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UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK

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IN RE:

BNOIS SPINKA,

Debtor.

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Case No.: 15-43251 (NHL)
Chapter 11 Reorganization

~~SEVENTH~~ EIGHTH AMENDED DISCLOSURE STATEMENT

Dated: October ~~17~~24, 2017

THIS IS NOT A SOLICITATION OF ACCEPTANCE OR REJECTION OF THE PLAN. ACCEPTANCES OR REJECTIONS MAY NOT BE SOLICITED UNTIL A DISCLOSURE STATEMENT HAS BEEN APPROVED BY THE BANKRUPTCY COURT. THIS DISCLOSURE STATEMENT IS BEING SUBMITTED FOR APPROVAL BUT HAS NOT BEEN APPROVED BY THE COURT.

I. INTRODUCTION

1. The above-captioned Debtor[1] submits this Disclosure Statement pursuant to § 1125 of the Bankruptcy Code to its known Creditors in order to disclose that information deemed by the Debtor to be material, important, and necessary for Creditors to arrive at a reasonably informed decision in exercising their right to vote for acceptance or rejection of the Plan of Reorganization (hereafter the "Plan"), on file with the Bankruptcy Court. Only "impaired" Creditors, as that term is defined in the Bankruptcy Code, are entitled to vote for the Plan or to reject the Plan. A full definition of what constitutes impairment is contained in § 1124 of the Bankruptcy Code.

[1] Capitalized terms used herein shall have the same meaning as defined in the Plan.

2. A copy of the Plan accompanies this Disclosure Statement, as well as a Ballot Form for the acceptance or the rejection of the Plan, and a Notice and Order approving the adequacy of the information contained in the Disclosure Statement, fixing the time for filing acceptances and rejections to the Plan, and for a hearing on Confirmation of the Plan.

3. The Court has set _____, 2017 at __:_0 _.m. for a hearing on the acceptance or rejection and confirmation of the Plan. The within Seventh Amended Disclosure Statement has been served upon the interested parties as reflected on the Affidavit of Service. Creditors who are entitled to vote may vote on the Plan by filling out and mailing the accompanying ballot to counsel for the Official Unsecured Creditors' Committee, Brian J. Hufnagel, Esq., Forchelli, Curto, Deegan, Schwartz, Mineo & Terrana, LLP, The Omni, 333 Earle Ovington Boulevard, Suite 1010, Uniondale, New York 11553, so as to be received on or before _____, 2017.

4. As a Creditor, your vote is important. In order for the Plan to be deemed accepted, members of each impaired Class designated in the Plan that hold at least two-thirds (2/3) in amount and more than one-half (1/2) in number of the Claims of the Class that vote must vote to accept the Plan. A claim or interest is impaired unless the Plan: (1) leaves unaltered the legal, equitable, and contractual rights to which such claim or interest entitles the holder of such claim or interest; or (2) notwithstanding any contractual provision or applicable law that entitles the holder of such claim or interest to demand or receive accelerated payment of such claim or interest after the occurrence of a default; (A) cures or provides for a cure subject to Court approval of any such default that occurred before or after the commencement of the case under this title, other than a default of a kind specified in § 365 (b)(2) of this title; (B) reinstates the maturity of such claim or interest as such maturity existed before such default; (C) compensates the holder of such claim or interest for any damages incurred as a result of any reasonable reliance by such holder on such contractual

provision or such applicable law; and (D) does not otherwise alter the legal, equitable, or contractual rights to which such claim or interest entitles the holder of such claim or interest.

NO REPRESENTATIONS CONCERNING THE DEBTOR ARE AUTHORIZED BY THE DEBTOR OTHER THAN AS SET FORTH IN THIS STATEMENT. ANY REPRESENTATIONS OR INDUCEMENTS MADE TO SECURE YOUR ACCEPTANCE WHICH IS OTHER THAN AS CONTAINED IN THIS STATEMENT SHOULD NOT BE RELIED UPON BY YOU IN ARRIVING AT YOUR DECISION, AND SUCH ADDITIONAL REPRESENTATIONS AND INDUCEMENTS SHOULD BE REPORTED TO COUNSEL FOR THE DEBTOR, WHO IN TURN SHALL DELIVER SUCH INFORMATION TO THE BANKRUPTCY COURT FOR SUCH ACTION AS MAY BE DEEMED APPROPRIATE.

THE INFORMATION CONTAINED HEREIN HAS NOT BEEN SUBJECT TO A CERTIFIED AUDIT. THE DEBTOR IS UNABLE TO WARRANT OR REPRESENT THAT THE INFORMATION CONTAINED HEREIN IS WITHOUT ANY INACCURACY, ALTHOUGH GREAT EFFORT HAS BEEN MADE TO BE ACCURATE.

APPROVAL OF THE ADEQUACY OF THE INFORMATION CONTAINED IN THE DISCLOSURE STATEMENT BY THE COURT DOES NOT CONSTITUTE A RECOMMENDATION BY THE COURT AS TO THE MERITS OF THE PLAN. THE COURT DOES NOT RENDER ANY OPINION AS TO WHETHER THE PLAN SHOULD BE ACCEPTED OR REJECTED BY CREDITORS. CREDITORS ARE URGED TO READ THE PLAN IN FULL.

THE PLAN REPRESENTS A PROPOSED LEGALLY BINDING AGREEMENT BETWEEN THE DEBTOR AND ITS CREDITORS AND INTERESTED PARTIES, AND IT SHOULD BE READ TOGETHER WITH THIS DISCLOSURE STATEMENT SO THAT AN INTELLIGENT AND INFORMED JUDGMENT CONCERNING THE PLAN CAN BE MADE.

PURSUANT TO A MEMORANDUM DATED JANUARY 12, 2017, THE DEBTOR WAS ADVISED BY NEW YORK CITY ADMINISTRATION FOR CHILDREN SERVICES THAT THE DEBTOR AND MANY OTHERS IN THE CHILD CARE

SERVICES FIELD WOULD RECEIVE A REDUCED REIMBURSEMENT RATE FOR CHILD CARE SERVICES OF 75% OF THE FULL REIMBURSEMENT RATE. THE MEMORANDUM PERMITS THE DEBTOR AND OTHERS TO APPLY AN ARTICLE 47 LICENSE WHICH WOULD ENTITLE THE DEBTOR TO RETURN BACK TO A 100% MAXIMIUM CHILD CARE MARKET RATE. THIS REDUCTION EQUIVALENT TO APPROXIMATELY $250,000 PER YEAR WILL RESULT IN THE DEBTOR RECEIVEING $250,000 PER YEAR LESS THAN WAS PREVIOUSLY THE CASE. THE DEBTOR RETAINED PROFESSIONALS TO DETERMINE THE PROCESS OF HOW TO OBTAIN AN ARTICLE 47 LICENSE. THE AMOUNTS OF FUNDS NECESSARY TO OBTAIN THIS LICENSE AND THE REDUCED INCOME PENDING THE RECEIPT OF THIS LICENSE ARE CURRENT EVENT WHICH MAY MATERIALLY AFFECT THE OPERATIONS AND ITS PROJECTIONS IN THIS CASE.

ALTHOUGH THE PARTIES HAVE REPORTED TO THE COURT THAT A SUCCESSFUL MEDIATION TOOK PLACE WHICH CONTEMPLATES AN UPFRONT PAYMENT AND MONTHLY PAYMENTS OF LESS THAN $11,000 PER MONTH ON A REDUCED BALANCE OF $2,000,000, THE BANK HAS SUBMITTED ITS OLD LIQUIDATION PLAN WHICH IS PATENTENTLY UNCONFIRMABLE, DOES NOT HAVE THE SUPPORT OF THE MAJORITY OF CREDITOR AND IS SUBJECT TO (1) A MOTION BY THE CREDITORS COMMITTEE, SUB JUDICE, TO VACATE THE FORECLOSURE JUDGMENT BASED ON IMPROPER MORTGAGE PROVISIONS WHICH WERE VIOLATIVE OF THE NEW YORK STATE SUPREME COURT ORDER THAT AUTHORIZED THE BORROWING, (2) AN EXTENSIVE LITIGATION PENDING SUB JUDICE, BEFORE THIS COURT REGARDING THE RIGHTS OF PRESIDENTIAL BANK AND A NON-FOR-PROFIT RELIGIOUS CORPORATION PURSUANT TO THE PROVISIONS OF THE BANKRUPTCY CODE AND (3) TO A ULTIMATE FINDING AMONG COMPETING PLANS THAT THE BANK PLAN SHOULD BE CONFIRMED OVER THE DEBTOR'S PLAN. IF THE BANK IS NOT PREPARED TO ACCEPT THE RESULTS OF THE MEDIATION WHICH TOOK PLACE IN NOVEMBER AND DECEMBER OF 2016, THE PARTIES RIGHTS REVERT TO THE STATUS, AT THAT TIME,

WHICH WILL RESULT IN YEARS OF LITIGATION.

