

David A. Riggi, Esq.  
Nevada Bar No. 4727  
5550 Painted Mirage Rd., Suite 120  
Las Vegas, Nevada 89149  
Telephone: (702) 463-7777  
Facsimile: (888) 306-7157  
E-mail: RiggiLaw@gmail.com  
Attorney for the Debtors in Possession

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

In re:	)	Case No. 16-11211-ABL
	)	
GLENN A. PATERNOSTER and	)	
CARMEL P. PATERNOSTER,	)	Chapter 11
	)	
Debtors in Possession	)	Hearing Date: December 14, 2016
	)	Hearing Time: 1:30 p.m/

**DISCLOSURE STATEMENT**  
**FOR THE PLAN OF REORGANIZATION**  
**OF GLENN A. PATERNOSTER AND CARMEL P. PATERNOSTER**

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**I. INTRODUCTION**

This document is the Disclosure Statement (the “**Disclosure Statement**”) in the individual Chapter 11 case of Glenn A. Paternoster and Carmel P. Paternoster (“**Debtors**” or “Debtors in Possession”). This Disclosure Statement contains information about the Debtors and describes their First Amended Plan of Reorganization (the “**Plan**”) which was filed on October 24, 2016, in accordance with the United States Bankruptcy Code, 11 U.S.C. §§ 101, *et seq.* (the “**Bankruptcy Code**”). A full copy of the Plan of Reorganization is attached to this Disclosure Statement as “**Exhibit A.**”

**YOU SHOULD READ THE PLAN AND THIS DISCLOSURE STATEMENT CAREFULLY AND DISCUSS THEM WITH YOUR ATTORNEY. IF YOU DO NOT HAVE AN ATTORNEY, YOU MAY WISH TO CONSULT ONE. YOUR RIGHT MAY BE AFFECTED.**

The proposed distributions under the Plan are discussed in pages 5-9 of this Disclosure Statement. Secured creditors with rights to vote are classified into five (5) classes; Unsecured creditors are classified into a separate class, comprised of Class 6 (General Unsecured Creditors). The Internal Revenue Service is in a separate non-voting class. General Unsecured Creditors may receive an estimated distribution (the “Unsecured Creditors’ Distribution”), to be distributed in 20 equal quarterly payments by an agent (the “Distribution Agent”), or by the Debtors, who shall be responsible for distributing monies according to the Plan. If a Distribution Agent is utilized, that individual will be authorized to collect a reasonable fee (no more than 2 percent of monies actually distributed) from monies that might otherwise be distributed to General Unsecured Creditors or administrative expenses, for administering the Debtors’ post confirmation estate.

#### PURPOSE OF THIS DOCUMENT

This Disclosure Statement describes:

- The Debtors and the significant events during the bankruptcy case;
- How the Plan proposes to treat claims of the type you hold (i.e., what monetary satisfaction you will receive, based on your claim, if the plan is confirmed);
- Who can vote on, or object to, the Plan;
- What factors the Bankruptcy Court (the “Court”) will consider when deciding whether to confirm the Plan;
- Why the Debtors believe the Plan is feasible, and how the treatment of your claim under the Plan compares to what you would receive on your claim in liquidation; and
- The effect of confirmation of the Plan.

Be sure to read the Plan as well as the Disclosure Statement. This Disclosure Statement describes the Plan, but it is the confirmed Plan itself that will establish and control your rights.

#### Deadlines for Voting and Objecting; Date of Plan Confirmation Hearing

The Court has not yet confirmed the Plan described in this Disclosure Statement. This section describes the procedures pursuant to which the Debtors seek to have the Plan confirmed. In addition, included with this Disclosure Statement is the Notice of Confirmation, which sets forth objection deadlines, as well as other important dates, deadlines and time periods.

Time and Place of the Hearing to Confirm the Plan.

The Court will hold a hearing on \_\_\_\_\_, 2016 at \_\_\_\_ a.m. to determine whether to confirm the Plan, in Courtroom 1, at the United States Bankruptcy Court for the District of Nevada, 300 South Las Vegas Boulevard, Las Vegas, Nevada, 89101.

