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6 **UNITED STATES BANKRUPTCY COURT**
7 **DISTRICT OF NEVADA**

8 IN RE 9 BRYAN J. WHITE and VICKI L WHITE 10 11 Debtors,	Chapter: 11 Case No.: 15-16220-abl
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12 **Disclosure Statement for Debtors' First Amended Plan of Reorganization**
13 **for Bryan J. White and Vicki L White**

14
15 **I—Introduction and Representations**

16 **A. Introduction**

17 Bryan and Vicki White, the Debtors in the above-entitled proceeding, provide this
18 Disclosure Statement to all of their known creditors pursuant to 11 U.S.C §1125. The purpose of
19 this Disclosure Statement is to provide the information that may be deemed material, important
20 and necessary to the creditors and security holders of Debtors to make a reasonably informed
21 decision in exercising their right to vote for acceptance of the First AmendedPlan of
22 Reorganization of the Debtors (hereinafter referred to as 'The Plan'). The Disclosure Statement
23 will describe the Debtors, describe events that have occurred in the Bankruptcy case, explain the
24 Plan, how it works and how to vote for or against it. The Plan was filed simultaneously with this
25 Disclosure Statement in the United States Bankruptcy Court of the District of the State of
26 Nevada.

1 **B. Representations**

2 No representations concerning the Debtors or the Plan are authorized other than as set forth
3 herein. Any representations or inducements to secure your acceptance of the Plan other than as
4 contained herein should not be relied upon by you in arriving at a decision. The information
5 contained herein has not been reviewed or passed upon by an accountant. The Debtors are unable
6 to warrant or represent that the information contained herein is without any inaccuracy although
7 all such information is accurate to the best of Debtors' knowledge, information and belief. The
8 court has not verified the accuracy of the information contained herein, and the Court's approval
9 of this Disclosure Statement does not imply that the Court endorses or approves the Plan, but
10 only that the information is accurate and that, it is sufficient to provide an adequate basis for
11 creditors and interest holders to make informed decisions whether to approve or reject the Plan.
12 The information contained herein is provided as of the date

13 **II—General Information on Chapter 11 reorganization proceedings.**

14 Chapter 11 of the Bankruptcy Code is a remedial statute designed to effect the
15 rehabilitation and reorganization of financially distressed individuals and entities. The statutory
16 aims of a reorganization proceeding include the following:

17 (a) Preservation of the Debtors' property as a going concern and preservation of any going
18 concern value of the Debtors' business and operations;

19 (b) Avoidance of a forced and destructive liquidation of the Debtors' assets; and

20 (c) The protection of the interests of creditors, both secured and unsecured

21 The formulation and confirmation of a plan of reorganization is the principal function of a
22 Chapter 11 case. Such a plan normally includes provisions for:

23 (a) altering and modifying rights of creditors;

24 (b) dealing with the property of the Debtors;

25 (c) paying costs and expenses of administering the Chapter 11 case; and

26 (d) execution of the plan.

27 The plan may affect the interests of all parties and creditors, reject executory contracts, and

1 provide for prosecution or settlement of claims belonging to the Debtors. In order to be
2 confirmed by the Court, the Code requires that there be a finding that the plan receive the votes
3 of certain requisite classes and that the plan be "fair and equitable."

4 The formulation and confirmation of a plan of reorganization is the principal function of a
5 Chapter 11 case. Such a plan normally includes provisions for:

- 6 (a) altering and modifying rights of creditors;
- 7 (b) dealing with the property of the Debtors;
- 8 (c) paying costs and expenses of administering the Chapter 11 case; and
- 9 (d) execution of the plan.