IF THE MEDIATION IS ACCEPTED, THE BANK WILL RECEIVE A SUBSTANTIAL UPFRONT PAYMENT AND MONTHLY PAYMENTS WITH A FINAL BALLOON PAYMENT WITHIN FOUR (4) YEARS.

II. OVERVIEW

5. The Debtor is a religious corporation organized under the Religious Corporation Law of the State of New York.

6. The Debtor is in the business of owning and operating religious institutions, such as synagogues and schools, for its members. The Debtor operates these functions out of three locations: (i) 127 Wallabout Street, Brooklyn, New York, a synagogue and girls' school with 115 girls ("Wallabout"), (ii) 795 Kent Avenue, Brooklyn, New York, a boys' school with 285 boys ("Kent"), and (iii) 5405 Route 42, South Fallsburg, New York, a summer camp ("Fallsburg"). This religious Debtor has been operating and functioning since 1990, and is affiliated with the Spinka Hasadic Jewish sects. The Spinka Hasadic sect was founded several hundred years ago in Europe and moved to the United States after World War II. The purpose of the Debtor and the Spinka Hasadic sect is to further the religious activities and beliefs of its members.

7. The Debtor is affiliated with the Krula Hasadic Jewish sect, specifically, two corporations, Yeshiva Nachlas Tzvi D'Krula, which operates the Fallsburg summer camp, and Cong. Khal Zichron Shmiel Zvi D'Krula, which operates the synagogue. In certain instances, the Debtor operates under the "Krula" name, including, for example, the name Cong. Khal Zichron Shmiel Zvi D'Krula operating the synagogue. These entities are separate, religious not-for-profit corporations, as evidenced by the IRS letters recognizing their exempt not-for-profit status, by letters dated July 17, 1991, April 25, 2000 and December 9, 2002

(**ExhibitsA, B and C**). Rabbi Naftali Horowitz is the spiritual, but not temporal, head of the Debtor and the Krula Congregation. The temporal business matters of the Debtor are conducted by Sol Kahn and Nathan Schwartz, businessmen who are unpaid volunteers and the Debtor's paid employees. These employees are involved in the long range and major decision issues involving the Debtor, and also in approving major expenditures and acquisitions and monitoring the forward progress of the schools and the synagogue. Jacob Feder is an officer and is paid $6,000 biweekly, part of which compensation is reimbursed through the Government Programs providing for payments to the Debtor which require that Mr. Feder spend training time to stay abreast of all the Rules and Regulations concerning the programs. Rabbi Naftali Horowitz is paid $840 biweekly for his compensation for his services.

8. The Krula entities have their own business activities. Copies of the balance sheets of the two Krula entities are attached hereto as **Exhibits D and E**. These revised balance sheets reflect the present values of assets and liabilities. Messrs. Ekstein and Spitzer, on behalf of Yeshiva Krula and Congregation Krula, provided financial information to Joel Goldenberg who arranged to compile that information into the balance sheets attached hereto. Although the Bank has requested a full accounting, which the Debtor has no record of ever having received from the Bank before, a full accounting will cost between $15,000 to $20,000 and will not demonstrate that the Debtor is entitled to funds from Krula.

9. As a non-profit entity, the Debtor generally pays its bills from donations, tuition, and membership fees.

10. The Plan contemplates that the Debtor's schools will continue to operate based on the reduced mortgage expenditures to the Bank expected to be paid under the Plan as a result of a compromise. The compromise is described in detail herein and in the Plan. The Debtor shall

arrange to make the payments necessary under the Plan from the payments due under the lease to be signed between the Debtor and Cong. Khal Zichron Shmiel Zvi D'Krula ("Camp Krula") regarding the Debtor's Fallsburg premises, (**Exhibit F**). The financial statements of Camp Krula over 2013, 2014 and 2015 (**Exhibits G, H and I**) reflect that the lease payments approximate the payment of the obligations paid by Krula over the years to the Debtor, and thus Krula will be able to make the payments required under the Plan. Thus, the net income of Krula before deducting the capital improvements required to be made and which are no longer required on behalf of, and for, the Debtor of $252,921 (2013), $197,844 (2014) and $102,300 (plus an approximate $192,000 in accounts receivable not yet collected – see Exhibit E), approximate the annual payments of $215,000 due under the lease to be signed (**Exhibit J**) as confirmed by the Affidavit of Berish Ekstein (**Exhibit J-1**). Krula, in fact, owes the Debtor $110,000 for the 2016 year. This Plan is in the best interest of all creditors and will allow a greater distribution than would otherwise be available.

III. BACKGROUND

11. The Debtor's prepetition financial problems arose in connection with the Debtor's giving a mortgage to the Bank in March of 2007 in the amount of $3,075,000 for purposes of acquiring the Debtor's Fallsburg property. The Fallsburg property operates as a retreat and camp in the summer months providing religious instruction for the members and the young students of the Debtor's synagogues and schools located in Brooklyn. As part of that mortgage financing, the Debtor provided to the Bank a collateral mortgage upon the Debtor's headquarters located at Wallabout, among other property both real and personal. The monthly payments were approximately $23,000. The Bank is secured by both the Wallabout and Fallsburg properties, rents derived from such properties and all personal property of the Debtor.

12. The Debtor continued to make payments until on or about September 2008, when it began experiencing financial difficulties arising out of the credit crisis. Donations and tuition dried up as the members and other charitable persons began feeling the adverse effects of the financial difficulties in the United States at the time. The Bank accelerated its loan..

13. The Debtor and the Bank entered into a Forbearance Agreement. The Debtor continued making payments. However, in late 2012, the Debtor was required to expend funds to protect its installations in Brooklyn in conjunction with Hurricane Sandy. This resulted in delayed payments to the Bank.

14. Additionally, the Debtor had been involved in a dispute with the Town of Fallsburg (the "Town") regarding the payment of taxes. The Debtor contended it was exempt and was not required to pay taxes as a not-for-profit religious corporation using the premises for non-profit purposes. The Town contended, however, that the Debtor was required to pay taxes. In January 2011, the Debtor and the Town reached an agreement which exempted the Debtor from the payment of future real estate taxes as a tax exempt entity, but the Town required that the past due taxes of approximately $400,000 be paid as part of the arrangement. The Debtor was compelled to make several large tax payments in late 2012 and early 2013 in order to avoid a tax lien foreclosure sale.

15. As a result of the above difficulties, the Debtor continued to fall behind in payments to the Bank. In February 2013, the Debtor made a payment of approximately $22,000 in an effort to begin catching up on the loan. In June 2013, the Bank commenced a foreclosure action. During the negotiations with the Bank, the Bank obtained a judgment of foreclosure in February 2015.

16. Negotiations commenced in early 2013 by the Debtor to settle the matter. The Debtor proceeded to seek funds from its congregants and others in order to raise funds to settle the debtor. These proposals continued up through July 15, 2015There was a foreclosure sale scheduled for July 17, 2015.

IV. CHAPTER 11 FILING

17. On July 16, 2015 the Debtor filed its Chapter 11 petition. Immediately upon filing, the Debtor sought by motion to pay payroll, cash management, and use of cash collateral to pay expenses, but the Bank objected to each of these applications.

V. VALUATION

18. The Debtor has examined the Wallabout, Kent, and Fallsburg properties owned by the Debtor and values such properties for bankruptcy purposes at amounts which permit the creditors to be paid in full. These values are as follows:

(a) 127 Wallabout Street Brooklyn, NY	$8,000,000
(b) 795 Kent Avenue Brooklyn, NY	$5,000,000
(c) 5402 Route 42 Fallsburg, NY	$2,500,000

Kent Property

19. The Debtor submits that it is the lawful fee owner of the real property located at 795 Kent Avenue, Brooklyn, New York (the "Kent Property"), which property remains subject to the first mortgage of Cornell Realty Management LLC ("Cornell"). Prior to January 5, 2012, Cornell held a mortgage (the "Kent Mortgage") in and to the Kent Property as well as an

Assignment of Leases and Rents (the "Kent ALR") with respect to the Kent Property. For fair and reasonable consideration, Cornell received an assignment of the Kent Mortgage and the Kent ALR from the prior mortgagee with respect to the Kent Property upon Cornell's purchase of the outstanding note (the "Kent Note") which the Debtor is obligated under. The Debtor's obligations to Cornell under the Kent Note were and remain secured by, among other things, the Kent Mortgage and the Kent ALR. As a result of and subsequent to the Debtor's default under the Kent Note, in or around December 2011, the Debtor provided Cornell with a Bargain and Sale Deed with respect to the Kent Property, intended for security purposes only. However, Cornell recorded the deed on January 5, 2012. The Debtor continued to pay Cornel substantial payments of more than $1,000,000 well beyond the normal mortgage payments to reduce the amounts owed to Cornell. The Debtor agreed to pay such additional amounts to preserve its property. The Debtor believes and posits that Cornell's recording of the Bargain and Sale Deed was improper because the Debtor properly performed and continued paying substantial sums to satisfy Cornell and it represented a transfer of ownership of the Kent Property by a religious, not-for-profit corporation which transfer required the prior approval or authorization of a Court of competent jurisdiction or the Attorney General of the State of New York. Since such approval was not obtained and the Debtor complied with its obligations to this Creditor, the Debtor maintains that it currently is the legal and lawful owner of the Kent Property, and that it has remained the legal and rightful owner of the Kent Property from July 2006 through today. As such, by the Plan, the Debtor seeks this Court's authority to file a correction deed, as well as any other documentation that may be required, in order to properly reflect the Debtor's present and continuous ownership of the Kent Property since at least January 5, 2012. By the Plan, the Debtor also seeks to transfer title back to the Debtor and reinstate the Kent Mortgage and Kent