Deadline for Voting to Accept or Reject the Plan.

If you are entitled to vote to accept or reject the Plan, enclosed is a ballot describing your claim. Please complete the ballot, as indicated, and return the ballot in the enclosed envelope to Debtors' counsel: Riggi Law Office, 5550 Painted Mirage Rd. Suite 120, Las Vegas, Nevada, 89149, Attn: David A. Riggi, Esq. See section IV.A. below for a discussion of the voting eligibility requirements. Your ballot must be received by \_\_\_\_\_, 2016, or it may not be counted.

Deadline for Objecting to Confirmation of the Plan.

Objections to the confirmation of the Plan must be filed with the Court and served upon (a) Debtors' counsel, Riggi Law Office, 5550 Painted Mirage Rd. Suite 120, Las Vegas, Nevada, 89149, Attn: David A. Riggi, Esq. and (b) The Office of the United States Trustee, 300 Las Vegas Blvd. South, Room 4300, Las Vegas, Nevada, 89101, by \_\_\_\_\_, 2016.

Identity of Person to contact for more information.

If you want additional information about the Plan, you should contact Debtors' counsel, Riggi Law Office, 5550 Painted Mirage Rd. Suite 120, Las Vegas, Nevada, 89149, Attn: David A. Riggi, Esq., at 702.463.7777.

DISCLAIMER

THE COURT APPROVED THIS DISCLOSURE STATEMENT AS CONTAINING ADEQUATE INFORMATION TO ENABLE PARTIES AFFECTED BY THE PLAN TO MAKE AN INFORMED DECISION ABOUT ITS TERMS. THE COURT HAS NOT YET DETERMINED WHETHER THE PLAN MEETS THE LEGAL REQUIREMENTS FOR CONFIRMATION, AND THE FACT THAT THE COURT APPROVED THIS DISCLOSURE STATEMENT DOES NOT CONSTITUTE AN ENDORSEMENT OF THE PLAN BY THE COURT, OR A RECOMMENDATION THAT IT BE ACCEPTED.

## **II. BACKGROUND**

### The Debtors' Sources of Income

The Debtors live Las Vegas Nevada. Mr. Paternoster is a practicing attorney, focusing on personal injury cases, and owns the Paternoster Law Group (PLG"). It is anticipated that, by the time of the confirmation hearing, the Debtors will have received at least \$100,000 income from PLG which can be devoted to plan payments. They also own and manage an investment property in Newport Beach, California. The sale of this investment property should garner, it is anticipated, surplus proceeds of at least \$700,000 which can be devoted to plan payments. Carmel Paternoster will receive, it is believed within 30 days of this statement, monies from a personal injury lawsuit in the amount of at least \$200,000.

### Events Leading to Chapter 11 Filing

The main event leading to this Chapter 11 was Glenn Paternoster beginning a new law practice, PLG. Because of the contingency basis for most of his income, and because of the competitiveness of the personal injury law practice market, the income has been sporadic and uneven. This case was filed in order to reorganize their debt and return their financial circumstances to profitability.

### Significant Events During the Bankruptcy Case

The most significant events in this case are: (1) the determination of the IRS debt; and (2) the decision to sell the California investment property. The Debtors have not filed any adversary proceedings at this time.

### Projected Recovery of Avoidable Transfers

The Debtors do not intend to pursue preference, fraudulent conveyance, or other avoidance actions at this time. The Debtors do not believe any significant transfers occurred during the 2 year period leading up to the filing of this case. Importantly, the majority of the Debtors' significant transfers were the payment of their mortgages.

The Debtors do reserve their right, however, to perform and complete an investigation with regard to prepetition transactions. Although they do not believe significant transfers occurred, creditors should be aware that if you received a payment or other transfer within 90 days of the bankruptcy, or other transfer avoidable under the Bankruptcy Code, the Debtors may seek to avoid such transfer.

### Claims Objections

Except to the extent that a claim is already allowed pursuant to a final non-appealable order, the Debtors reserve the right to object to creditors' claims. Therefore, even if your claim is allowed for voting purposes, you may not be entitled to a distribution if an objection to your claim is later upheld. The procedures for resolving disputed claims are set forth in Article V of the Plan.