10 In addition to the above, Section 1125 of the Code requires that there be a post-petition
11 disclosure in the form of a disclosure statement which provides "adequate information" to
12 creditors before anyone may solicit acceptances of a Chapter 11 plan. THIS DISCLOSURE
13 STATEMENT IS PREPARED IN ACCORDANCE WITH SECTION 1125 SO AS TO
14 PROVIDE "ADEQUATE INFORMATION" TO THE CREDITORS IN THIS PROCEEDING.
15 CREDITORS ARE URGED TO CONSULT WITH THEIR OWN INDIVIDUAL COUNSEL
16 AND TO REVIEW ALL OF THE PLEADINGS FILED IN THIS BANKRUPTCY
17 PROCEEDING IN ORDER TO FULLY UNDERSTAND THE DISCLOSURES MADE
18 HEREIN, ANY PLAN OF REORGANIZATION FILED HEREIN, AND ANY OTHER
19 PERTINENT MATTERS IN THIS PROCEEDING. ANY PLAN OF REORGANIZATION WILL
20 BE COMPLEX, ESPECIALLY SINCE IT REPRESENTS A PROPOSED LEGALLY BINDING
21 AGREEMENT BY DEBTOR (OR ANY OTHER PROPONENT OF A PLAN), AND ANY
22 INTELLIGENT JUDGMENT CONCERNING ANY PROPOSED PLANS CANNOT BE
23 MADE WITHOUT FULLY UNDERSTANDING THE INFORMATION CONTAINED IN THIS
24 DISCLOSURE STATEMENT AND THE FULL COMPLEXITIES OF ANY PLAN PROPOSED
25 HEREIN.

26 In order for a plan to be "fair and equitable," it must comply with the so-called absolute
27 priority rule. The absolute priority rule requires that beginning with the most senior rank of

1 claims of creditors against the Debtors, each class in descending rank or priority must receive
2 full and complete compensation before inferior or junior classes may participate in the
3 distribution. The plan must be accepted by the affirmative vote of a majority (in number of
4 creditors and in amount) of claims filed and allowed by each class, unless adequate provisions
5 are made for the classes of dissenting creditors. In order to fully understand how a plan is
6 confirmed, each individual creditor should review the Plan and Disclosure Statement with his or
7 her own attorney and receive full advise on the inter-workings of Sections 507(a), 1111, 1122,
8 1123, 1124 and 1129 of the Code. THE FOREGOING IS A BRIEF SUMMARY OF THE
9 HIGHLIGHTS OF A PLAN AND CONFIRMATION OF SUCH, AND THIS FOREGOING
10 SUMMARY SHOULD NOT SOLELY BE RELIED ON FOR VOTING PURPOSES.
11 CREDITORS ARE URGED TO CONSULT WITH THEIR OWN COUNSEL BEFORE
12 MAKING ANY DECISIONS ON A PLAN FILED HEREIN.

13 In addition to the above, Section 1125 of the Code requires that there be a post-petition
14 disclosure in the form of a disclosure statement which provides "adequate information" to
15 creditors before anyone may solicit acceptances of a Chapter 11 plan. THIS DISCLOSURE
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24 AGREEMENT BY DEBTOR (OR ANY OTHER PROPONENT OF A PLAN), AND ANY
25 INTELLIGENT JUDGMENT CONCERNING ANY PROPOSED PLANS CANNOT BE
26 MADE WITHOUT FULLY UNDERSTANDING THE INFORMATION CONTAINED IN THIS
27 DISCLOSURE STATEMENT AND THE FULL COMPLEXITIES OF ANY PLAN PROPOSED

1 HEREIN.

2 The Debtor is suited for, and in dire need of, the broad protection afforded by Chapter 11.
3 The Debtors was in a distressed financial condition largely as a consequence of the dramatic
4 downturn in the real estate and construction markets and its consequential loss of income. See
5 section IV below. The Debtor has proposed a successful plan of reorganization in the form of the
6 Plan submitted herewith, and plans to solicit approval and acceptance of it by the creditors, but
7 only after there has been judicial approval of this disclosure statement, including any
8 amendments hereto.

9 **III—Preparation of the Plan**

10 The plan and the history of Debtor has been prepared by the Debtors together with the
11 attorney for the Debtor, Richard E. Hawkins, Esq.

12 **IV—Background**

13 Debtors both work for the City of Henderson, and have two teenage children.

14 Debtors have been attempting for several years now to complete a rental home, namely
15 1660 Bridle Drive, Henderson, NV, 89002, having purchased the property during the real estate
16 “boom” in Las Vegas. With subsequent market changes, the house could not support its
17 valuation, Debtors have been unable to rent the property for enough to pay the original note, nor
18 to refinance at a rate or reduced principal that would allow the property to service itself. For
19 several years prior to filing their first Chapter 11, repairs on the home accounted for a large
20 portion of Debtors' incomes.