ALR held by Cornell as such security instruments existed and were in place prior to Cornell's recording of the Bargain and Sale Deed. To the extent any mortgage recording tax and/or any other fees or charges are incurred by Cornell with respect to the reinstatement or recording of the Kent Mortgage and Kent ALR and Cornell's treatment under this Plan, the Debtor shall reimburse Cornell for all such amounts which shall be deemed part of Cornell's allowed claims. For these reasons, the Debtor believes that it is and has remained the continuous owner of the Kent Property since July 2006, when it became the fee owner of the Kent Property, and that Cornell is and has remained the first mortgagee and secured creditor as to the Kent Property since it took an assignment of the Kent Mortgage and Kent ALR.

20. The City of New York has objected to the Disclosure Statement on the grounds inter alia that the Debtor will not be able to establish that it in fact is the owner of the Kent Property and therefore will be required to pay the substantial taxes which were assessed of the City of New York of approximately $2,300,000. The Debtor, however, disagrees with this contention. First a Section 505 challenge may be commenced even after the expiration of this State's Statue of Limitations for contesting such real estate taxes see *In Re New Haven Projects Ltd. Liability Co.*, 225 F. 3d 283 (2nd Cir. 2000). Additionally, as the Court stated in *In Re Burdick Associates*, 150 B.R. 516, 518 (Dist.E.D.N.Y 1993), the "existence of a deed does not conclusively establish ownership. A court may look at the sufficiency of consideration or the parties' intent at the time the deed was executed to determine be the validity of the deed." Thus, the Burdick Court found that the Bankruptcy Court erred in finding that the deed was the only evidence upon which it could rely in reaching a decision. Id. Rather, "based upon the record herein, someone wishing to demonstrate that Burdick never divested itself of title in the Property could argue and a Court could accept an argument that the…conveyance by deed was fraudulent." Id at 518-519. Further

"[i]f the Bankruptcy Court chose to look beyond the deed, it may well have concluded that the conveyance was fraudulent. The fact that neither party would come forth to make such an argument does not mean that it does not exist." Id. at 519.

21. Other jurisdictions have also concluded that deeds are not conclusive by themselves as to the true ownership of a property, *K&B Family Limited Partnership v. U.S.*, 2007 W.L. 527937 at 6 (Dist.Oregon 2007). "Evidence in the form of a deed can be overcome by acts or statements indicating that the person possessing the property intends to claim more or less than the deed purports to convey." (Id at 6)

22. The Debtor will commence litigation to determine and declare its exemption from the payment of any real estate taxes due to the City of New York as part of this Chapter 11 case. Through the Plan, Debtor seeks a finding of facts and order of this Court consistent with the above.

23. New York City Law Department has recently appeared and has indicated as follows. The New York City Water Board has stated there is no religious non-for-profit exemption reflected for the Kent Property (although there is one on the Wallabout Property). The transaction involved above is viewed as a legal issue that has to be determined. The New York City Water Board has indicated that the property was billed at the regular rate not the exempt rate for religious non-for-profit corporations and the Debtor paid the bills until 2008, at which point it stopped. The water and sewer liens were sold to the Real Estate Trust. There is a balance due of $7,971.92 as of April 28, 2017. A real property tax exemption existed but was stopped in 2011 when the Deed was transferred to Cornell and as far as the New York City Department of Finance is concerned this property has been owned by an entity which is not exempt from paying taxes since December 6, 2011. Some of these taxes have been sold to the

Real Estate Property Trust. New York City reserves a right to make its determination at the appropriate time. The attorneys also indicated that unless and until the Deed is retransferred to the Debtor no changes may be made to how the City Agencies are treating the billing.

24. The tax lien payoff by the Tax Lien Trust is reflected to be $1,094,456.21 as of April 26, 2017 plus $903,818.03 as of April 26, 2017. As was noted, the Debtor intends to challenge the real estate taxes and the water and sewer charges on the Kent Property on the grounds that such property was always beneficially owned by the Debtor, was occupied by the Debtor and was otherwise treated by the Debtor and the creditors as property of the Debtor. The Debtor may seek to file an Adversary Proceeding declaring that this property was always the ~~property of~~ owned by the Debtor and the Debtor is entitled to an exemption for the periods of time that New York City now contends is due and owing. If the Debtor does not prevail on the objections, the Debtor will then seek to refinance Kent Avenue and use the proceeds thereof to pay the taxes and Cornell. In addition, as noted below, the Debtor has reapplied for a exemptions for the Debtor's Wallabout Property which has always been considered to an exempt property by the City. (The requirement of reapplication appears to be a more recent development.) That Application for an exemption on the Wallabout Property was granted retroactively.

25. There has been litigation both prior to and subsequent to this Chapter 11 case. Prior to this Chapter 11 case, the City of New York commenced a foreclosure to lift the stay alleging that Cornell was the owner and had failed to pay taxes. The Debtor interposed and Answer on its own behalf alleging its rights to contest the City of New York's Motion. From the earliest period, the Debtor has interposed its claims and its rights as a tax exempt entity owning real property. As a consequence of these disputes, the Debtor filed an Adversary

Proceeding seeking a declaration that the Kent Avenue property holds a tax exempt status pursuant to § 420-a of the Real Property Tax Law. On September 13, 2017, the City of New York filed a Complaint against the Debtor and others seeking a declaratory judgment that the Kent Avenue property is not property of the Bankruptcy Estate. By Motion dated September 11, 2017, the City of New York moved to dismiss the Debtor's Complaint.

26. Thus, in addition to the Statutory Authority permitting a § 505 Tax Objection to be interposed after the State Statute of Limitations, here the statute never ran because the Debtor asserted its rights from the outset in pleadings which were filed in a timely manner to defend against a foreclosure action based upon the tax liens.

27. In addition, a deed in lieu of security transaction has been held to be a security transaction not a transfer of property has been held by this very Court in *In re 304 N.B.E. Corp.* 2015 WL 9581323 (2015), this Court held that a delivery of a deed which was made in lieu of security would be treated as a secured instrument and not as an absolute outright transfer of ownership. Here, the objective facts are, Cornell acquired and assignment of the mortgage from Chase Bank, Cornell is owed a debt, the Debtor owned the property for years before the debt had been incurred, the Debtor had defaulted on the payment of the debt.

28. The Debtor continued to make payments on the debt to Cornell during this time period from 2011 until the present, the Debtor continued to operate the real property and was treated as a owner by the various vendors, utilities, insurance companies and others. In addition, and fundamentally, Cornell agrees to the transaction of transferring this real property having a value of millions of dollars for the payment to Cornell of $300,000, hardly the acts of a owner of real property. Based on all of these factors, the Debtor believes that it will prevail in the various Adversary Proceedings pending before this Court.

Wallabout and Fallsburg Properties

29. The Wallabout and Fallsburg properties have mortgages which are held by the Bank which are alleged to secure the Bank's loans. On February 19, 2016, the Committee filed objections to the Bank mortgages asserting that such mortgages were invalid in that such mortgages did not comply with the requirements of the New York State Religious Non-for-Profit Corporation Law and therefore are invalid under the overwhelming State Law authority. It appears that the authorization of the New York State Supreme Court for the issuance of the Bank mortgages is significantly different than the terms of the mortgages of the Bank in connection to the 2009 refinancing. The Committee requested that it be permitted to seek a vacatur of the Bank mortgages in the New York State Supreme Court on the above stated grounds. In the event that the Committee prevailed on its motion, the Bank's mortgages would be invalidated and the Bank will be an unsecured creditor in this case as well as under the Plan. Moreover, its claims may be reduced by the amounts determined as the interest rate for the loan which was authorized by the New York State Supreme Court. The Plan originally filed by the Debtor accordingly treated the Bank as secured in the event that the Committee's claims do not prevail, and as unsecured in the event the Committee prevails, but, however, leaving open the amount of such claims until there is a determination in the New York State Supreme Court. The Bank, thus, would be required to proceed to seek to validate its claims before any treatment is made under the Debtor's Plan. In addition, the Debtor has reapplied for an exemption for the Debtor's Wallabout Property which, as always, has been considered to be an exempt property by the City. (The requirement of reapplication appears to be a more recent development.) The City recently granted a renewal of the exemption for the Debtor's Wallabout Property.