Separately, the Court set a bar dates for proofs of claims for general creditors and for governmental entities (the "Bar Date"). The Bar Date is the date after which creditors cannot file a proof of claim in this case. Importantly, if your claim is listed in the Debtors' Schedules of Liabilities, and you agree with the claim amount listed there, you do not need to file a proof of claim in the case. If the Debtors amend their Schedules of Liabilities and your claim is affected, you will have an opportunity to file an objection to any such change.

### Current and Projected Financial Conditions

The identity and fair market value of the estate's real properties are listed as part of "**Exhibit B,**" the Liquidation Analysis. If you are a secured lender, your secured claim may change in connection with confirmation of the Plan if the value of your collateral has fallen. If you are a secured creditor and intend to object to any valuation of your collateral, you must file an objection to the Plan. Overall, it is the Debtors' conservative opinion that the current financial condition is the same as the projected condition, except of course for the treatment of creditors through this reorganization.

## **III. SUMMARY OF THE PLAN OF REORGANIZATION AND TREATMENT OF CLAIMS AND EQUITY INTERESTS**

### What is the purpose of the plan of Reorganization?

As required by the Bankruptcy Code, the Plan places claims in separate classes and describes the treatment each class will receive. The Plan also states whether each class of claims is impaired or unimpaired. If the Plan is confirmed, your recovery will be limited to the amount provided by the Plan.

### Unclassified Claims

Certain types of claims are automatically entitled to specific treatment under the Code. They are not considered impaired, and holders of such claims do not vote on the Plan. They may, however, object if, in such creditor's view, its treatment under the Plan does not comply with that required by the Code. As such, the Debtors did *not* place the following claims in any class:

#### Administrative Expenses

Administrative expenses are costs or expenses of administering the Debtors' Chapter 11 case which are allowed under section 507(a)(2) of the Bankruptcy Code. Administrative expenses also include the value of any goods or services sold to the Debtors in the ordinary course of business. The Bankruptcy Code requires that all administrative expenses be paid on the Effective Date of the Plan, unless a particular claimant agrees to a different treatment. The following chart lists the Debtors' estimated administrative expenses and their proposed treatment under the Plan:

<u>Type</u>	<u>Estimated Amount Owed</u>	<u>Proposed Treatment</u>
Expenses arising in the ordinary course of business	None at this time - Current as of the date of filing of the Disclosure Statement.	Paid in full on the Effective Date of the Plan, or according to terms of obligation if later.
Professional Fees, as approved by the court	To Be Determined	Paid in full on the Effective Date of the plan; or according to separate written agreement; or according to court order; or from monies paid by Debtors to the Disbursement Agent.
Clerk's Office Fees	None at this time	Paid in full on the Effective Date of the Plan.
Other administrative expenses	None at this time	Paid in full on the Effective Date of the Plan or according to separate written agreement.

Office of the U.S. Trustee Fees	None at this time	Paid in full on the Effective Date of the Plan or according to separate written agreement.
TOTAL	To Be Determined	

### Secured and Priority Tax Claims

Secured tax claims are tax obligations to a governmental entity for which that entity accomplished all procedural steps to secure all or part of a debt, and for which collateral exists to secure all or part of a debt. Priority tax claims are unsecured income, employment, and other taxes described by Section 507(a)(8) of the Bankruptcy Code. Unless the holder of such a Section 507(a)(8) priority tax claim agrees otherwise, it must receive the present value of such claim, in regular installments paid over a period not exceeding 5 years. The secured and priority portions of the Internal Revenue Service's claim, as to be adjusted as necessary, shall be satisfied through monthly payments of \$16,070.80, commencing on the Effective Date of the Plan and continuing for a total term of 60 months, with any remaining balance, based upon an initial balance of \$964,447.94, due and payable no later than the final month.

### Classes of Claims

The following are the classes set forth in the Plan, and the proposed treatment that they will receive under the Plan.

