankruptcy Case to resolve such objections to Claims following Plan  
2 Confirmation.

3 **G. Treatment of Disputed Claims.**

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

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

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

14 **I. Disbursing Agent.**

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

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

20 The following procedures set forth in the Plan apply to all distributions made pursuant to  
21 the Plan.

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

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

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

26 No payments of cash or distributions of other property or other consideration of any kind  
27 shall be made on account of any Disputed Claim unless and until such Claim becomes an  
28 Allowed Claim or is deemed to be such for purposes of distribution, and then only to the extent

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

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

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

13 **4. Undeliverable and Unclaimed Distributions**

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

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

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

28

1           **K. No Recourse**

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

9           **L. The Effective Date**

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

13          **M. Treatment of Nonconsenting Members of Consenting Classes (Chapter 7**  
14          **Liquidation Analysis)**

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

22          This Plan provides for the distribution of assets pursuant to the distribution scheme that  
23          would be applicable in a Chapter 7 case. Accordingly, Fann believe that no creditor will receive  
24          less under this Plan than such creditor would have received in a Chapter 7 case. The Trustee  
25          contends that this is not the case as Fann would not be entitled to a guaranteed distribution of  
26          \$500,000 in a Chapter 7 liquidation. Fann disputes this contention as Fann contends that the  
27          \$200,000 contribution from Liberty Mutual and Gallagher Bassett would also not be available in  
28



1 a Chapter 7 liquidation. The Trustee contends that the same or a greater amount would be  
2 available in Chapter 7 and Fann’s asserted claim would likely be reduced.

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 ///

28 ///

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

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

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

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

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

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

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

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

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

### 12 3. Administration Pending Effective Date

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

#### 19 O. Modification of the Plan.

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

24 Fann further reserves the right to revoke or withdraw the Plan at any time before the  
 25 Confirmation Date. If the Plan is withdrawn or revoked, then the Plan is deemed null and void  
 26 and nothing contained in the Plan may be deemed a waiver of any Claims by or against the  
 27 Debtor or any other Person in any further proceedings involving the Debtor or an admission of  
 28

1 any sort, and the Plan and any transaction contemplated by the Plan may not be admitted into  
2 evidence in any proceeding.

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

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

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

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

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

20 **R. Final Decree.**

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

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

26 Except as expressly provided in the Plan or Confirmation Order, any Claims (other than  
27 Administrative Claims) asserted against the Debtor that may have arisen prior to (or may have  
28 been deemed to have arisen prior to) or after the Petition Date, of Creditors who failed to file a

1 proof of Claim on or before November 18, 2015 (the “Bar Date”), are forever barred, stopped,  
 2 and enjoined from asserting such Claims (or filing proofs of Claim with respect thereto) in any  
 3 manner against the Debtor or its property or assets. Any Administrative Claims asserted against  
 4 the Debtor or the Estate that fail to file a proof of Claim, an Application for Allowance or  
 5 requests for payment on or before the Administrative Claim Bar Date shall be forever barred,  
 6 stopped, and enjoined from asserting such Claims (or filing proofs of Claim with respect thereto)  
 7 in any manner against the Debtor or its property or assets. Further, any such unasserted Claims  
 8 shall not be permitted to vote on the Plan or to participate in any distribution in this Chapter 11  
 9 case on account of such Claim, or to receive further notices regarding such Claims and shall be  
 10 bound by the terms of the Plan.

## 11 **VIII. LIMITATION OF LIABILITY**

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

### 17 **A. Exemption From Transfer Taxes**

18 In accordance with Section 1146 of the Code:

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

27 the Confirmation Order, or any transaction contemplated above, or any transactions arising out of,  
 28 contemplated by, or in any way related to the foregoing are not subject to any document recording

SNELL & WILMER  
L.L.P.  
LAW OFFICES  
3883 HOWARD HUGHES PARKWAY  
SUITE 1100  
LAS VEGAS, NEVADA 89169

1 tax, stamp tax, conveyance fee, intangibles or similar tax, mortgage tax, stamp act or real estate  
2 transfer tax, mortgage recording tax or other similar tax or governmental assessment, and the  
3 appropriate state or local government officials or agents are directed to forego the collection of  
4 any such tax or assessment and to accept for filing or recordation any of the foregoing instruments  
5 or other documents without the payment of any such tax or assessment.

6 **B. Method Of Payment**

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

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

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

16 **A. Confirmation Hearing.**

17 Pursuant to Bankruptcy Code Section 1128(a), the Bankruptcy Court will hold a hearing  
18 regarding confirmation of the Plan at the United States Bankruptcy Court, Foley Federal  
19 Building, Courtroom No. 4, 300 Las Vegas Blvd., South, Las Vegas, NV 89101, commencing on  
20 **February 14, 2018, at 9:30 a.m., P.S.T. (Nevada Time).**

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

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

27 ///

28 ///



1 Snell & Wilmer L.L.P.  
2 Attn: Donald L. Gaffney, Esq.  
3 Blakeley Griffith, Esq.  
4 3883 Howard Hughes Parkway, Suite 1100  
5 Las Vegas, NV 89169  
6 E-mail: dgaffney@swlaw.com  
7 bgriffith@swlaw.com

8 **C. Requirements For Confirmation Of The Plan.**

9 For the Plan to be confirmed, the Plan must satisfy the requirements stated in 11 U.S.C.  
10 § 1129. In this regard, the Plan must satisfy, among other things, the following requirements:

11 **1. Best Interests Of Creditors Test.**

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

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

22 **2. Feasibility.**

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

28 **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

1 (2/3) in amount and a majority in number of the Allowed Claims voted in that Class must be cast  
2 for acceptance of the Plan (not including the votes of insiders of the Debtor).