VI. DEBTOR'S OPERATIONS

30. Prior to the Chapter 11 petition, the Debtor maintained sufficient records to be able to determine the amounts necessary to be paid by the Debtor. As a non-for-profit corporation, the Debtor does not file tax returns. The Debtor maintains a bank account which deals with government lunch program subsidies for the Debtor's students' lunch (the "Government Lunch Program"). The food subsidy account (#7386) pays for the meals provided for the Debtor's students. The account receives all its money from federal and state funds, and the federal and state governments monitor the operations of this account. Because of the government subsidies, this account may only be used for food, paper goods, and certain payroll for food workers. There are approximately 30 vendors who are paid from this account and several food workers. The program requires that these vendors be paid and that the food employees be paid, and any excess funds are remitted back to the government entity in question. Attached hereto are the financial reports regarding the operation of the Government Lunch Program for the years ending 2012, 2013 and 2014 (**Exhibits K, L and M**).

31. During the Chapter 11 period, the Debtor has also maintained operating reports which are contained in the Monthly Operating Reports filed by the Debtor. The Debtor has $84,940 as of April 30, 2016 in net income, which includes the receipts for an annual fundraising dinner. On confirmation, the Debtor will receive income of $18,500 per month from the tenant Krula with regard to the Fallsburg operations. The Debtor has received $75,000 from Krula. Krula owes the Debtor $111,000 for 2016.

VII. SOURCE OF FUNDS FOR PLAN

32. The Debtor will have obtained the necessary funds for Confirmation from operations of the Debtor and third-party funds. The third party funds aggregating $1,500,000 are

being advanced by congregants and donors in an effort to assist the Debtor in the confirmation of its Plan. These sums shall not be payable back to these congregants and donors until Presidential Bank is paid in full. The Debtor shall produce substantiation for these donations and that such donations will be forthcoming on or prior to Confirmation.

33. As noted, the Debtor and Presidential Bank have reached a settlement, which provides for an upfront payment of $1,500,000 (the Debtor in fact was required to provide the Bank with substantiation that it had individuals pledged to pay the $1,500,000 which the Bank ultimately accepted before proceeding to prepare the Loan Documents in 2017, see Exhibit M-1) and monthly payments of $10,736.00 per month to Presidential Bank and a balloon payment after four (4) years of $1,872,600, an amount which the Debtor believes it can afford to pay from its operations as noted above, and pay the balance of $1,872,600 from a refinance on two properties, the Wallabout Property and the Fallsburg Property, which by then will have this reduced mortgage still existing. The details of the settlement with Presidential Bank are as follows: Pursuant to Order of this Court, the parties attended mediation related to the competing proposed plans filed by the Debtor and Presidential Bank, respectively, and certain disputes with Presidential Bank, the holder of a secured claim, by the Committee and the Debtor. During the course of that Mediation, a settlement was reached providing for the allowance and payment of Presidential Bank's secured claim. The settlement provides for a payment of $3,500,000 to the Bank. The claim shall be treated and paid as follows under the Plan: (i) cash payment to Presidential Bank in the amount of $1,500,000.00 on or before the Effective Date of the Plan; (ii) execution and delivery of two secured promissory notes by the Debtor to Presidential Bank as follows: (a) Note "A" in the amount of $2,000,000.00 payable over four (4) years at 5% interest amortized over thirty (30) years ($10,736.00 per month) and (b) Note "B" in the amount of

$750,000.00 payable over four (4) years at 6.5% interest amortized over thirty (30) years with such interest to be recapitalized into principal. However, recently the Bank has determined to state that it has not agreed to the above settlement because they state that the Debtor has no complied with additional conditions laid out by the Bank in the Summer of 2017. The Debtor disputes the right of the Bank to renege on its agreement.

34. The recent amendment to Note "B" has resulted in an agreement with Presidential Bank to settle the Debtor's disputes with Presidential Bank. Amended Note "B" paragraph 2 now provides:

> Notwithstanding anything to the contrary herein, in the event: (a) any default occurs under Loan A which is not a default for failure to make a payment to Lender under Loan A, and (b) as a result of such default, Lender accelerates the maturity date of Note A, then, provided that Borrower has made timely payments of principal and interest under Note A, and any other sums due thereunder, to Lender under Loan A as if the maturity date of Loan A had not been accelerated, Borrower shall have a period of ninety (90) days after the accelerated maturity date set forth by Lender (the "Note A Extension Period") to pay in full and fully satisfy Loan A. In the event that: (i) Borrower has made timely payments of principal and interest under Note A, and any other sums due thereunder, to Lender under Loan A as if maturity date of Loan A had not been accelerated; (ii) there are no other defaults under Loan A; and (iii) Loan A is paid in full and fully satisfied on or before the expiration of the Note A Extension Period, then Lender shall forgive the full amount of this Note and this Note shall be deemed paid in full and fully satisfied.
>
> The obligations shall be evidenced by documentation satisfactory to Presidential Bank and shall be secured by first priority liens and security interests in the Fallsburg and Wallabout properties, their rents, and all personal property of the Debtor as set in such documents required by Presidential Bank in its sole discretion (the "Loan Documents"). True and correct copies of the Notes, the Mortgage and Assignment of Rents (in substantially final form) are attached to the Plan as **Exhibit M-2** and the terms, conditions and undertakings therein are incorporated in the Plan by reference as if fully restated in the Plan. All of the material terms were resolved. All of the major terms

were resolved as evidenced by the terms of the Promissory Notes, the Mortgage and the Assignment of Rents clauses except for a better statement on the definition of default.2

35. The significance of proceeding by settlement or by way of litigation is an issue particularly since the Bank has refiled its Liquidation Plan. The consequences of proceeding with the mediation settlement versus not proceeding with the mediation settlement is very wide ranging. If the mediation settlement proceeds, the Bank will be paid $1,500,000 cash now and

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2 When parties have reached an agreement on all material terms, mediation agreements have been enforced by Courts even if all terms are not complete.

In *Trolman v. Trolman, Glaser & Lichtman*, 114 A.D.3d 617, 981 N.Y.S.2d 86 (1st Dept. 2014), the Appellate Division held that a memorandum executed following mediation was a binding and enforceable settlement agreement and not "an agreement to agree." "The agreement was not rendered ineffective because certain non-material terms were left for future negotiation." 114 A.D. 3d at 617.

In *Lee v Hospital for Special Surgery*, 2009 W.L. 2447700 (S.D.N.Y. 2009), the parties reached an agreement during mediation and later worked out a written settlement agreement. The plaintiff attempted to repudiate the agreement and the defendant moved to enforce. The Southern District stated that "[a]n oral settlement agreement is binding and enforceable when the parties agree to its terms with the intent to be bound, even where they contemplate a subsequent written agreement."

Further:

> "It is undisputed that the settlement was reached at a mediation, the object of which was to resolve the pending litigation. It is undisputed that the mediator placed the terms before both parties and secured their agreement both to the terms and to the proposition that the settlement was binding and enforceable. Both counsel thereafter succeeded in reducing the agreementto a mutually acceptable writing that confirmed both the existence and the material terms of the oral agreement, which in any case is not denied. If, as courts have held, a settlement at a deposition or conference held on the record, and even a settlement reached without a record following a court conference, satisfies the "open court" requirement of Section 2104, *a fortiori* a settlement reached at a mediation in circumstances in which no one present has disputed either the making of the settlement or its terms does so as well" Id at 3

In *US ex rel. Osheroff v. MCCI Group Holdings LLC*, 2013 W.L. 3991964 (Dist.SD Florida 2013), the parties reached agreement during mediation which was set forth in a handwritten memo of understanding. This handwritten agreement contemplated a subsequent settlement agreement. In enforcing this agreement, the court stated "that the parties did not spell out every detail beyond the essential terms does not make the agreement illusory." 2013 WL 3991964 at 5. Rather, if the parties agree on the essential terms and understand and intend the agreement to be binding, the agreement will be binding, Id.

In *Raghavendra v. Trustees of Columbia University*, 434 Fed. Appx. 31 (2d Cir. 2011), the Second Circuit affirmed the District Court's decision that the settlement agreement was binding and enforceable. The parties had reached an agreement at a mediation session, which the plaintiff attempted to disavow by claiming that he had been fraudulently induced to attend the mediation session.

continued to be paid monthly at $10,736 for four (4) years and then be paid of the balance of $1,872,600. If the mediation is not longer binding, two alternatives remain in terms of the pending litigation. If the Debtor prevails on the issue of the State Law that the Bank has failed to property obtain authority for the execution of the mortgage, then under State Law the mortgage is invalid and the Bank would be, at best, an unsecured creditor. The interest rate authorized by the New York State Supreme Court will apply and any payments made to the Bank may constitute a reduction of the principal balance owed to the Bank under State Law authority. Thus, based on the history, the principal amount of the debt would be approximately $1,900,000. That claim would fall within the class of general unsecured creditors and would be paid over the ten (10) year payment plan proposed for general unsecured creditors.