### Classes of Secured Claims

Allowed Secured Claims are claims secured by property of the Debtors' bankruptcy estate (or that are subject to set off) to the extent allowed as secured claims under Section 506 of the Bankruptcy Code. Except for the Debtors' primary residence, if the value of the collateral or setoffs securing the creditor's claim is less than the amount of the creditor's allowed claim, the deficiency will be classified as a general unsecured claim in Class 6. The Debtors' first mortgage lien holders' claims, which are impaired, will be valued and bifurcated in accordance with Section 506 of the Bankruptcy Code.

The following chart lists the Debtors' proposed treatment of secured claims under the Plan:

Class	Description	Impairment	Treatment
1	MERRILL LYNCH MORTGAGE INVESTORS First Mortgage Claim (POC #5) secured against 5 Corral De Tierra Place, Henderson Nevada 89052	Unimpaired	This first mortgage on the principal residence shall remain in place and not modified, with normal monthly payments of \$7,560.72 resuming on the Effective Date of the Plan and with delinquencies in the estimated amount of \$485,165.40 being cured through equal monthly payments of over \$8,086.09 over 60 months commencing on the Effective Date of the Plan. Debtors shall be responsible for maintaining property taxes and insurance.
2	CLASS TWO – US BANK NATIONAL ASSOCIATION Second Mortgage Claim (POC #3) secured against 5 Corral De Tierra Place, Henderson Nevada 89052	Impaired	This second mortgage on the principal residence shall be modified through the amortization of the claim of \$100,761.58 over 360 months at the rate of 5.25 percent, resulting in monthly payments of \$556.41. These payments shall commence of the Effective Date of the Plan.
3	CLASS THREE – ANTHEM COUNTRY CLUB COMMUNITY ASSOCIATION, INC. Claim (POC #2) secured against 5 Corral De Tierra Place, Henderson Nevada 89052	Impaired	This home owners association secured claim against principal residence shall be modified through the amortization of the claim of \$5,484.65 over 60 months at the rate of 5.25 percent, resulting in monthly payments of \$104.13. These payments shall commence of the Effective Date of the Plan
4	CLASS FOUR – HSBC BANK USA, NATIONAL ASSOCIATION NATIONSTAR MORTGAGE LLC Claim (POC #62) secured against 2017 E	Impaired	This first mortgage on the investment property shall be satisfied through the sale of the property. The satisfaction of this claim shall occur no later than 24



	Ocean Blvd, Newport Beach, California 92661		months after the Effective Date of the Plan.
5	CLASS FIVE – COUNTY OF ORANGE (POC #62) secured against 2017 E Ocean Blvd, Newport Beach, California 9266	Impaired	This real estate tax secured by the investment property shall be satisfied through the sale of the property. The satisfaction of this claim shall occur no later than 24 months after the Effective Date of the Plan.

#### Classes of General Unsecured Claims

General unsecured claims are not secured by property of the estate and are not entitled to priority under Section 507(a) of the Bankruptcy Code.

The following chart identifies the Plan's proposed treatment of Class Number 8, which contains the General Unsecured Claims against the Debtors:

Class	Description	Impairment	Treatment
6	General Unsecured Class	Impaired	All unsecured creditors having filed proofs of claims that are not disputed, contingent or un-liquidated, may be paid, pro rata, \$2000.00 a month commencing on the Effective Date of the Plan, and continuing for 60 months or complete satisfaction of all valid claims, whichever is earlier, subject to any administrative expense rights and to liquidation analysis satisfaction.

Equity Interest of the Debtors

Equity interest holders are parties who hold an ownership interest (i.e., equity interest). In a corporation, entities holding preferred or common stock are equity interest holders. In a partnership, equity interest holders include both general and limited partners. In a limited liability company, the equity interest holders are the members. Finally, with respect to an individual who is a Debtor, the Debtor is the equity interest holder. In this case, because the Debtors are individuals, their equity interests will be unimpaired by the Plan.

**IV. MEANS OF IMPLEMENTING THE PLAN**Sources of Payments

Payments and distributions under the Plan will be funded by the Debtors, based upon (a) projected sale of the California investment property; and (b) personal income. The Debtors' Cash Flow Analysis is attached hereto as "**Exhibit C**" and outlines the Debtors' sources and uses of income. The Plan payments described in this Disclosure Statement are based on the sum of their sale proceeds and household income, minus monthly mortgage payments and personal expenses.