21 In an attempt to reorganize the property, debtor's filed case 14-14383-abl on June 25, 2014,
22 which was dismissed on August 28, 2015. The instant case was filed on November 2, 2015.

23 The primary issue in this case is the valuation of the property. Debtors believe that the
24 lender's valuation of \$330,000 is wildly inaccurate, based upon comparisons to different types of
25 properties in different neighborhoods. Debtor's appraisal as of June 30, 2016, values the
26 property at \$280,000.

27 **V—The Reorganization Plan**

1 **A. Brief Summary**

2 Debtors will pay \$180,000 from their incomes from this plan, and \$5,000 from exempt
 3 assets or borrowing to be repaid after completion of the plan. The payments shall be made at the
 4 rate of not less than \$3,000 per month for up to sixty months, with the \$5,000 due in the sixty-
 5 first month. The amount paid each month shall first be applied to the mortgage on the Bridle
 6 property, including required escrow payments. Debtor estimates the escrow payments at \$300 pe
 7 r month, and the following table sets for approximate principle and interest payments on a thirty
 8 year amortization depending upon the valuation and interest rate set:

	4.25%	4.50%	4.75%	5.00%	5.25%	5.50%
9 \$280,000.00	\$1,377.43	\$1,418.72	\$1,460.61	\$1,503.10	\$1,546.17	\$1,589.81
10 \$290,000.00	\$1,426.63	\$1,469.39	\$1,512.78	\$1,556.78	\$1,601.39	\$1,646.59
\$300,000.00	\$1,475.82	\$1,520.06	\$1,564.94	\$1,610.46	\$1,656.61	\$1,703.37
11 \$310,000.00	\$1,525.01	\$1,570.72	\$1,617.11	\$1,664.15	\$1,711.83	\$1,760.15
\$320,000.00	\$1,574.21	\$1,621.39	\$1,669.27	\$1,717.83	\$1,767.05	\$1,816.92
12 \$330,000.00	\$1,623.40	\$1,672.06	\$1,721.44	\$1,771.51	\$1,822.27	\$1,873.70

13
 14 Debtor has proposed \$280,000 at 4.25% for the treatment of the home, while the lender has
 15 proposed \$330,000. The actual values will be set by evidentiary hearing.

16 The amount set towards the plan each month shall be applied first to the mortgage payment
 17 due that month (Class 2), and the amount due on the Jetta (Class 1)with the balance to the
 18 following obligations, with each to be paid in full before any payment is made to the subsequent
 19 obligations:

- 20 1. Approved administrative expenses, primarily attorney fees in the estimated amount of
 21 \$15,000. This amount could be larger or smaller depending upon the application to be
 22 filed by counsel.
- 23 2. Priority tax debt to the Internal Revenue Service, in the amount of \$9,650.14.
- 24 3. Cure payments to Iron County Treasurer, Utah (Class 3), in the estimated amount of
 25 \$2,485.72.
- 26 4. Cure payments to ECMC (Class 4), in the estimated amount of \$14,000.
- 27 5. Disbursement of balance *pro rata* to general unsecured. For this category, disbursements

1 shall be quarterly rather than monthly. This group shall be paid pro rata and quarterly,
2 rather than monthly, and shall receive an aggregate payment of not less than \$6,000.

3 Debtor estimates the claims in this class at \$250,000, including the deficiency from Class
4 1 and the "HELOC" loan on the Bridle property to Clark County Credit Union.

5 **B. ADMINISTRATIVE CLAIMS AND PRIORITY DEBTS (UNCLASSIFIED**
6 **CLAIMS)**

7 In the event that the Debtor is adjudicated into a straight bankruptcy proceeding, and if its
8 assets are sold, the trustee will be required to pay from the proceeds of the property the following
9 expenses and/or debts in the following order:

10 (1) First, all secured claims validly secured by any property sold would have to be paid
11 from the sales proceeds.