36. If the State Court Law upheld the mortgage, the Bankruptcy Court would be required to determine whether the Bank would be permitted to file a Liquidating Plan, including whether the Bank would have been entitled to file a Plan purportedly after the termination of the exclusivity period during the pendency of this Chapter 11 Trustee Motion. If the Court determines, under the Bankruptcy Law, including the religious non-for-profit provision amendments, that the Bank could not a file a Liquidating Plan, the Court would deny the Bank's Liquidating Plan and support the Debtor's Chapter 11 Reorganization Plan resulting in the Bank receiving generally the payments being offered under this Plan. If the Court determined that the Liquidating Plan could be pursued by the Bank and further that this competing Plan having, at best, two classes voting in favor, should supersede the interests of the Debtor and the Debtor's other creditors, the properties at Wallabout and Fallsburg would be set up for sale and would be sold. Before this event occurred, there would extensive litigation practice including the intercession of the New York State Attorney General's Office to challenge this Plan. This litigation would

proceed for years.

~~37.~~ All other document terms and issues have been resolved. ~~The Debtor and the Bank differ on the following narrow issue concerning default; set out in this paragraph. The following provisions shall govern all of the Loan Documents. No Event of Default under the Loan Documents shall be deemed to have occurred unless such Event of Default continues uncured for more than seven (7) days after Debtor's receipt of a written notice of such Event of Default from Presidential Bank provided, however, that Presidential Bank shall have no obligation to provide more than three (3) written notices of Events of Default, based upon a nonpayment default, in any twelve (12) month period in the first and the last year of the mortgage term, provided that, in connection with the cure of the default relating to the third written notice, the Debtor shall pay a penalty payment of $2,500 not to be applied to principal or interest, in addition to any cure amounts required to cure the default, and in the event of a fourth or subsequent Events of Default in the same twelve (12) month period, regardless of whether the prior Events of Default were subsequently cured, Presidential Bank shall have not obligation to provide, and the Debtor shall have no right to, a written notice of such Event of Default and subsequent cure period.~~

~~In addition, no Event of Default under the Loan Documents shall be deemed to have occurred based upon a default unless such default continues uncured for more than seven (7) days or any more time provided in such Loan Documents after Debtor's receipt of a written notice of such default from Presidential Bank. The Debtor's concern is based on the potential for the Bank's calling a default based on the recent event by New York City to enact a voucher reimbursement reduction at this time (see pages 3 and 4 in the bold language of this Disclosure Statement). The Bank may contend that this reduction of income constitutes a default.~~

~~38.~~37. As a condition to the Effective Date of the Plan, among other conditions set forth

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herein, the Debtor and Presidential shall obtain state court approval and Attorney General approval of the Loan Documents, and any order approving the Loan Documents shall be acceptable to Presidential Bank in its sole discretion. The Debtor shall, as soon as a full agreement is obtained on the Loan Documents, immediately proceed to such approvals and the Effective Date shall be adjusted accordingly.

~~39.~~38. The Loan Documents also provide that any subsequent bankruptcy case of the Debtor will not impose an automatic stay with respect to the property upon which Presidential holds a lien. That means that Presidential Bank will be permitted to move forward with foreclosure upon its collateral in accordance with the Loan Documents, notwithstanding the filing of a subsequent bankruptcy case by the Debtor or any other owner of the collateral. Specifically, the Loan Documents provide:

> Pursuant to the Chapter 11 Plan and the Final Confirmation Order, pursuant to 11 U.S.C. §§ 1129, 362 and 105, the automatic stay is lifted in rem with respect to the Real Property and Premises and the interests in the Real Property and Premises of Mortgagor and any and all successors or assigns of Mortgagor, such that the automatic stay under 11 U.S.C. § 362(a) shall not apply in any other case subsequently filed under the Bankruptcy Code purporting to affect the Real Property and Premises. In the event that the Mortgagor becomes a debtor or debtor-in-possession in any proceedings filed pursuant to the Bankruptcy Code prior to the satisfaction in full of the Indebtedness and Court of competent jurisdiction determines that the Real Property and the Premises are subject to the automatic stay, the Mortgagor waives any entitlement of the Mortgagor to the protections and benefits of the stay arising under Section 362 of the Bankruptcy Code or arising under any similar provisions of the Bankruptcy Code or other federal or state laws. In such event, the Mortgagor agrees that the Mortgagee shall be deemed to have relief from the stay imposed by Section 362 of the Bankruptcy Code (or from any similar provisions of the Bankruptcy Code or other federal or state laws) for all purposes, including without limitation the initiation and consummation of foreclosure or other liquidation or enforcement proceedings hereunder. The Mortgagor agrees to execute and deliver to the Mortgagee such documents or pleadings

as the Mortgagee may request from time to time to evidence or effectuate the terms of this Section.

The foregoing is incorporated in the Plan as if fully restated in the Plan and is deemed an essential term of the Plan and the settlement reach with Presidential Bank.

~~40.~~39. The settlement reached with Presidential permits the Debtor to continue to operate in the same manner it has been operating while being able to pay its operational expenses and the payments due to Presidential Bank. The Debtor presently expects that the confirmation of the Plan will probably take place in December 2017. The Debtor will have the detailed financial information of the Debtor's operations on an annual basis which can be compared to the projections filed by the Debtor.

~~41.~~40. To the extent that the Debtor does not meet the target operations as reflected on the projections, the Debtor will rely on the guaranty of Bernard Kohn who has agreed to advance $400,000 per year over the next five (5) years to meet any shortfall in the Debtor's operations (**Exhibit N**). Additional donations may be required which will be undertaken through organized lunch or other events to meet shortfalls.

~~42.~~41. To summarize:

FUNDS NECESSARY FOR CONFIRMATION OF PLAN (payable on the Effective Date):

(A)	Down payment to Class 1 (Presidential Bank, FSB)[3]	$1,500,000
(B)	First payment to Class 1	$10,736
(C)	First payment to Class 2 (10 years) (Quality Builders)	$4,416.00
(D)	First payment to Class 3 (Cornell Realty)	$29,571.60

3 Paid by donation.

(E)	First payment to Class 5 (Deleted – Satisfied) (vehicle lease)	
(F)	First payment to Class 6 priority claims of Employees	$5,416.00
(G)	First payment to Class 8 Unsecured Creditors ($600,000 over 10 years)	$5,000.00
	TOTAL (approximately)	$1,555,139.60

(1)	Leo Fox, Esq. Counsel to Debtor[4]:	$185,000
(2)	Brian Hufnagel, Esq., Attorney for Creditors Committee[3]	$150,000
	FUNDS NEEDED FOR CONFIRMATION:	approximately $2,132,939.60

Source of Funds:

(1)	Donations and cash flow	
	The Debtor has obtained commitments by various donors to fund the initial $1,500,000 payment to Presidential Bank. The Debtor has a donor Cheskel Berkowitz who has committed in writing (**Exhibit O**) to fund additional amounts necessary has the funds to back up this commitment (**Exhibit P**). Mr. Berkowitz is a follower of the Rabbi and is not related by blood to the Rabbi. Mr. Berkowitz's proposed donations are donations and will not be repaid.	$1,500,000
		$262,500
	TOTAL SOURCES	**$2,132,939.60**

~~43.~~42. The Debtor is able to make the payments contemplated under the Plan based on its

[3] Assumes balances owed on bills are granted and paid from Debtor's available funds. These professionals may negotiate a payment schedule with the Debtor if necessary.

existing operations for this Chapter 11 year and for the forthcoming five years during which the Bank is to receive its monthly payment schedule (see projections **Exhibit Q**). The Debtor has also obtained a guarantor, Bernardo Kohn, also a donor who is not related the Rabbi, to guaranty an amount up to $400,000 per year of any shortfall in payments owed to creditors over the next five (5) years (**see Exhibit N**). These amounts are donations and will not be repaid.

VIII. SUMMARY OF PLAN

~~44.~~43. The Plan is composed of 9 classes of Creditors. (a) Class 1 representing the Allowed secured Claim of the Bank; (b) Class 2 representing purported Allowed secured construction lien claim of Quality Builders (c) Class 3 the Allowed secured Claim of Cornell Realty Management LLC, (d) Class 4 representing the Allowed secured Claim of the New York City Department of Finance, (e) Class 5 representing the Allowed secured Claim of U.S. Bank, N.A., d/b/a USB Leasing LT, which was resolved by stipulation (f) Class 6 representing the Allowed priority wage Claims of the Debtor's employees, (g) Class 7 representing the Allowed non-priority Claims of the New York State Department of Labor, and (h) the Allowed unsecured Claims of the Debtor's unsecured Creditors and (xi) Class 9 representing the interests of the members of the religious non-for-profit corporation.