Method of Plan Payments

Before the Effective Date of the Plan, the Debtors may retain a disbursement agent (the "Disbursement Agent"). Except as otherwise provided in the Plan, upon confirmation, the Debtors shall begin making monthly distributions to the Disbursement Agent under the Plan, if one is utilized. The Disbursement Agent, or the Debtors, may begin, as soon as practical, making pro rata payments to the Debtors' General Unsecured Creditors holding allowed claims on a quarterly basis, until such claims are paid as set forth in the Plan, and as possibly adjusted by administrative expenses and liquidation analysis satisfaction.

Distributions on Account of Claims Allowed After the Effective Date

Except as otherwise provided in the Plan, or upon the entry of a final, non-appealable order of the Bankruptcy Court, or as agreed to by the relevant parties, distributions under the Plan on account of a disputed claim that becomes an allowed claim after the Effective Date of the Plan shall be begin on the regular quarterly payment date, as established by the Disbursement Agent, which is at least thirty (30) days after such claim becomes an allowed claim. Notwithstanding

anything in the Plan to the contrary, and except as otherwise agreed to by the relevant parties, no partial payments and no partial distributions shall be made with respect to a disputed claim until all such disputes in connection with such disputed claim have been resolved by settlement among the parties or a final order of the Court. In the event that there are disputed claims requiring adjudication and resolution, the Disbursement Agent shall establish appropriate reserves for potential payment of such Claims.

In no event, however, shall the Disbursement Agent be held liable for any failures of the Debtors to make any of their payments required under the Plan.

#### Risk Factors

The significant risk related to the Debtors' Plan is the continued deterioration of both the housing and rental markets. Should the housing market deteriorate in a manner which causes the Debtors' home to become unaffordable, and the related mortgage could not be modified or refinanced to reflect the changed circumstances, the Debtors may become unable to make their Plan payments. In addition, should the Debtors become unemployed during the course of their Plan, they could also become unable to make their Plan payments. Their income is stable, however, should their employment status change or their tenants stop paying, making their Plan payments could become impossible.

#### Executory Contracts and Unexpired Leases

All executory contracts and unexpired leases will be assumed under the Plan. Assumption means that the Debtors have elected to continue to perform the obligations under such contracts and unexpired leases, and to cure defaults of the type that must be cured under the Code, if any.

If you object to the assumption of your unexpired lease or executive contract, the proposed cure of any defaults, or the adequacy of assurance of performance, you must file and serve your objection to the Plan within the deadline for objecting to the confirmation of the Plan, unless the Court sets an earlier time.

#### Tax Consequences of Plan

Creditors concerned with how the Plan may affect tax liability should consult with their Accountants, Attorneys, and/or Advisors.

The Debtors do not anticipate any adverse tax consequences to their estate from the Plan. To the extent the Debtors receive any debt forgiveness income related to this Chapter 11 case, such income would not be taxable under Section 108(a)(1) of the Internal Revenue Code, 26 U.S.C. §§ 1, *et seq.* This cancellation of debt income will become final upon discharge, which may not occur until 60 months after the Effective Date of the Plan. Pursuant to Internal Revenue Code section 108(b), the cancellation and forgiveness of debt will, in fact, reduce the tax basis of each of the Debtors' properties to the extent a debt cancellation relate to a particular property. As a result, the depreciation deduction for a property, which is based on that property's basis, may be affected. In addition, the Debtors may file a separate income tax return to report the income of the bankruptcy estate. The Debtors may have rights to deduct the interest paid on mortgages, whether such payments were tendered before or after the Effective Date of the Plan.

## **V. CONFIRMATION REQUIREMENTS AND PROCEDURES**

To be confirmable, the Plan must meet the requirements listed in Section 1129(a) or (b) of the Bankruptcy Code. These include the requirements that: (i) the Plan must be proposed in good faith; (ii) at least one impaired class of claims must accept the plan, without counting votes of insiders; (iii) the Plan must distribute to each creditor and equity interest holder at least as much as the creditor or equity interest holder would receive in a Chapter 7 liquidation case, unless the creditor or equity interest holder votes to accept the Plan; and (iv) the Plan must be feasible. These requirements are not the only requirements listed in Section 1129, and they are not the only requirements for confirmation.