12 (2) Thereafter, administrative claims would have to be paid in full.

13 (3) Thereafter, priority debts and especially taxes, wages and union benefits owing at filing
14 would have to be paid in full.

15 (4) Thereafter, unsecured claims would receive any residual equity from the proceeds of the
16 property sold or administered. (It should be noted that junior lienholders and/or other creditors
17 who are inadequately secured would be relegated to an unsecured status, if their security does not
18 prove sufficient to pay their claims).

19 In a straight bankruptcy liquidation proceeding, administrative costs would include court
20 costs, debts incurred during the pendency of the reorganization, and any professional fees which
21 may be paid to auctioneers, attorneys, accountants, trustee (if any), and an examiner (if any).

22 In a reorganization proceeding, the creditors could expect that administrative expenses
23 would principally be attorney's fees, which will be paid by the manager and not the estate in this
24 case in this case, with an estimated value of \$30,000. Please review the following disclaimer.

25 ADMINISTRATIVE EXPENSES AND CLAIMS CAN ONLY BE FIXED AND
26 DETERMINED BY THE BANKRUPTCY JUDGE IN THIS CASE, AND THE DEBTOR
27 WOULD RECOMMEND THAT EACH CREDITOR OBTAIN THE ADVICE OF HIS OR HER

1 OWN INDIVIDUAL ATTORNEY TO THE PROBABILITY AND AMOUNT OF ANY
2 ADMINISTRATIVE CLAIMS WHICH MAY BEPAID IN PREFERENCE TO CLAIMS OF
3 GENERAL UNSECURED CREDITORS AND IN MAKING AN EVALUATION AS TO
4 WHETHER A REORGANIZATION EFFORT WOULD BE PREFERABLE TO A
5 LIQUIDATION OF THE ASSETS OF THE DEBTOR IN A STRAIGHT BANKRUPTCY
6 PROCEEDING.

7 The administrative claims will have significant bearing on the decision of each individual
8 creditor in voting in favor of or against the plan of reorganization. The Debtors would suggest to
9 creditors that administrative claims will be significantly less if a plan of reorganization is
10 confirmed, as opposed to a straight bankruptcy liquidation proceeding. Aside from attorney fees,
11 the only other administrative expenses in this case are fees for dpos CPA, Bruce and Associates,,
12 along with U.S. Trustee fees which are current. There are no other priority debts in this case
13 aside from administrative expenses.

14 **C. SUMMARY OF THE PLAN OF REORGANIZATION**

15 The Debtors' Plan, which was filed with this Court, proposes to divide the creditors into
16 four groups of classifications: (1) one class for real estate to be retained, (2) one class for a
17 vehicle to be retained, (3) a class curing co-debtors' student loans, and (4) unsecured debt,
18 including mortgage and vehicle claims exceeding the collateral values.

19 Unclassified Debts. The Administrative Debts include attorney's and accountants in the
20 amount of approximately \$15,000. The quarterly payments to the Office of the United States
21 Trustee, pursuant to 11 U.S.C. §1129 (a)(12) shall be paid in full on or by the effective date of
22 the Plan. The total cash needed by Debtor to secure confirmation of the Plan will be nothing. No
23 priority or administrative debt exists other than attorney fees and the current quarter's fees from
24 the Office of the United States Trustee. Debtor's counsel has consented to receive these fees
25 within the plan rather than on the effective date, with an estimated amount of \$15,000.

26 Class "0": Equity in the Debtor

27 The Debtors are natural persons, and thus not subject to ownership. Nonetheless, the

1 “Absolute Priority Rule” in many cases prevents holders of an interest that is “junior” to other
2 interests from retaining that interest unless the “senior” interest is paid in full or new value is
3 paid. That rule is expected to apply in this case. Accordingly, Debtors' claims to their non-
4 exempt property (namely the real property and the vehicle) is junior to those of creditors.
5 Accordingly, Debtors are contributing \$5,000 from exempt property or borrowings, which
6 exceeds the equity value of \$0 in the exempt property being retained.

