

**LAW OFFICES OF DAVID CARLEBACH, ESQ.**

David Carlebach, Esq.  
Ira Abel, Esq. (Of Counsel)  
55 Broadway  
Suite 1902  
New York, NY 10006  
Tel: (212) 785-3041  
Fax: (347) 472-0094  
Email: [david@carlebachlaw.com](mailto:david@carlebachlaw.com)  
[Ira@carlebachlaw.com](mailto:Ira@carlebachlaw.com)

*Attorneys for the Debtor*

**UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF NEW YORK**

_____	:	X
	:	
In re:	:	Chapter 11
	:	
<b>Sugarman's Plaza Limited Partnership</b>	:	Case No. 16-42496-ess
	:	
	:	Debtor.:
Tax ID No.: <u>xx-xxx8787</u>	:	:X

**DISCLOSURE STATEMENT OF SUGARMAN'S PLAZA LIMITED PARTNERSHIP IN  
SUPPORT OF PLAN OF REORGANIZATION**

**THIS IS NOT A SOLICITATION OF ACCEPTANCES OR REJECTIONS 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 YET BEEN APPROVED BY THE BANKRUPTCY COURT.**

**THIS DISCLOSURE STATEMENT CONTAINS INFORMATION THAT MAY AFFECT CREDITORS' DECISIONS TO ACCEPT OR REJECT THE DEBTOR'S CHAPTER 11 PLAN. ALL CREDITORS ARE URGED TO READ THIS DISCLOSURE STATEMENT CAREFULLY. ALL CAPITALIZED TERMS CONTAINED IN THIS DISCLOSURE STATEMENT SHALL HAVE THE SAME MEANING AS CAPITALIZED TERMS CONTAINED IN THE CHAPTER 11 PLAN ANNEXED TO THE DISCLOSURE STATEMENT AS EXHIBIT A.**

**COURT APPROVAL OF THE DISCLOSURE STATEMENT DOES NOT CONSTITUTE COURT APPROVAL OF THE TERMS OF THE PLAN.**

**THIS DISCLOSURE STATEMENT HAS BEEN SUBMITTED FOR APPROVAL BUT HAS NOT YET BEEN APPROVED BY THE BANKRUPTCY COURT.**

## INTRODUCTION

Sugarman's Plaza Limited Partnership, as debtor and debtor-in-possession (the "Debtor") submits this Disclosure Statement ("Disclosure Statement") in connection with the solicitation of acceptances and rejections of its Plan of Reorganization ("Plan") under Chapter 11 of the United States Bankruptcy Code. A copy of the Plan is attached hereto as Exhibit "A." All Creditors are urged to review the Plan, in addition to reviewing this Disclosure Statement. All capitalized terms used but not defined herein shall have the meaning set forth in the Plan.<sup>1</sup> Also, all exhibits to this Disclosure Statement are incorporated into and are part of this Disclosure Statement as if set forth in full herein.

This Disclosure Statement is not intended to replace a review and analysis of the Plan. Rather, it is submitted as a review of the Plan in an effort to explain the terms and implications of the Plan. Every effort has been made to fully explain the various aspects of the Plan as it affects all Creditors. To the extent a Creditor has any questions, the Debtor urges you to contact its counsel and every effort will be made to assist you. However, please be aware that the Debtor's counsel cannot provide advice on whether to vote to accept or reject the Plan.

THE DEBTOR URGES YOU TO VOTE IN FAVOR OF THE PLAN. THE DEBTOR'S GOAL IS FOR ALL CREDITOR CLASSES TO ACCEPT THE PLAN. IF ALL CREDITOR CLASSES DO NOT ACCEPT THE PLAN, THE DEBTOR MAY SEEK CRAMDOWN OF THE PLAN UNDER SECTION 1129(b) OF THE BANKRUPTCY CODE TO CONFIRM THE PLAN.

By Order, dated \_\_\_\_\_, 2016, after notice and a hearing, the

---

<sup>1</sup> Unless the context otherwise requires, any capitalized term used herein and not defined in the Plan, but defined in the Bankruptcy Code or Bankruptcy Rules, shall have the meaning set forth therein. Wherever from the context it appears appropriate, each term stated in either of the singular or the plural shall include the singular and the plural, and pronouns stated in the masculine, feminine or neuter gender shall include the masculine, the feminine and the neuter. The words "herein," "hereof," "hereto" and "hereunder," and other words of similar import, refer to this Disclosure Statement as a whole and not to any particular portion hereof. The word "including" shall mean "including, without limitation."