3 **4. Confirmation Over Dissenting Class (Cram Down).**

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

10 **5. No Unfair Discrimination.**

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

20 **6. Fair And Equitable.**

21 The Bankruptcy Code establishes different "fair and equitable" tests for creditors as  
22 follows:

23 **a. Secured Creditors.**

24 Either: (i) each impaired Secured Creditor retains its lien and receives deferred cash  
25 payments having a present value equal to the amount of its Allowed secured Claim; (ii) each  
26 impaired secured Creditor realizes the "indubitable equivalent" of its Allowed secured Claim; or  
27 (iii) the property securing the Claim is sold free and clear of liens (subject to Bankruptcy Code  
28

1 § 363(k) credit bidding rights) with such liens attaching to the sale proceeds, and those liens are  
 2 treated in accordance with clause (i) or (ii) of this subsection.

3 **b. Unsecured Creditors.**

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

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

23 **X. RISK FACTORS**

24 As with any restructuring, the restructuring of the Debtor involves a degree of risk. The  
 25 actual results of the Plan could differ significantly from those anticipated as a result of a variety  
 26 of factors, including those set forth in the following risk factors and elsewhere in this Disclosure  
 27 Statement. **HOLDERS OF CLAIMS SHOULD CONSIDER CAREFULLY THE**  
 28 **FOLLOWING FACTORS, IN ADDITION TO THE OTHER INFORMATION**

1 **CONTAINED IN THIS DISCLOSURE STATEMENT, BEFORE SUBMITTING A VOTE**  
2 **TO ACCEPT OR REJECT THE PLAN.**

3 **A. Liquidation Factors.**

4 As with any plan or other financial transaction, there are certain risk factors that must be  
5 considered. All risk factors cannot be anticipated, some events will develop in ways that were not  
6 foreseen, and many or all of the assumptions that have been used in connection with this  
7 Disclosure Statement and the Plan may not prove correct in the future. While efforts have been  
8 made to be reasonable in selecting assumptions, there can be no assurance that subsequent events  
9 will match those assumptions. Holders of Claims should be aware of some of the principal risks  
10 associated with the reorganization which include:

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

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

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

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

22 **2. Nonconsensual Confirmation.**

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

- 26 • at least one impaired Class accepts the Plan (without including the acceptance of
- 27 any "insider" in such Class); and

- 1           • with respect to each impaired Class that has not accepted the Plan, the Bankruptcy  
2           Court determines that the Plan does not discriminate unfairly and is fair and  
3           equitable with respect to rejecting impaired Classes.

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

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

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

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

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

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

26          **A. Liquidation Under Chapter 7.**

27          In evaluating the Plan, Fann has considered the alternative of a liquidation of the Debtor's  
28          assets under Chapter 7 of the Bankruptcy Code. Fann believes that the Plan will significantly

**SNELL & WILMER**  
LLP  
LAW OFFICES  
3883 HOWARD HUGHES PARKWAY  
SUITE 1100  
LAS VEGAS, NEVADA 89169

1 enhance the prospects for recovery, which may be achieved under the Plan as opposed to  
2 Chapter 7 liquidation.

3 In a Chapter 7, an independent trustee would be appointed to liquidate the estate. The  
4 Chapter 7 trustee would make all of his or her own decisions with respect to the liquidation of the  
5 estate, the hiring of professionals, the pursuit of any Claims or litigation, the payment of or  
6 objection to Claims, and the distribution of any ultimate dividend. The Chapter 7 trustee would  
7 be paid pursuant to the provisions of the Bankruptcy Code, although, in certain circumstances, a  
8 Chapter 7 trustee can apply to the Bankruptcy Court for a different type of compensation.

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

13 **B. Alternative Plans.**

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

18 **XIII. LIQUIDATION ANALYSIS**

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

21 ///

22 ///

23 ///

24 ///

25 ///

26 ///

27 ///

28 ///



1 **XIV. RECOMMENDATION AND CONCLUSION**

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

6  
7 DATED this 2nd day of January 2018.

8 SNELL & WILMER L.L.P.

KRING & CHUNG, LLP

9  
10 /s/ Blakeley E. Griffith  
11 Blakeley E. Griffith (NV Bar No. 12386)  
12 3883 Howard Hughes Pkwy., Suite 1100  
Las Vegas, NV 89169  
Telephone: (702) 784-5200  
Facsimile: (702) 784-5252

/s/ Merielle R. Enriquez  
Robert P. Mougins (NV Bar No. 7104)  
Merielle R. Enriquez (NV Bar No. 11116)  
1050 Indigo Drive, Suite 200  
Las Vegas, NV 89145-8870  
Telephone: (702) 260-9500  
Facsimile: (702) 260-9434  
*Local Counsel for Creditor Fann Contracting, Inc.*

13 Donald L. Gaffney (AZ Bar No. 005717)  
14 *Admitted pro hac vice*  
SNELL & WILMER L.L.P.  
15 One Arizona Center, Suite 1900  
400 East Van Buren Street  
16 Phoenix, AZ 85004-2202  
Telephone: (602) 382-6000  
Facsimile: (602) 382-6070

JENNINGS, HAUG & CUNNINGHAM  
L.L.P.

17 *Co-Counsel for Creditor Fann Contracting,*  
18 *Inc.*

/s/ D. Kim Lough  
D. Kim Lough, Esq.  
Matthew H. Sloan, Esq.  
*Admitted pro hac vice*  
2800 North Central Avenue, Suite 1800  
Phoenix, AZ 85004  
Telephone: (602) 234-7800  
*Counsel for Creditor Fann Contracting, Inc.*

SNELL & WILMER  
L.L.P.  
LAW OFFICES  
3883 HOWARD HUGHES PARKWAY  
SUITE 1100  
LAS VEGAS, NEVADA 89169