7 Class 1: The Jetta, Chase Auto Finance

8 If it accepts the plan, by vote or stipulation receive payments of payments of \$418.59, on
9 the 24th day of each month from the filing of the petition through January 24, 2017. These
10 payments were set at 10.5% interest, save for the period of April through December of 2014,
11 which are at 0%. If it does not, it shall receive total payments of \$6,034.42, at a rate of not less
12 than \$418.59 per month beginning November 24, 2015, reflecting the “Till” rate of 4.25% from
13 November 24, 2015 until paid in full.

14 Class 2: Real Property To Be “Crammed Down”, Fannie Mae

15 Class 2 is for the first mortgage on the residential rental properties. The mortgage debt on
16 each of this properties will be reduced to the value of the property, and paid over a thirty year
17 period. The values, interest rates, and payments will be determined by the court if Debtor and
18 Lender do not reach agreement. The table above in Section A describes the amounts to be paid
19 at various rates.

20 This property has been rented out during the pendency of this proceedings. The cashflow
21 from this property will be sufficient to largely fund the payments to Creditor, maintain the
22 property, and handle typical vacancies between tenants. That is, the property is anticipated to
23 neither add to nor subtract from the income available to fund payments described elsewhere in
24 this plan

25 Class 3: Iron County Treasurer

26 This class consists of delinquent payments to Iron County treasurer for three parcels (billed
27 as two) in Green Meadow Acres in Parowan, UT. The delinquency is \$2,485.72.

1 Class 4: Student Loan, ECMC

2 Upon satisfaction of the real estate taxes, payments shall be made to ECMC in the
3 estimated amount of \$14,000.

4 Class 7: Unsecured Claims

5 The unsecured claims include both claims against the debtor that were originally
6 unsecured, and claims which originated as secured, but for which there is no equity
7 ('undersecured claims'). The undersecured claims include the full HELOC the Bridle property
8 and the portion of the first mortgage which will not be paid. The undersecured claims constitute
9 the largest portion of class. Debtor estimates a dividend of approximately 4% to be paid to this
10 class. This number could be higher or lower.

11 **D. Other Obligations of the Debtor**

12 Debtors' primary obligations will be its and household expenses, as reflected in Schedule J
13 on file herein.

14 Debtor will have average monthly living costs of approximately \$10,000, as reflected on
15 schedules I & J on file in this case, leaving approximately enough each month to fund the plan.

16 Finally, Debtor will have quarterly fees to the United States Trustee in the amount of \$325
17 or \$650/quarter (\$108 or \$216/month) until the case is administratively closed.

18 **E. Estimated Revenue**

19 As reflected on Schedule I, debtors have monthly income from all sources of more than
20 \$13,000.

21 **III Summary of Activities During Proceedings**

22 The case was filed November 2, 2015 and the 341 meeting will held December 10, 2015.

23 On December 14, 2015,

24 A motion to dismiss was filed 12/14/2015, which concluded with a stipulated order setting
25 time to confirm the plan. This deadline has been informally extended by agreement between
26 Debtor's counsel and the UST.

27 On March 28, 2015, the UST filed a motion to determine that the Debtors are a "Small

1 Business Debtor” under 11 USC §101(51D). This motion was ultimately granted over Debtor's
2 strenuous objection.

3 The lender on the rental property has terminated the services of its former servicer and its
4 counsel. New counsel does not appear to have been hired.

5 **IV—Pending Litigation**

6 Debtors have no pending litigation.

7 **V—Present Financial Condition**

8 **F. Assets**

9 The assets of the Debtors are more fully shown on Schedules A and B of the schedules of
10 assets and liabilities filed herein, as amended, as well as in post-petition operating reports. TO
11 THE BEST OF THE KNOWLEDGE, INFORMATION, AND BELIEF OF THE DEBTOR,
12 THESE STATEMENTS AND SCHEDULES CONTAIN AN ACCURATE ITEMIZATION OF
13 THE ASSETSAND LIABILITIES OF THE DEBTOR PRIOR TO FILING. CREDITORS ARE
14 URGED TO SCRUTINIZE THE STATEMENT OF AFFAIRS AND SCHEDULES OF
15 ASSETSAND LIABILITIES CLOSELY, AS WELL AS POST-PETITION OPERATION
16 STATEMENTS, AND MAY INQUIRE WITH THE DEBTORS AND THEIR ATTORNEYS AS
17 TOANY PERTINENT FACTS REGARDING THESE MATTERS, SO THAT CREDITORS
18 MAY BE ASSURED THAT FULL DISCLOSURE AND "ADEQUATE INFORMATION" ARE
19 BEINGFURNISHED WITH REGARD TO ASSETS AND LIABILITIES.