Bankruptcy Court approved this Disclosure Statement as containing information of a kind and in sufficient detail, as far as is reasonably practicable in light of the nature and history of the Debtor and the condition of the Debtor's books and records, to enable Creditors whose votes are being solicited to make an informed judgment whether to accept or reject the Plan.

Creditors should read this Disclosure Statement in its entirety prior to voting on the Plan. No solicitation of votes to accept or reject the Plan may be made except pursuant to this Disclosure Statement. EXCEPT AS SET FORTH IN THIS DISCLOSURE STATEMENT, NO REPRESENTATIONS CONCERNING THE DEBTOR, ITS ASSETS, ITS PAST OR FUTURE OPERATIONS, OR THE PLAN ARE AUTHORIZED, NOR ARE ANY SUCH REPRESENTATIONS TO BE RELIED UPON IN ARRIVING AT A DECISION WITH RESPECT TO THE PLAN. ANY REPRESENTATIONS MADE TO SECURE ACCEPTANCE OR REJECTION OF THE PLAN OTHER THAN AS CONTAINED IN THIS DISCLOSURE STATEMENT SHOULD BE REPORTED TO COUNSEL FOR THE DEBTOR.

THE INFORMATION CONTAINED IN THIS DISCLOSURE STATEMENT HAS BEEN SUPPLIED BY THE DEBTOR. THE DEBTOR'S COUNSEL HAS NO INFORMATION TO INDICATE THAT THE INFORMATION DISCLOSED HEREIN IS INACCURATE. NEITHER THE DEBTOR NOR ITS COUNSEL, HOWEVER, IS ABLE TO STATE DEFINITELY THAT THERE IS NO INACCURACY HEREIN OR THAT FUTURE EVENTS MAY NOT RENDER THE INFORMATION CONTAINED HEREIN INACCURATE.

After reviewing this Disclosure Statement, please indicate your vote to accept or to reject the Plan on the enclosed ballot, and return the signed and dated ballot indicating your vote to the Debtors' counsel (the Law Offices of David Carlebach, Esq., 55 Broadway, Suite 1902, New York, New York 10006) so that they are *received* on or before 5:00 p.m. (Eastern Time)

on \_\_\_\_\_, 2016.

**ANY BALLOTS RECEIVED BY THE DEBTORS' COUNSEL  
AFTER \_\_\_\_\_, 2016 WILL NOT BE COUNTED.**

**ONLY BALLOTS WITH ORIGINAL SIGNATURES WILL BE COUNTED. NO FAXES  
OR EMAIL BALLOTS WILL BE COUNTED.**

**The Bankruptcy Court has entered an Order setting \_\_\_\_\_, 2016, at  
.m., at the United States Bankruptcy Court for the Eastern District of New York,  
271-C Cadman Plaza East, Brooklyn, New York, as the date, time and place for the hearing  
on confirmation of the Plan, and setting \_\_\_\_\_, 2016, as the last date for the filing of  
any objections to confirmation of the Plan.**

### **BACKGROUND**

#### **Background of the Debtor's Business**

The Debtor operates a business located at 600 Scranton Carbondale Highway, Archbald PA 18403. The premises consist of approximately 455,000 square feet of land (approximately 58.6 acres) containing a store, warehouse, office space and parking lot (the "Premises"). The Debtor rents the Premises to various tenants.

The general partner of the Debtor is Sugarman's Plaza GP, LLC, a Delaware Limited Liability Company. The general partner of Sugarman's Plaza GP, LLC is TCS Associates. Chaim Laufer is the general partner of TCS Associates. Mr. Laufer has managed the Debtor since approximately 2007.

The Property was originally developed as Sugarman's Enyon Drugstore, which operated a large retail operation in northeastern Pennsylvania. The retail business closed sometime in the 1990s. SEL purchased the Property in approximately 2000 and reconfigured the property for use by multiple retail and commercial tenants.

In or about June 2007, SEL sold the Property to the Debtor. The Debtor paid a portion of

the purchase price at closing and financed the balance with SEL. SEL alleges that it holds various documents to secure its loan, including a mortgage and an assignment of rents.

The Debtor was unable to pay the mortgage debt when it came due in or about June 2012, and the Debtor and SEL agreed to restructure the debt.