~~45.~~44. **Class 1**: Class 1 consists of the Bank's Allowed Claim. The Bank filed a proof of claim in the amount of $4,260,017.82, on October 16, 2015. The Bank filed an amended proof of claim in the amount of $4,789,137.33 on March 29, 2016. Presidential Bank asserts that this claim continues to accrue interest and other charges post Confirmation including interest and significant attorneys fees. Pursuant to Order of this Court, the parties attended mediation related to the competing proposed plans filed by the Debtor and Presidential Bank, respectively, and certain disputes with Presidential Bank, the holder of a secured claim, by the Committee and

the Debtor. During the course of that Mediation, a settlement was reached providing for the allowance and payment of Presidential Bank's secured claim. Subject to certain conditions precedent, the secured claim of Presidential Bank shall be fixed at $4,250,000.00 and not subject to challenge in this bankruptcy case or any other subsequent proceeding and further conditioned on other milestones. The claim shall be treated and paid as follows under the Plan: (i) cash payment to Presidential Bank in the amount of $1,500,000.00 on or before the Effective Date of the Plan; (ii) execution and delivery of two secured promissory notes by the Debtor to Presidential Bank as follows: (a) Note "A" in the amount of $2,000,000.00 payable over four (4) years at 5% interest amortized over thirty (30) years ($10,736.00 per month) and (b) Note "B" in the amount of $750,000.00 payable over four (4) years at 6.5% interest amortized over thirty (30) years with such interest to be recapitalized into principal. Note "B" shall be forgiven if: (i) no defaults occur under the Loan Documents or Plan and (ii) Presidential Bank is paid in full under Note "A" at maturity. The obligations shall be evidenced by documentation satisfactory to Presidential Bank and shall be secured by first priority liens and security interests in the Fallsburg and Wallabout properties, their rents, and all personal property of the Debtor as set in such documents required by Presidential Bank in its sole discretion (the "Loan Documents"). True and correct copies of the Loan Documents (in substantially final form) are attached as Exhibit M-1 to the Disclosure Statement and the terms, conditions and undertaking therein are incorporated in the Plan by reference as if fully restated in the Plan.

~~46.~~ The agreed provisions shall govern all of the Loan Documents. ~~The following provisions shall govern all of the Loan Documents. No Event of Default under the Loan Documents shall be deemed to have occurred unless such Event of Default continues uncured for more than seven (7) days after Debtor's receipt of a written notice of such Event of Default from~~

~~Presidential Bank provided, however, that Presidential Bank shall have no obligation to provide more than three (3) written notices of Events of Default, based upon a nonpayment default, in any twelve (12) month period in the first and the last year of the mortgage term, provided that, in connection with the cure of the default relating to the third written notice, the Debtor shall pay a penalty payment of $2,500 not to be applied to principal or interest, in addition to any cure amounts required to cure the default, and in the event of a fourth or subsequent Events of Default in the same twelve (12) month period, regardless of whether the prior Events of Default were subsequently cured, Presidential Bank shall have not obligation to provide, and the Debtor shall have no right to, a written notice of such Event of Default and subsequent cure period.~~

~~In addition, no Event of Default under the Loan Documents shall be deemed to have occurred based upon a default unless such default continues uncured for more than seven (7) days or any more time provided in such Loan Documents after Debtor's receipt of a written notice of such default from Presidential Bank.~~

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45. ~~The Debtor and the Bank have agreed on the terms of the Loan Documents.~~

~~47.~~46. As a condition to the Effective Date of the Plan, among other conditions set forth herein, the Debtor and Presidential shall obtain state court approval and Attorney General approval of the Loan Documents, and any order approving the Loan Documents shall be acceptable to Presidential Bank in its sole discretion. The Debtor shall, as soon as a full agreement is obtained on the Loan Documents, immediately proceed to such approvals and the Effective Date shall be adjusted accordingly.

~~48.~~47. As a condition to the Effective Date of the Plan, among other conditions set forth herein and in the Plan, the Debtor and Presidential shall obtain state court approval and/or Attorney General approval of the Loan Documents, and any order approving the Loan

Documents shall be acceptable to Presidential Bank in its sole discretion. The Debtor is in the process of submitting these papers to the Attorney General/New York State Supreme Court.

~~49.~~48. The Debtor shall have the right to prepay any amounts to the Bank without penalty.

~~50.~~49. The Bank's liens shall continue. This Class is impaired and may vote on the Plan.

~~51.~~50. Once the Claim is fully paid, this Creditor shall deliver written releases of, or assign at the direction of the Debtor, its mortgages on the Fallsburg and Wallabout properties in accordance with the terms of the Loan Documents.

~~52.~~51. This Class is impaired and may vote on the Plan.

~~53.~~52. **Class 2:** Class 2 consists of the purported Allowed secured construction lien Claim of Quality Builders holding a second lien position on the Fallsburg property, in the amount of $925,000. Quality Builders is listed in the Debtor's Schedule D as having a Claim in the amount of $925,000. Payment shall be made on account of this Claim by an installment payment of $4,416.00 per month beginning on the Effective Date and continuing through a total of 120 months thereafter and with the principal balance remaining payable in the 121st month. This Class is impaired and may vote on the Plan.

~~54.~~53. **Class 3**: Class 3 consists of the Allowed secured Claim of Cornell Realty Management LLC, who holds security documents in the form of, *inter alia*, the Kent Mortgage, Kent ALR, deed and lease to the Debtor on the Kent Property, in the amount of $354,659.22, plus reasonable attorney's fees, expenses, costs and other charges permitted under § 506(b) of the Bankruptcy Code. Cornell is listed in the Debtor's Schedule D as having a disputed claim in the amount of $3,000,000. The amount of Cornell's Allowed secured Claim represents a compromise of the obligations due from the Debtor to Cornell. The Debtor shall pay the Allowed Class 3 Claim without interest, at the rate of $29,571.60 per month, payable on the first of each month,

commencing on the first day of the month immediately after the Effective Date, until the entire Allowed Class 3 secured Claim, including such reasonable attorney's fees, expenses, costs and other charges permitted under § 506(b) of the Bankruptcy Code, is paid in full. A Deed transferring the legal ownership to the Debtor shall be delivered to the Debtor upon Confirmation of the Plan or earlier as necessary to resolve the Debtor's disputes with the City of New York. The Debtor shall execute any necessary documents to perfect or consummate the Mortgage to Cornell. The Kent Mortgage, Kent ALR, shall remain in effect as security until the Allowed Class 3 secured Claim is satisfied in full. To the extent any mortgage recording tax and/or any other fees or charges are incurred by Cornell with respect to the reinstatement or recording of the Kent Mortgage and Kent ALR and Cornell's treatment under this Plan, the Debtor shall reimburse Cornell for all such amounts which shall be deemed part of Cornell's Allowed Class 3 secured Claim. This Class is impaired and may vote on the Plan.

~~55.~~54. **Class 4**: Class 4 consists of the Allowed secured Claim of the New York City Department of Finance, holding a real estate tax claim on the Kent Property, which is listed in the Debtor's Schedule D as having a disputed claim in the amount of $1,600,000, to be objected to on the ground that the Debtor is a tax exempt entity or any tax lien entity which purchased such liens from the City of New York (see discussion at Kent Avenue Property reflecting tax liens of approximately $2,000,000 on the Kent Property). The Allowed Class 4 Claim shall be paid in full on the later of on or before the Effective Date, or, upon the date of a final and non-appealable Order of the Court which ultimately allows such Claim (to be paid through a refinance and replacement of a first position lien in the approximate amount of $2,200,000 on property having a value of at least $5,000,000). The Debtor believes, based upon the value of the Kent Property in the amount of $5,000,000 and the amount of the tax claim in the amount of $2,300,000 a refinance

is feasible and should take approximately two (2) to three (3) months at which time the tax lien creditor would be paid in full. This Class is unimpaired and Creditors may not vote on the Plan. In the event Cornell is held liable for any portion of the real estate tax claim held or asserted by the New York City Department of Finance or the real estate taxes on the Kent Property, the Debtor agrees to pay the full amount of such liability as part of the Allowed Class 4 Claim and to indemnify and hold harmless Cornell for the full amount of such real estate tax claim and/or obligations, including, without limitation, the fees, costs, expenses and charges incurred by Cornell in connection with such claims asserted by the New York City Department of Finance.

~~56.~~55. **Class 5**: Class 5 consists of the Allowed secured Claim of U.S. Bank N.A., d/b/a USB Leasing LT in the amount of $1,470.33 and has been dealt with outside the Plan.