20 **G. Liabilities**

21 The liabilities of the Debtors are set forth in schedules D through F of the schedules filed
22 herein, as well as in post-petition operating reports. Liabilities not listed as disputed are deemed
23 allowed under §11U.S.C.§1111(a).

24 Creditor Federal National Mortgage Association has an unsecured claim for the difference
25 in the amount owed and the amount to set as a value of its collateral at confirmation. For each
26 undersecured claim, the Plan provides, in accordance with 11 U.S.C. 1111 (b)(1)(A),that such
27 creditors shall have both a secured claim for the value of their claims as set forth in Article VI

1 above, as well as an unsecured claim for the balance of the claim over and above the value of the
2 collateral.

3 The Plan proposes to bifurcate all secured claims as detailed in section into secured and
4 unsecured amounts. Secured claims are to repaid through equal monthly payments over no
5 longer than 30 years. Unsecured creditors are to be paid over no longer than 5 years under 11
6 U.S.C§1125(a)(15)(B), which references §1325(b)(2) of the Code.

7 TO THE BEST OF DEBTORS' KNOWLEDGE, INFORMATION AND BELIEF THE
8 LIABILITIES SET FORTH HEREIN AND ON SAID SCHEDULES CONSTITUTE A FULL
9 AND COMPLETE ESTIMATION OF ALLLIABILITIES OF THE DEBTOR, AND THE
10 AMOUNTS THEREOF (EXCLUDINGINTEREST, ATTORNEY'S FEES AND ANY OTHER
11 UNKNOWN OR VARIABLE FACTS, BEARING ON THE AMOUNT OF THE LIABILITIES).
12 CREDITORS ARE URGEDTO FULLY REVIEW WITH THEIR ATTORNEYS (AND
13 CONSULT WITH THE DEBTOR AND THEIR ATTORNEY) THE SCHEDULES OF
14 LIABILITIES FILED HEREIN, TOGETHER WITH THE MONTHLY OPERATION REPORTS
15 FILED WITH THIS COURT.

16 **H. Valuation**

17 The Debtors believe that the valuation of their assets shown on the schedules and by
18 appraisal is a fair estimate, if the assets were sold at full market value. In the event, however, of
19 the adjudication of the Debtors into a straight bankruptcy proceeding and the subsequent
20 liquidation of their property over a short period of time (and possibly at forced sale values), it is
21 highly probable that a significantly lower value might be received for their property, especially in
22 view of the present economic climate. In all cases, Debtors have agreed with the creditor as to
23 the resolution of value or discrepancies in value are in a narrow range whereby such values will
24 be settled prior to confirmation. The Debtors believe that they may achieve the greatest value for
25 their property and recovery for creditors through a Plan of Reorganization which will be
26 proposed by the Debtors herein.

27

1 **I. Liquidation Value**

2 In the event of any adjudication into a Chapter 7 liquidation proceeding, Debtor would
3 suggest to creditors that the assets of debtor would be sold for a gross price of approximately the
4 values for the properties listed in Schedules A & D, with expenses of sale of approximately ten
5 per cent (10%). These sums will go entirely to the first mortgages, with nothing available for
6 junior liens, unsecured creditors, or the undersecured portions of the first mortgage, save for the
7 twp properties owned without lien in Schedule A, which would raise a *de minimus* amount if
8 sold at auction. It is unlikely that such a sale would exceed the value of Debtor's remaining
9 "wildcard" exemption under NRS 21.090(z), and would not be expected to produce a dividend to
10 creditors.

11 **VI—Risk Factors**

12 The single greatest risk to this plan is the loss of one or both Debtors' employment. As
13 both are long-term government employees, this is seen as unlikely without serious injury.