Ultimately, the Debtor and SEL were unable to agree on a final restructuring of the loan, and SEL declared the Debtor in default in or about March, 2015. By letter dated June 3, 2016, SEL again declared the loan in default and also revoked the Debtor's license to collect and use rents under the Assignment of Rents. By letters, dated June 3, 2016, SEL, through its counsel, notified all of the tenants at the Property, and the Debtor, that it had revoked the Debtor's license to collect rents. In response to the default letter and the revocation of the license to use rents, the Debtor filed a chapter 11 petition on June 7, 2016.

As of this date, SEL has not yet started a foreclosure action against the Property.

### **Major Events In The Debtor's Chapter 11 Case**

On June 7, 2016, the Debtor filed a Chapter 11 petition under Title 11 of the United States Code, 11 U.S.C. § 101 et seq. (the "Bankruptcy Code") in the United States Bankruptcy Court for the Eastern District of New York (the "Court"). The Debtor commenced its case in order to recover the use of its funds and to restructure the debt on the Property.

The Debtor is authorized to remain in possession of its property and to continue in the operation and management of its business as a debtor in possession pursuant to sections 1107 and 1108 of the Bankruptcy Code.

No official committee of unsecured creditors has yet been appointed by the Office of the United States Trustee for the Southern District of New York (the "U.S. Trustee"). No trustee or examiner has been appointed.

The Debtor has been authorized to employ the Law Office of David Carlbach as its

counsel and the accounting firm of Phillip M. Stern and Co. as its accountant. It has also sought to employ CPG Interactive as a marketing consultant and NAI Hanson as its real estate broker.

On July 15, 2016, the Debtor filed its Schedules. The Schedules list all of the Debtor's assets and liabilities and provide creditors with a detailed description of the Debtor's Property.

The Debtor has been authorized to use the cash collateral allegedly secured by SEL's mortgage documents, and has been operating its business in accordance with that authorization. SEL is provided with weekly reports of the Debtor's cash receipts and disbursements, and approves the Debtor's expenditures. Those reports, along with a replacement lien, have provided SEL with adequate protection of its interests.

By motion, dated August 3, 2016, SEL sought an order of the Court granting relief from the automatic stay or dismissal of the Debtor's case in order to commence a foreclosure proceeding against the Debtor.

## **DEBTOR'S PLAN OF REORGANIZATION**

### **General Description of Treatment of Claims**

Set forth in detail elsewhere in this Disclosure Statement is a description of the technical aspects of Classification of Claims and Interests, the distributions to holders of such Claims and Interests, and the consequences of the proposed reorganization. The following general description of the Plan is qualified in its entirety by reference to such detailed information and to the full text of the Plan.

**Unclassified Claims.** Certain Claims are "unclassified," in particular the fees and charges owed to the United States Trustee, to holders of priority claims and to expenses of administration.

**United States Trustee Fees.** The Debtors shall pay all United States Trustee quarterly fees under 28 U.S.C. § 1930(a)(6), plus interest due and payable under 31 U.S.C. § 3717 on all

disbursements, including Plan payments and disbursements in and outside the ordinary course of the Debtor's businesses, until the entry of a Final Order, dismissal of the Chapter 11 Cases or conversion of the Chapter 11 Cases to cases under chapter 7 of the Bankruptcy Code. Additionally, the Debtors shall file quarterly Post Confirmation Reports and schedule quarterly post-confirmation status conferences with the Court.

Priority Tax Claims.

Priority Tax Claims are certain unsecured income, employment and other taxes described by Code Section 507(a)(8). The Code permits the Debtors to pay each holder of such a Section 507(a)(8) Priority Tax Claim the present value of such Claim in deferred Cash payments, over a period not exceeding five (5) years from the Petition Date.

All Allowed Priority Tax Claims will be paid, at the Debtor's sole discretion, (a) in the usual course of the Debtor's business or (b) by regular installment payments in Cash - (i) of a total value, as of the effective date of the plan, equal to the allowed amount of such Claim; (ii) over a period ending not later than 5 years after the Petition Dates; and (iii) in a manner not less favorable than the most favored non-priority unsecured Claim provided for by the Plan (other than cash payments made to a Class of Creditors under section 1122(b))

Expenses of Administration.