### Who May Vote or Object

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

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

In this case, the Debtors believe that, except for Class 1, all classes are impaired, and that holders of claims in each of these classes are therefore entitled to vote to accept or reject the Plan.

### What Is an Allowed Claim?

Only a creditor with an allowed claim has the right to vote on the Plan. Generally, a claim is allowed if either (A) the Debtors have scheduled the claim on the Debtors' schedules, unless the claim has been scheduled as disputed, contingent, or un-liquidated, or (B) the creditor has filed a proof of claim, unless an objection has been filed to such proof of claim by the Debtors, in which case, such creditor cannot vote unless the Court, after notice and hearing, either overrules the objection or allows the claim for voting purposes pursuant to Rule 3018(a) of the Federal Rules of Bankruptcy Procedure.

The deadline for filing objections to Confirmation is \_\_\_\_\_, 2016.

### What Is an Impaired Claim?

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

### Who is NOT Entitled to Vote?

The holders of the following six types of claims are *not* entitled to vote:

- Holders of claims that have been disallowed by an order of the Court;
- Holders of other claims that are not "allowed claims" (as discussed above), unless they have been "allowed" for voting purposes;
- Holders of claims in unimpaired classes;
- Holders of claims entitled to priority pursuant to Sections 507(a)(2), or (a)(8) of the Bankruptcy Code;
- Holders of claims in classes that do not receive or retain any value under the plan; and
- Administrative expenses.

Even if you are not entitled to vote on the Plan, you have a right to object to the confirmation of the Plan and to the adequacy of the Disclosure Statement.

### Who Can Vote In More Than One Class

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

### Votes Necessary to Confirm the Plan

If impaired classes exist, the Court cannot confirm the Plan unless (A) at least one impaired class of creditors has accepted the Plan without counting the votes of any insiders within that class, or (B) all impaired classes have voted to accept the Plan, unless the Plan is eligible to be confirmed by “cram down” on non-accepting classes, as discussed below.

### Votes necessary for a Class to Accept the Plan

A class of claims accepts the Plan if both of the following occur: (A) the holders of more than one-half ( $1/2$ ) of the allowed claims in the class, who vote, cast his votes to accept the Plan, and (B) the holders of at least two thirds ( $2/3$ ) in dollar amount of the allowed claims in the class, who vote, cast his votes to accept the Plan.

### Fair Treatment of Non-Accepting Classes

The Court may still confirm the Plan, even if one or more creditors or classes vote against the Plan, if the non-accepting classes are treated in the manner prescribed by Section 1129(b) of the Bankruptcy Code. A plan that binds non-accepting classes is commonly referred to as a “cram down” plan. The Code allows the Plan to bind non-accepting classes of claims or equity interests if it meets all the requirements for consensual confirmation except the voting requirements of Section 1129(a)(8) of the Bankruptcy Code, does not “discriminate unfairly,” and is “fair and equitable” toward each impaired class that has not voted to accept the Plan. For an individual, like the Debtors, “fair and equitable” would mean that the Debtors must devote their “disposable income” to the Plan, as that term is used in Chapter 13. Even though the “disposable income” analysis might not be applicable unless an unsecured creditor votes against the Plan, the Debtors believe that the treatment proposed in the Plan is adequate to meet any “disposable income” analysis.

Nevertheless, you should consult your own attorney regarding whether a “cramdown” confirmation will affect your claim, and whether “disposable income” is being disbursed.

### Rights of an Undersecured Creditor to “Elect” to Be Treated as Fully Secured

The Bankruptcy Code allows an undersecured creditor (A creditor who has collateral securing its debt, but the value of collateral still being less than the debt amount) to elect to have its debt treated as fully secured. Without this election, the debt might be treated as partially secured and partially unsecured. The benefits and costs of this can only be explained by competent and experienced legal counsel. It is suggested that should you what to consider this election – through Bankruptcy Code section 1111(b) – that you obtain such counsel.