14 The existence of the rental property presents at least a theoretical liability risk, but the
15 property is insured.

16 **VII—Approval of Plan**

17 **A. General Information on Confirmation**

18 In order to obtain confirmation of the plan by the Bankruptcy Court, the plan must be
19 accepted by a majority of the creditors in each class who hold at least two-thirds of the titled
20 claims in each respective class. Other requirements for confirmation are contained in 11 U.S.C §
21 1129(a) and (b) of the Code.

22 Under the Bankruptcy Code, as long as the plan is accepted by the holders of claims or
23 interest in at least one class, the plan may be confirmed by the Bankruptcy Court "cramming
24 down" the plan provision against the non-accepting classes of creditors. The provisions for
25 effecting a "cramming down" are very detailed and complex, and reference to the Bankruptcy
26 Code is recommended in affecting it on dissenting creditors. The Debtor has not decided whether
27 he will utilize the "cramming down" provisions of the Bankruptcy Code to obtain confirmation

1 of the Plan if the holders of claims or interests in any class do not accept the plan. This
2 determination will be made at a later date. Creditors should note that the absolute priority rule
3 does not apply in the case of an individual Debtor under 1129(b)(2)(B)(ii).

4 **B. Who May Vote or Object.**

5 Any party in interest may object to the confirmation of the Plan if the party believes that
6 the requirements for confirmation are not met.

7 Many parties in interest, however, are not entitled to vote to accept or reject the Plan. A
8 creditor or equity interest holder has a right to vote for or against the Plan only if that creditor or
9 equity interest holder has a claim or equity interest that is both (1) allowed for voting purposes
10 and (2) impaired.

11 In this case, the Plan Proponent believes that all classes are impaired and that holders of
12 claims in each of these classes are therefore entitled to vote to accept or reject the Plan.

13 **C. What is an Allowed Claim or an Allowed Equity Interest?**

14 Only a creditor or equity interest holder with an allowed claim or an allowed equity interest
15 has the right to vote on the Plan. Generally, a claim or equity interest is allowed if either (1) the
16 Debtor has scheduled the claim on the Debtor's Schedules, unless the claim has been scheduled
17 as disputed, contingent, or liquidated, or (2) the creditor has filed a proof of claim or equity
18 interest, unless an objection has been filed to such proof of claim or equity interest. When a
19 claim or equity interest is not allowed, the creditor or equity interest holder holding the claim or
20 equity interest cannot vote unless the Court, after notice and hearing, either overrules the
21 objection or allows the claim or equity interest for voting purposes pursuant to Rule 3018(a) of
22 the Federal Rules of Bankruptcy Procedure.

23 The deadline for filing a proof of claim in this case was March 9, 2016.

24 **D. What is an Impaired Claim or Impaired Equity Interest?**

25 As noted above, the holder of an allowed claim or equity interest has the right to vote only
26 if it is in a class that is impaired under the Plan. As provided in §1124 of the Code, a class is
27 considered impaired if the Plan alters the legal, equitable, or contractual rights of the members of

1 that class.

2 **E. Who is NOT Entitled to Vote.**

3 The holders of the following six types of claims and equity interests and not entitled to
4 vote:

- 5 • Holders of claims and equity interests that have been disallowed by an order of the Court;
- 6 • Holders of other claims or equity interests that are not “allowed claims” or “allowed
7 equity interests” (as discussed above), unless they have been “allowed” for voting
8 purposes;
- 9 • Holders of claims or equity interests in unimpaired classes;
- 10 • Holders of claims and equity interests that have been disallowed by an order of the Court;
- 11 • Holders of claims or equity interests in classes that do not receive or retain any value
12 under the Plan; and
- 13 • Administrative expenses.

14 Even If You Are Not Entitled to Vote on the Plan, You Have a Right to Object to the
15 Confirmation of the Plan and to the Adequacy of the Disclosure Statement.

16 **F. Who Can Vote in More Than One Class.**

17 A Creditor whose claim has been allowed in part as a secured claim and in part as an
18 unsecured claim, or who otherwise hold claims in multiple classes, is entitled to accept or reject
19 the Plan in each capacity, and should cast one ballot for each claim.