These are the costs and expenses of administration of the Bankruptcy Cases entitled to priority under § 507(a)(2) and allowed under § 503(b) of the Code, and any fees or charges assessed against the Debtor's Estates under Chapter 123, Title 28, United States Code, including the costs of curing any executory contracts and unexpired leases pursuant to § 365 of the Bankruptcy Code, post-petition taxes and professional fees. The Debtors estimate that total expenses of administration will equal approximately \$100,000.00.

Expenses of Administration shall be paid in Cash, up to the allowed amount of their Claims, (a) on the Effective Date, (b) in the ordinary course of the Debtor's business or (c) on such other terms as may be agreed upon by the holder of the administration expense and the Debtor.

The professionals that the Debtors has retained have been the Debtor's counsel, Law Offices of David Carlebach, Esq. ("Carlebach"), the accounting firm Phillip M. Stern and Co. ("Stern"), and . Carlebach has been paid a pre-petition retainer by the Debtor totaling \$7,500.00. Carlebach expects that its fees will be approximately an additional \$125,000.00 through Confirmation. The Debtor's retained professionals shall be paid upon order of the Court on notice to interested parties.

Below is a summary of the treatment of Classified Claims and whether they are impaired or unimpaired:

Class	Description	Treatment	Impaired or Unimpaired
Class I	Class I consists of the secured Claim of SEL, which, according to SEL, is in the aggregate amount of not less than \$6,282,500.00, plus additional interest, late charges, attorney's fees and other costs, if any, chargeable to Debtor pursuant to the governing loan documents or applicable law.	At the Debtor's sole discretion, the Class I Claim shall be paid (a) in full in Cash at closing of the sale transaction contemplated under the Plan or (b) the SEL Loan shall be reinstated.	Class I is an impaired and is entitled to vote to accept or reject the Plan.



Class II	<p>Class II consists of all other allowed secured Claims other than Class I Claims.</p> <p>Certain Class II Claims may be senior in priority to the Class I Claim.</p>	<p>At the Closing of the Sale (if a Class II Claim is senior in priority to the Class I Claim) or on the Effective Date, or on the Effective Date or as soon as practicable thereafter (if a Class II Claim is junior in priority to the Class I Claim), to the extent that the Net Sale Proceeds have not been exhausted by payment of the Class I Claim and Class II Claims senior in priority to the Class I Claim, each holder of an Allowed Class II Claim shall be (a) paid its <i>pro rata</i> share of the Net Sale Proceeds by the Disbursing Agent from the available balance of the Net Sale Proceeds, in Cash, (b) satisfied by returning to the holder of such Claim the collateral securing such Allowed Secured Claim pursuant to the Confirmation Order or otherwise, (c) paid and/or satisfied through any combination of subparagraphs (a) and (b) of this section of this Plan, or (d) treated as may otherwise be agreed upon by the holder of such Claim and the Debtor.</p>	<p>Class II is an impaired class and is entitled to vote to accept or reject the Plan <i>only if</i> the Net Sale Proceeds are insufficient to satisfy the Class II Claims in full. If the Net Sale Proceeds are sufficient to satisfy the Class II Claims on the Confirmation Date, plus a reserve for additional fees, costs, expenses and charges through the Closing Date, Class II shall not be impaired and shall not be entitled to vote to accept or reject the Plan.</p>
Class III	<p>Class III consists of all allowed Unsecured Claims against the Debtor. These are (a) listed in Schedule F of the Debtor's Schedules, which were filed with the Court on July 15, 2016 or (b) listed on the claims register maintained by the Clerk of the Court.</p>	<p>On the Effective Date, or as soon as practicable thereafter, to the extent that the Net Sale Proceeds have not been exhausted by payment of the Class I Claims and Class II Claims, each Allowed Class III Claim shall be paid its <i>pro rata</i> share of the available balance of the Net Sale Proceeds.</p>	<p>Class III is entitled to vote to accept or reject the Plan <i>only if</i> the Net Sale Proceeds are insufficient to satisfy the Class III Claims in full. If the Net Sale Proceeds are sufficient to satisfy the Class III Claims in full on the Effective Date, Class III shall not be impaired and shall not be entitled to vote to accept or reject the Plan.</p>

Class IV	Class IV consists of the Equity Interests in the Debtor. Sugarman's Plaza GP LLC is the 100% equity interest holder of the Debtor.	Class IV interest holders shall retain their equity interests and will be paid the allowed amount of their equity interest with respect to any proceeds remaining from the sale of the Property after all Creditors have been paid in full.	Class IV is an impaired class and is entitled to vote to accept or reject the Plan.
----------	--	---	---

### **MEANS FOR IMPLEMENTATION**

**Means for Implementation upon Sale:** If the Sale is consummated, the funds necessary for implementation of the Plan will be provided from the Sale of the Debtors' Property as follows:

Class I Claims: in full in Cash at closing of the Sale transaction contemplated under the Plan.