### Liquidation Analysis

To confirm the Plan, the Court must find that all creditors who do not accept the Plan will receive at least as much under the Plan as such claim holders would receive in a Chapter 7 liquidation. A liquidation analysis is attached to this Disclosure Statement as “**Exhibit B.**” This analysis lists real property and personal property of the Debtors.

### Feasibility

The Court must find that confirmation of the Plan is not likely to be followed by the liquidation, or the need for further financial reorganization, of the Debtors or any successor to the Debtors, unless such liquidation or reorganization is proposed in the Plan.

### Ability to Initially Fund the Plan

The Debtors believe that they will have either (A) enough cash on hand or (B) sufficient cash flow on the Effective Date of the Plan to pay all claims and expenses that are entitled to be paid on that date. Tables, showing the amount of cashflow to be available on the Effective Date of the Plan, and the sources of that cash, are attached to this disclosure statement as “**Exhibit C,**” Cash Flow Analysis.

### Ability to Make Future Plan Payments and Operate Without Further Reorganization

The Debtors must also show that they will have enough cash over the life of the Plan to make the required Plan Payments. The Debtors’ financial projections show that the Debtors will have an aggregate surplus cash flow, after paying operating expenses and post-confirmation taxes, as set forth in “**Exhibit C.**” The final Plan payments of these distributions are expected to occur about February, 2022.

You should consult with your accountant or other financial advisor if you have any questions pertaining to these projections.

## **VI. EFFECT OF CONFIRMATION OF THE PLAN**

### Discharge of the Debtors

Confirmation of the Plan does not discharge any debt provided for in the Plan until the Court grants a discharge on completion of all payments under the Plan, or as otherwise provided in Section 1141(d)(5) of the Bankruptcy Code. The Debtors will not be discharged from any debt excepted from discharge under Section 523 of the Bankruptcy Code, except as provided in Rule 4007(c) of the Federal Rules of Bankruptcy Procedure.

### Modification of Plan

The Debtors may modify the Plan at any time before confirmation of the Plan. The Court, however, may require a new Disclosure Statement and/or re-voting on the Plan.

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

Effective as of the date hereof and subject to the limitations and rights contained in the Plan: (a) the Debtors reserve the right, in accordance with the Bankruptcy Code and the Bankruptcy Rules, to amend or modify the Plan prior to the entry of the confirmation order; and (b) after the entry of the confirmation order, the Debtors or the reorganized Debtors, as applicable, may, upon order of the Bankruptcy Court, amend or modify the Plan, in accordance with section 1127(b) of the Bankruptcy Code or remedy any defect or omission or reconcile an inconsistency in the Plan in such manner as may be necessary to carry out the purpose and intent of the Plan; provided, however, that any modification to the Plan shall not affect the rights or treatment of holders of General Unsecured Claims.



Final Decree

Once the estate is fully administered, as provided in Rule 3022 of the Federal Rules of Bankruptcy Procedure, the Debtors, or such other party as the Court shall designate in the Plan confirmation order, shall file a motion with the Court to obtain a final decree to close the case. Alternatively, the Court may enter such a final decree on its own motion.

**VII. OTHER PLAN PROVISIONS**Vesting of Assets in the Debtors

After confirmation of the Plan, all property of the Debtors shall vest in them, free and clear of all liens, claims, charges or other encumbrances, except the Debtors' first lien holder on their residence, and except for those other liens affected by the order approving the Motion to Value and the confirmation order. The Debtors may operate their business and may use, acquire or dispose of property and compromise or settle any claims without supervision or approval by the Bankruptcy Court and free of any restrictions of the Bankruptcy Code or Bankruptcy Rules, other than those restrictions expressly imposed by the Plan and the confirmation order. Without limiting the foregoing, the Debtors shall pay the charges that they incur after confirmation for professionals' fees, disbursements, expenses or related support services (including reasonable fees relating to the preparation of professional fee applications) without application to the Bankruptcy Court.