~~57.~~56. **Class 6**: Class 6 consists of the Allowed priority wage Claims under § 507(a)(4) of the Bankruptcy Code of the Debtor's employees in an amount not to exceed $65,000. These Creditors were scheduled on the Debtor's Schedule E for $114,019.16. $65,000 represents the balance due to the Debtor's employees after taking into account Court authorized payments of certain wages. Class 6 Claimants shall be paid their respective Allowed Claims, paid out over one year, commencing on the Effective Date, in 12 equal monthly installments, payable on the first day of each month, each installment constituting 8.3% of the amounts which are due. ($5,416.000) This Class is impaired and Creditors may vote on the Plan.

~~58.~~57. **Class 7**: Class 7 consists of the Debtor's Allowed priority non-wage Claims of the New York State Department of Labor entitled to priority pursuant to § 507(a)(8). This Claim was filed for unemployment insurance contributions in an unliquidated amount. The Debtor will object to this Claim. Any Allowed Claim entitled to priority under § 507(a)(8) shall be paid on account of such Claim regular payments in cash of a total value, as of the Effective Date

of the Plan, equal to the Allowed amount of such claim, over a period ending not later than July 16, 2020, in a manner not less favorable than the most favored nonpriority unsecured claim provided for in this Plan. This Class is impaired and Creditors may vote on the Plan.

~~59.~~58. **Class 8**: Class 8 consists of the Allowed unsecured Claims of the unsecured Creditors in the amount of approximately $6,182,983.59 (which will include the Bank claim in the event a determination is made that its claim is unsecured as set forth previously). Class 8 Claimants shall be paid 100%. Class 8 shall receive a 10% *pro rata* distribution of their Allowed Claims totaling approximately $618,000, payable monthly in the first year and thereafter annually over 10 years with the first monthly payment commencing on the Effective Date, and thereafter in nine (9) consecutive annual payments, each in the amount of $61,829.84. In addition, this Class shall receive, without interest, a total of 90% of the remaining amount principal amount of their claims, payable on a *pro rata* basis, from (a) the sum of $10,736per month (the amount allocated to pay the Bank if such bank held an Allowed Class 1 secured Claim) commencing on the first day after the month that the Bank is fully paid until the 120th month after the Effective Date (unless the claims are fully paid or satisfied sooner); (b) monthly installments of $25,000, each installment due on the first day of the month commencing on the thirteenth (13th) month after the Effective Date, until the one hundred twentieth month (120th) after the Effective Date (unless the claims are fully paid or satisfied sooner); (c) monthly installments of $5,416.67, each on the first day of the month commencing after the twelfth month after the Effective Date payable up until the full payments to Class 8 and; (d) on the one hundred twentieth month (120th) after the Effective Date, a balloon payment equal to the principal balance due and owing with respect to the Class 8 claims.

~~60.~~59. **Class 9:** Class 9 consists of the members of the Debtor, a religious

non-for-profit corporation. These members pay membership fees. These members have a religious affinity to the Debtor and to its Rabbi, to the method of prayer and the fellowship provided by the Debtor to its members. This class is a class that the Court must consider as to which of the two competing plans by the Bank and by the Debtor is in the best interest of such members according to prevailing State Law. The Debtor's Plan shall continue to leave these members in place upon their commitment to continue to pay their membership fees and tuition and otherwise continue to appreciate the benefits provided by the Debtor.

IX. ADMINISTRATION EXPENSES AND UNCLASSIFIED CLAIMS

~~61.~~60. Chapter 11 administration creditors, include the attorneys for the Debtor who have rendered services and who are entitled to compensation under §§ 327 and 503(b) of the Bankruptcy Code, and the fees payable to the Office of the United States Trustee under 28 U.S.C. § 1930, are not classified. All post-confirmation quarterly reports and quarterly fees required by the United States Trustee under 28 U.S.C. § 1930 shall be filed and paid on a quarterly basis until entry of a final decree, dismissal of the case or conversion to Chapter 7. The professional fees may be paid under a different agreement reached with the Debtor.

~~62.~~61. Unless otherwise provided for in the Confirmation Order or other award of the Court, fees and expenses incurred for services after the Confirmation Date to the Debtor by one or more professionals retained in these proceedings in furtherance of carrying out the terms and conditions of this Plan shall be paid by written invoice or statement accompanied by supporting time records and an itemization of time records to be submitted by the professional to (1) attorneys for the Debtor and (2) the Debtor. The bills shall be paid by the Debtor within 20 business days on account thereof, unless the Debtor objects to the fees within that time. This objection shall be served on counsel for the Debtor. In the event that such objections cannot be

resolved consensually, any fees requested in excess of the amount for which an objection is raised shall be resolved at a hearing before the Bankruptcy Court who is in the best position to determine the dispute regarding the payment of such fees.

X. THE REORGANIZED DEBTOR

~~63.~~62. The reorganized Debtor shall continue to operate and conduct its affairs, with its present management. Mr. Feder will continue to act as Secretary at a salary of $6,000 biweekly part of which compensation is reimbursed through the Government Programs providing for payments to the Debtor which require that Mr. Feder spend training time to stay abreast of all the Rules and Regulations concerning the programs. The Executive Board shall continue to act consisting of Gitty Horowitz, Naftali Horowitz and Jacob Feder at their salaries which existed pre-petition in the amounts of $0, $840 biweekly and $6,000 biweekly, respectively. Mr. Kahn and Mr. Schwartz shall continue as unpaid advisers. Mr. Joel Goldenberg is not an employee or director but will continue to be involved in financial matters and reporting including the preparation of any reports required to be made under this Plan. He does not receive a salary. The Debtor will continue to operate its bus system on its own in the event the court authorizes such action. ~~through the Krula entity in the event the Court authorizes such action~~. The Debtor will owe less than the value of its assets and is therefore in a solvent position (see Balance Sheet on Confirmation, Plan, Exhibit E). The Debtor will have sufficient funds to make the payments required under the Plan to the Creditors (See Revised Projections, Exhibit D). The Debtor shall set up a separate distribution checking account from which the Plan distribution payments shall be made.

~~64.~~63. These revised projections establish that they are reasonable and within the parameters of the historical reports filed by the Debtor during the Chapter 11 case. Presidential

Bank has alleged that the 12 month operating reports are not consistent with the income stated in the projections and overstated by $390,701 per year and in the rent payable by the Debtor's tenants versus the projected rents. The Debtor will be receiving cash from the Fallsburg property based on increased rentals. This rent equals $222,000 per year. In addition, rent from the Debtor's major tenant Be Above will have substantially increased to market rate by November 2017 when such Lease expires. The Debtor will be able to increase donations and fund raising where necessary. As was noted, the Debtor has provided a guarantor, Bernardo Kohn, guarantying up to $400,000 per year of any shortfall in payments owed to creditors over the next five (5) years (see Exhibit N) (see above at page 18). As noted above, Mr. Kohn is a donor not related to the Rabbi.

~~65.~~64. The Bank previously demanded production of proof that established that the Debtor had the initial $1,500,000 amount provided for under the Plan to be paid to the Bank at confirmation. The Bank has already accepted that the Debtor had provided the substantiation for this upfront payment which was reflected at hearings before the Court (see Exhibit M-1).

~~66.~~65. In addition, the monthly rental being paid by the Krula entity in the amount of $18,500 with respect to the property located in Fallsburg under a Net Lease is clearly market value. as evidenced by the attached statement by an owner who is experienced and knowledgable in the area (**Exhibit R**). The mediation has resulted in a lesser payment being made to Presidential Bank than was originally proposed by an amount equal to $120,000 per year, further assuring that the Bank will be paid on a timely basis.

~~67.~~66. The projections also take into account the issue of the reductions and the reimbursement rate of the vouchers which was identified at the beginning of this Disclosure Statement, which may reduce the income from the voucher programs based on the City's

reduction by 25% of the voucher payments. The Debtor has joined with a group of other non-profit religious organizations and retained experts and reached out to influential persons to seek to reverse this decision and reinstate the full voucher payments. Krula has arranged to increase its income in order to be able to assure that rent is paid.

~~68.~~67. The projections further establish that there will be sufficient funds to pay off the balance of the bank loan in year four (4) based upon the operations of the Debtor and the ability of the Debtor to obtain refinancing. The balance, based upon the payment schedule for Note A, should be $1,872,600 at the end of the fourth year. This balance may be refinanced by a mortgage on the Wallabout Property, the Fallsburg Property or the Kent Property. The Debtor believes that once it is stabilize its operations, the Debtor will be able to obtain a refinance.

~~69.~~68. The Debtor shall arrange to take over the operations of the synagogue on the Wallabout property from Krula on the Effective Date. The Debtor will not assume any debt owed by Krula. The Debtor will enter into a lease with Krula on the Fallsburg property to begin collecting monthly funds in the amount of $18,500. The Debtor will receive approximately $111,000 owed to it from the Krula entities before the Effective Date. The Debtor will also receive donations to make its payments on the Effective Date.