Class II Claims: At the Closing of the Sale (if a Class II Claim is senior in priority to the Class I Claim) or on the Effective Date, or on the Effective Date or as soon as practicable thereafter (if a Class II Claim is junior in priority to the Class I Claim), to the extent that the Net Sale Proceeds have not been exhausted by payment of the Class I Claim and Class II Claims senior in priority to the Class I Claim.

Class III Claims: On the Effective Date, or as soon as practicable thereafter, to the extent that the Net Sale Proceeds have not been exhausted by payment of the Class I Claims and Class II Claims, each Allowed Class III Claim shall be paid its *pro rata* share of the available balance of the Net Sale Proceeds.

Class IV Interests: On the Effective Date, or as soon as practicable thereafter, to the extent that the Net Sale Proceeds have not been exhausted by payment of the Class I Claims, Class II Claims and Class III Claims, will be paid the allowed amount of their equity interest with respect to any proceeds remaining from the Sale of the Property.

**Means for Implementation upon Lease of Vacant Space:**

Class I Claims: The SEL Mortgage shall be reinstated and payments to SEL shall resume as set forth in the SEL Loan Documents.

Class II Claims: All Class II Claims shall be paid in full, in Cash, in equal quarterly payments, over a period of time not less than five (5) years after the Effective Date.

Class III Claims: Each Allowed Class III Claim shall be paid in full, in Cash, in equal quarterly payments, over a period of time not less than five (5) years after the Effective Date.

Class IV Interests shall retain their Equity Interests in the Debtor.

**Stamp Tax or Similar Tax.** Under the Plan, pursuant to Bankruptcy Code § 1146(c), (a) the issuance, transfer or exchange of any securities, instruments or documents, (b) the creation of any other Lien, mortgage, deed of trust or other security interest, (c) the making or assignment of any lease or sublease or the making or delivery of any deed or other instrument of transfer under, pursuant to, in furtherance of, or in connection with, the Plan, including, without limitation, any deeds, bills of sale or assignments executed in connection with the purchase of the Property by the purchaser and any other transaction contemplated under the Plan or the re-vesting, transfer or sale of any real or personal property of the Debtor pursuant to, in implementation of, or as contemplated in the Plan, and (d) the issuance, renewal, modification or securing of indebtedness by such means, and the making, delivery or recording of any deed or other instrument of transfer under, in furtherance of, or in connection with, the Plan, including, without limitation, the Confirmation Order, shall not be subject any applicable document recording tax, stamp tax, conveyance fee or other similar tax, mortgage tax, real estate transfer tax, or other similar tax or governmental assessment including without limitation New York City Real Property Transfer Tax and New York State Documentary Tax.

**Execution of Documents** -- The Debtor shall be authorized to execute, in the name of any necessary party, any notice of satisfaction, release or discharge of any Lien, Claim or

encumbrance not expressly preserved in the Plan and deliver such notices to any and all federal, state and local governmental agencies or departments for filing and recordation.

**Recording Documents** -- Each and every federal, state and local governmental agency or department shall be authorized to accept and record any and all documents and instruments necessary, useful or appropriate to effectuate, implement and consummate the transaction contemplated by the Plan, including, but not limited to any and all notices of satisfaction, release or discharge of any Lien, Claim or encumbrance not expressly preserved by the Plan, and the Confirmation Order.

### **LIQUIDATION ANALYSIS**

In a liquidation under Chapter 7 of the Bankruptcy Code, the Debtor's assets would be sold and the sale proceeds distributed to creditors in their order of priority. The Debtor believes that the Plan provides a far better return for the Debtor's estate than could be achieved in a liquidation. Indeed, as set forth on Exhibit B hereto, the Debtor projects that general unsecured creditors would receive no distribution. Furthermore, a Chapter 7 Trustee represents an additional layer of administration legal expenses and commissions, which the Debtor estimates would total at least 10% of the sale proceeds.