Release of Liens, Claims and Equity Interests

Except as otherwise provided herein or in any contract, instrument, release or other agreement or document entered into or delivered in connection with the Plan, upon confirmation, all liens, claims, mortgages, deeds of trust, or other security interests against the property of the Debtors' estate shall be fully released and discharged. The security interest of the Debtors' first lien holder on their residence, however, shall be unimpaired under the Plan with respect to both the Debtors and their property.

Effectuating Documents; Further Transactions; Exemption from Certain Transfer Taxes

The Debtors may take all actions to execute, deliver, file or record such contracts, instruments, releases and other agreements or documents and take such actions as may be necessary or appropriate to effectuate and implement the provisions of the Plan. Pursuant to section 1146(a) of the Bankruptcy Code, any transfers of property pursuant to the Plan shall not be subject to any stamp tax or other similar tax or governmental assessment in the United States, and the

confirmation order shall direct the appropriate state or local governmental officials or agents to forgo the collection of any such tax or governmental assessment and to accept for filing and recordation instruments or other documents pursuant to such transfers of property without the payment of any such tax or governmental assessment. The Plan, however, does not propose or envision any such transfers.

#### Revocation of Plan

The Debtors reserve the right to revoke or withdraw the Plan prior to the confirmation hearing and to file subsequent Chapter 11 plans. If the Debtors revoke or withdraw the Plan, or if confirmation does not occur, then: (1) the Plan shall be null and void in all respects; (2) any settlement or compromise embodied in the Plan, assumption or rejection of Executory Contracts or Unexpired Leases effected by the Plan and any document or agreement executed pursuant hereto shall be deemed null and void except as may be set forth in a separate order entered by the Court; and (3) nothing contained in the Plan shall: (a) constitute a waiver or release of any Claims by or against, the Debtors or any other entity; (b) prejudice in any manner the rights of the Debtors or any other entity; or (c) constitute an admission, acknowledgement, offer or undertaking of any sort by the Debtors or any other entity.

#### Successors and Assigns

The rights, benefits and obligations of any entity named or referred to herein shall be binding on, and shall inure to the benefit of, any heir, executor, administrator, successor or assign of such entity.

#### Reservation of Rights

Except as expressly set forth in the Plan, the Plan shall have no force or effect until the Court enters the confirmation order. Neither the filing of the Plan, any statement or provision contained in the Disclosure Statement, nor the taking of any action by the Debtors or any other entity with respect to the Plan shall be or shall be deemed to be an admission or waiver of any rights of: (1) any Debtors with respect to the holders of claims or other entity; or (2) any holder of a Claim or other entity prior to the Effective Date of the Plan.

#### Further Assurances

The Debtors or the reorganized Debtors, as applicable, all holders of Claims receiving distributions under the Plan and all other entities shall, from time to time, prepare, execute and

deliver any agreements or documents and take any other actions as may be necessary or advisable to effectuate the provisions and intent of the Plan or the confirmation order.

Severability

If, prior to confirmation of the Plan, any term or provision of the Plan is held by the Court to be invalid, void or unenforceable, the Court shall have the power to alter and interpret such term or provision to make it valid or enforceable to the maximum extent practicable, consistent with the original purpose of the term or provision held to be invalid, void or unenforceable, and such term or provision then will be applicable as altered or interpreted, *provided* that any such alteration or interpretation must be in form and substance reasonably acceptable to the Debtors, and, to the extent such alteration or interpretation affects the rights or treatment of holders of general unsecured claims, such claim holder.

Filing of Additional Documents

On or before the Effective Date, the Debtors may file with the Court all agreements and other documents that may be necessary or appropriate to effectuate and further evidence the terms and conditions hereof.

DATED: October 24, 2016.

/s/ Glenn A. Paternoster

Glenn A. Paternoster  
Debtor in Possession

/s/ Carmel P. Paternoster

Rose Ellene C. Azumbra  
Debtor in Possession

/s/ David A. Riggi

David A. Riggi, Esq.  
Attorney for the Debtors in Possession

## **EXHIBITS**

**Exhibit A** - Copy of Proposed Plan of Reorganization

**Exhibit B** – Liquidation Analysis

**Exhibit C** – Cash Flow Analysis