20 **G. Votes Necessary to Confirm the Plan.**

21 If impaired classes exist, the Court cannot confirm the Plan unless (1) at least one impaired
22 class of creditors has accepted the Plan without counting the votes of any insiders within that
23 class, and (2) all impaired classes have voted to accept the Plan, unless the Plan is eligible to be
24 confirmed by “cramdown” on non-accepting classes, as discussed later in Section [B.2.].

25 **H. Determination of Accepting Classes**

26 A class of claims accepts the Plan if both of the following occur: (1) the holders of more
27 than one-half (1/2) of the allowed claims in the class, who vote, cast their votes to accept the

1 Plan, and (2) the holders of at least two-thirds (2/3) in dollar amount of the allowed claims in the
2 class, who vote, cast their votes to accept the Plan.

3 A class of equity interests accepts the Plan if the holders of at least two-thirds (2/3) in
4 amount of the allowed equity interests in the class, who vote, cast their voted to accept the Plan.

5 **I. Treatment of Nonaccepting Classes.**

6 Even if one or more impaired classes reject the Plan, the Court may nonetheless confirm
7 the Plan if the nonaccepting classes are treated in the manner prescribed by §1129(b) of the
8 Code. A plan that binds nonaccepting classes is commonly referred to as a “cramdown” plan. The
9 Code allows the Plan to bind nonaccepting classes of claims or equity interests if it meets all the
10 requirements for consensual confirmation except the voting requirements of §1129(a)(8) of the
11 Code, does not “discriminate unfairly,” and is “fair and equitable” toward each impaired class
12 that has not voted to accept the Plan.

13 You should consult your own attorney if a “cramdown” confirmation will affect your claim
14 or equity interest, as the variations on this general rule are numerous and complex.

15 **J. Votes Necessary to Confirm the Plan.**

16 To confirm the Plan, the Court must find that all creditors and equity interest holders who
17 do not accept the Plan will receive at least as much under the Plan as such claim and equity
18 interest holders would receive in a chapter 7 liquidation. A liquidation analysis is part of this
19 Disclosure Statement in Section IX.

20 **VIII—Effect of Confirmation of the Plan**

21 **A. Discharge of Debtor**

22 Discharge. Upon completion of of the payments specified in Article IV of the Plan, Debtors
23 may petition this court for their Order of Discharge. Should this case be closed while plan
24 payments are made, such motion may be filed and heard as part of the motion to reopen. Debtor
25 will not be discharged from any debt excepted from discharge under §523 of the Code, except as
26 provided in Rule 4007(c) of the Federal Rules of Bankruptcy Procedure.

1 **B. Modification of Plan.**

2 The Plan Proponent may modify the Plan at any time before confirmation of the Plan.
3 However, the Court may require a new disclosure statement and/or revoting on the Plan.

4 Upon request of the Debtor, the United States trustee, or the holder of an allowed
5 unsecured claim, the Plan may be modified at any time after confirmation of the Plan but before
6 the completion of payments under the Plan, to(1) increase or reduce the amount of payments
7 under the Plan on claims of a particular class, (2) extend or reduce the time period for such
8 payments, or (3) alter the amount of distribution to a creditor whose claim is provided for by the
9 Plan to the extent necessary to take account of any payment of the claim made other than under
10 the Plan.

11 **C. Final Decree**

12 Once the estate has been fully administrated, as provided in Rule 3022 of the Federal Rules
13 of Bankruptcy Procedure, the Plan Proponent, or such other party as the Court shall designate in
14 the Plan Confirmation Order shall file a motion with the Court to obtain a final decree to close
15 the case. Alternatively, the Court may enter such a final decree on its own motion.

16
17 Declaration

18 I, the debtor herein, have read the above and foregoing Disclosure Statement and know the
19 contents thereof, and the same is true of my own knowledge except for those matters stated on
20 information and belief, and and as for those matters believe them to be true; and as to those
21 matters stating the law.

21 _____
22 Bryan White

21 _____
22 Vicki White

23 DATED: August 11, 2016

24 Submitted by:

25 [/s/ RE Hawkins](#)

26 Richard E. Hawkins

27 Attorney for Debtor in Possession