### **PAYMENT OF CLAIMS AND OBJECTIONS TO CLAIMS**

The Debtor shall be disbursing agent under the Plan without a bond. The Debtor reserves its right to file objections to claims in the event grounds exist to object to particular claims, for a period of 120 days after the Effective Date. On the initial distribution date and on each distribution date as may thereafter be necessary, the Debtor shall maintain an undetermined claims distribution reserve for the holders of undetermined claims as of such date in a sum not less than the amount required to pay each such undetermined claim if such claim was allowed in full. To the extent that an undetermined claim becomes an Allowed Claim, the distributions

reserved for such Allowed Claim, shall be released from the undetermined claims distribution reserve and paid to the holder of such Allowed Claim. After all the amounts of all undetermined claims have been fixed, the balance of the undetermined claims distribution reserve shall thereafter be paid in accordance with the Plan.

### **EXECUTORY CONTRACTS AND UNEXPIRED LEASES**

All non-residential unexpired leases and executory contracts not assumed prior to the Effective Date shall be (a)(i) assumed and assigned to any successful purchaser if the Property is sold or (ii) rejected if such successful purchaser does not require them for its operations, or (b) assumed as part of the Debtor's post-Effective Date operations. In the event of a rejection which results in damages a Proof of Claim for such damages must be filed by the damaged party with the Court within sixty (60) days after the Effective Date. All Allowed Claims arising from the rejection of any Executory Contract or unexpired lease shall be treated as Unsecured Claims. Any Claim arising from the rejection of any Executory Contract or unexpired lease not filed with the Court within the time period provided in the preceding paragraph above shall be deemed discharged and shall not be entitled to participate in any distribution under the Plan.

### **MANAGEMENT OF THE DEBTOR**

If the Property is sold, the successful purchaser will manage the Debtor's operations. If the Debtor is successful in obtaining tenants for the vacant space, the Debtor will manage the Property after the Effective Date.

### **TAX CONSEQUENCES**

The Debtor does not believe that there will be any negative tax consequences to the Debtor or to Creditors under the Plan. To the extent that a creditor is not paid in full under the Plan, such creditor may be entitled to a bad debt deduction. To the extent that a creditor has taken a bad debt deduction, Plan distributions may be taxable as income.

**THE DEBTOR DOES NOT PURPORT, THROUGH THIS DISCLOSURE STATEMENT, TO ADVISE THE CREDITORS OR INTEREST HOLDERS REGARDING THE TAX CONSEQUENCES OF THE TREATMENT OF THE CREDITORS AND INTEREST HOLDERS UNDER THE PLAN. CREDITORS AND INTEREST HOLDER SHOULD SEEK INDEPENDENT COUNSEL CONCERNING THE TAX CONSEQUENCES OF THEIR TREATMENT UNDER THE PLAN.**

### **PLAN ALTERNATIVES**

Generally the plan options for single asset real estate cases include selling, refinancing, recapitalizing or loan modification. The Debtor has proposed a plan that, if approved, is expected to pay SEL an agreed sum, and may, but is not certain to, pay all creditors junior to SEL a small cash payment and, under the best case, provide a small dividend to the Debtor's Interest holders. There currently appears to be no interest in recapitalization or refinancing on market based terms. In this case, therefore, the Debtor believes that selling the Property or obtaining new tenants for the vacant space is the only viable alternative.

### **VOTING PROCEDURES AND REQUIREMENTS**

A ballot to be used for voting to accept or reject the Plan is enclosed with this Disclosure Statement. Each creditor is entitled to execute the ballot, and return it to the undersigned to be considered for voting purposes. **The Bankruptcy Court has directed that, in order to be counted for voting purposes, ballots for the acceptance or rejection of the Plan must be received no later than** \_\_\_\_\_, 2016, **at the following address:** Law Offices Of David Carlebach, Esq., Att'n: David Carlebach, Esq. or Ira Abel, Esq., 55 Broadway, Suite 1902, New York, NY 10006.

Each Creditor of the Debtor whose Claim is impaired under the Plan is entitled to vote, if either (i) its Claim has been scheduled by the Debtor, or (ii) it has filed a Proof of Claim on or before the last date set by the Bankruptcy Court for such filings.