XI. THE LIQUIDATION ANALYSIS

~~70.~~69. The Debtor believes that the only alternative to confirming this Chapter 11 Plan is a conversion of this case to a case under Chapter 7 of the Bankruptcy Code. The Religious Non-for-Profit Corporation Law of the State of New York requires that the New York State Supreme Court in the county in which the Religious Non-for-Profit Corporation is located must approve any plan for the liquidation of the assets of such corporation. Accordingly, the Debtor must submit a liquidation request to the New York State Supreme Court first where there are so

many contingencies that would be required to be performed before there could ever be a liquidation of this religious non-for-profit debtor. These issues will include the disposition of the three issues set forth at the beginning of this Disclosure Statement concerning the Motion by the Creditors Committee to invalidate the mortgage, the disposition of the Bankruptcy Court litigation regarding the rights of this mortgagee under the Bankruptcy Code, whether the extension to be made by the Debtor nun pro tunc to extend exclusivity and to thereby disqualify the Bank's Plan and finally the weighing of competing Plans where the Debtor's Plan would be supported by all creditors and the Bank's Plan will be supported only by the Bank need to be completed. Substantial attorney's fees and related costs and expenses could accrue and further diminish the assets of the estate. The time period involved in such a liquidation, including the sales of the Debtor's assets and the determination of the recipient of such proceeds, would be lengthy and the subject of significant litigation in the New York State Supreme Court upon the conclusion of the litigation of this Court.

~~71.~~70. The liquidation analysis assumes that a liquidation sale of the Debtor's assets would result in net proceeds which would pay the secured claims, the Chapter 11 administration expenses which would have substantially increased in light of the above litigation, or the Chapter 7 administration expenses, leaving the unsecured creditors with little or no distribution and the Debtor being unable to continue its good works. It is assumed that the Debtor can achieve higher sales prices in Chapter 11 than in Chapter 7. Moreover, there has been no determination as to the amount of the liquidation value in light of the life tenancy interest held with respect to the Fallsburg property and the implications arising there from.

~~72.~~71. The Debtor believes that the Debtor will be able to establish, under the terms of the Plan, that it has met one of the requirements to confirm a Plan, which is that the treatment

under the Plan provides creditors with better treatment than such creditors would receive in liquidation.

XII. EXECUTORY CONTRACTS

~~73.~~72. The Debtor hereby rejects all contracts as of the Filing Date, excluding its leases with Be Above and with T-Mobile. The Debtor is entering into a lease agreement with the Krula entity involved in the operation of the summer camp pursuant to which the Debtor shall receive monthly income of $18,500 per month.

XIII. TAX IMPLICATIONS

~~74.~~73. The Debtor is not aware of any significant tax implication which would inure to the Debtor as a result of the filing and confirming of this Plan of Reorganization other than as stated herein. The Debtor suggests that Creditors consult their tax advisors with respect to the implication of the Plan and the Confirmation upon such creditors.

XIV. PREFERENCE AND FRAUDULENT CONVEYANCE ACTIONS

~~75.~~74. The Debtor has reviewed its books and records and has investigated whether there are any valid causes of action, including proceedings to avoid transfers including, but not limited to, proceedings under §§ 544(b), 547, 548, 549, 550 of the Bankruptcy Code or applicable state law. After analyzing the risks and expenses related to the prosecution of and the limited recovery, if any, which would inure to the benefit of the creditors in the event that the Debtor is successful, and the ability to collect on any judgments obtained, the Debtor has determined that she does not intend to institute any future causes of action for preference or fraudulent conveyance, other than those that have already been brought in any of the Debtor's adversary proceedings.

XV. RETENTION OF JURISDICTION BY THE COURT

~~76.~~75. Notwithstanding Confirmation, the Bankruptcy Court shall retain jurisdiction for the following purposes:

(a) Determination of the allowability of Claims upon objections filed to such Claims;

(b) Determination of requests for payment of Claims and fees entitled to priority under § 507;

(c) Resolution of any disputes concerning the interpretation of the Plan;

(d) Implementation of the provisions of the Plan;

(e) Entry of Orders in aid of Consummation of the Plan;

(f) Modification of the Plan pursuant to § 1127 of the Code;

(g) Adjudication of any causes of action including voiding powers actions commenced by the Debtor-in-Possession; and

(h) Entry of a Final Order of Consummation and closing the case.

XVI. EFFECTS OF COURT'S CONFIRMATION AND FEASIBILITY OF THE PLAN

~~77.~~76. Pursuant to § 1141(d) of the Bankruptcy Code, the Confirmation Order shall discharge claims against the Debtor to the extent permitted by the Bankruptcy Code. Except as expressly provided herein, the rights afforded in the Plan and the treatment of all Creditors, provided herein shall be in exchange for and in complete satisfaction, discharge, and release of all Claims involving this Debtor existing as of the Confirmation Date, of any nature whatsoever, whether known or unknown, contingent or unliquidated, including any interest accrued or expenses incurred thereon, from and after the Debtor's Filing Date, against the Debtor and the Debtor-in-Possession (or any of its properties or interest in properties). Except as otherwise provided in the Plan, upon the Confirmation Date, all Claims against the Debtor, will be

satisfied, discharged, and released (except for those obligations identified in the Plan, *ultra vires* claims, breaches of fiduciary duty, or fraud) in full exchange for the consideration provided for hereunder. All persons and entities shall be precluded from asserting against the Debtor, its successors, its respective assets or properties, any of the above Claims that occurred prior to the Confirmation Date.

XVII. INJUNCTION AND EXONERATION

~~78.~~77. Except as otherwise provided in the Plan or Confirmation Order, on and after the Confirmation Date, all entities which have held, currently hold, or may hold a debt, claim, other liability of interest against the Debtor pursuant to the provisions of § 1141(d) of the Bankruptcy Code and this section, are permanently enjoined from taking any of the following actions on account of such debt, claim, liability, interest or right: (a) commencing or continuing in any manner any action or other proceeding on account of such claim against property which is to be distributed under this Plan, other than to enforce any right to distribution with respect to such property under the Plan; (b) enforcing, attaching, collecting, or recovering in any manner or judgment, award, decree, order other than as permitted under sub-paragraph (a) above; and (c) creating, perfecting, or enforcing any lien or encumbrance against any property to be distributed under this Plan.

XVIII. EFFECTIVE DATE

75. The Plan shall be effective and binding on the Effective Date. It will be a condition to the Effective Date that each of the following provisions, terms, and condition will have been satisfied pursuant to the provisions of the Plan:

(a) The Confirmation Order, in form and substance acceptable to the Debtor and Presidential Bank, shall have been entered by the Bankruptcy Court and shall not be subject to any stay or subject to an unresolved request for revocation under section 1144 of the Bankruptcy Code.

(b) The Loan Documents, in form and substance acceptable to Presidential Bank, shall have been approved by the Bankruptcy Court and such Loan Documents shall have received all necessary and required state approvals and orders pursuant to applicable law satisfactory to Presidential Bank in its sole discretion.

(c) The Debtor shall have indefeasibly paid to Presidential and Presidential shall have indefeasibly received $1,500,000 in cash, and the Debtor shall have executed and delivered the Loan Documents to Presidential Bank.

(c) The Debtor's charter shall have been reinstated and the Debtor shall be in good standing with the New York Secretary of State.

(d) All actions, documents, certificates, and agreements necessary to implement the Plan shall have been effected or executed and delivered to the required parties and, to the extent required, filed with the applicable governmental units in accordance with applicable laws.

(e) The Committee shall have dismissed with prejudice all papers and pleadings filed with respect to the Challenge Action filed by the Committee on February 19, 2016 (Doc. No. 223).

76. The conditions to the Effective Date of the Plan cannot be, and may not be, waived. Confirmation of the Plan shall be revoked, and the Plan deemed a nullity if the Effective Date does not occur within thirty (30) days after entry of an Order confirming the Plan; provided, however, the Debtor and Presidential Bank may agree to extend such period for an additional fifteen (15) days. In the event that the Effective Date does not occur, the Plan will be null and void in all respects and nothing contained in the Plan or the Disclosure Statement will: (a) constitute a waiver or release of any claims by or Claims against the Debtor; (b) prejudice in any manner the rights of any holders of Claims or Interests, or any other person; or (c) constitute an admission, acknowledgment, offer, or undertaking by any holders of Claims or Interests, or any other person in any respect. On the Effective Date, the Committee shall be disbanded and its counsel shall be discharged.

XIX. WHERE TO FILE BALLOTS ON THE PLAN

77. Pursuant to a Court Order approving this Disclosure Statement, ballots on the Debtor's Plan must be received by _____, 2017. All ballots should be properly completed and forwarded to: Brian J. Hufnagel, Esq., Forchelli, Curto, Deegan, Schwartz, Mineo & Terrana, LLP, The Omni, 333 Earle Ovington Boulevard, Suite 1010, Uniondale, New York 11553.

Dated: New York, New York
October ~~17~~24, 2017

BNOIS SPINKA

By: ***/s/ Bnois Spinka***

/s/ Leo Fox, Esq.
Leo Fox, Esq. (LF-1947)
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