Any Claim as to which an objection has been filed (and such objection is still pending) is not entitled to vote, unless the Bankruptcy Court temporarily allows the Claim in an amount which it deems proper for the purpose of accepting or rejecting the Plan upon motion by a Creditor whose Claim is subject to an objection. Such motion must be heard and determined by the Bankruptcy Court prior to the date established by the Court to confirm the Plan.

A Creditor's vote may be disregarded if the Bankruptcy Court determines that the Creditor's acceptance or rejection was not solicited or procured in good faith or in accordance with the provisions of the Bankruptcy Code.

The Bankruptcy Code defines acceptance of a Plan by a Class of Creditors as acceptance by holders of two-thirds in dollar amount and a majority in number of the Claims of that Class which actually cast ballots for acceptance or rejection of the Plan.

The Bankruptcy Code defines acceptance of a Plan by a Class of Interests as acceptance by holders of two-thirds in amount of the allowed Interests of such Class held by holders of such interests.

### **CONFIRMATION OF THE PLAN**

Section 1128(a) of the Bankruptcy Code requires that the Bankruptcy Court, after notice, hold a hearing on confirmation of the Plan (the "Confirmation Hearing"). Section 1128(b) of the Bankruptcy Code provides that any party in interest may object to confirmation of the Plan.

By order of the Bankruptcy Court dated , 2016, the Confirmation Hearing has been scheduled for \_\_\_\_\_, 2016, at .m., before the Honorable Elizabeth S. Stong, United States Bankruptcy Judge, at the United States Bankruptcy Court, 271-C Cadman Plaza East, Brooklyn,

New York. The Confirmation Hearing may be adjourned from time to time by the Bankruptcy Court without further notice except for an announcement made at the Confirmation Hearing or any adjourned Confirmation Hearing. Any objection to confirmation of the Plan must be made in writing and filed with the Bankruptcy Court with proof of service and served upon the following on or before \_\_\_\_\_, \_\_ 2016:

The Law Office of David Carlebach, Esq.  
55 Broadway, Suite 1902  
New York, New York 10006  
Attn: David Carlebach, Esq.

Objections to confirmation of the Plan are governed by Bankruptcy Rule 9014.

At the Confirmation Hearing, the Bankruptcy Court will determine whether the requirements of Section 1129 of the Bankruptcy Code have been satisfied to enter an order confirming the Plan. The applicable requirements are as follows: (a) The Plan complies with the applicable provisions of the Bankruptcy Code, (b) the Debtor has complied with the applicable provisions of the Bankruptcy Code; (c) the Plan has been proposed in good faith and not by any means forbidden by law, (d) any payment made or promised or by a person issuing securities or acquiring property under the Plan, for services or for costs and expenses in, or in connection with, the Bankruptcy Case, or in connection with the Plan and incident to the Bankruptcy Case, has been disclosed to the Bankruptcy Court, and any such payment made before the confirmation of the Plan is reasonable, or if such payment is to be fixed after confirmation of the Plan, such payment is subject to the approval of the Bankruptcy Court as reasonable, (e) the Debtor has disclosed the identity and affiliations of any individual proposed to serve, after confirmation of the Plan, as a director, officer, or voting trustee of the Debtor, an affiliate of the Debtor participating in a Plan with the Debtor, or a successor to the Debtor under the Plan, and the appointment to, or continuance in, such office of such individual, is consistent with the interests of Creditors and equity security holders and with public policy, and the Debtor has disclosed the



identity of any insider that will be employed or retained by the reorganized Debtor, and the nature of any compensation for such insider, (f) with respect to each Class of impaired Claims, either each holder of a Claim or interest of such Class has accepted the Plan, or will receive or retain under the Plan on account of such Claim or interest property of a value, as of the Effective Date of the Plan, an amount that is not less than the amount that such holder would so receive or retain if the Debtor was liquidated on such date under Chapter 7 of the Bankruptcy Code, (g) each Class of Claims or interests has either accepted the Plan or is not impaired under the Plan, (h) except to the extent that the holder of a particular Claim has agreed to a different treatment of such Claim, the Plan provides that Administrative Expenses and priority Claims will be paid in full on the Effective Date, (i) at least one Class of impaired Claims has accepted the Plan, determined without including any acceptance of the Plan by any insider holding a Claim of such Class, and (j) confirmation of the Plan is not likely to be followed by the liquidation, or the need for further financial reorganization of the Debtor or any successors to the Debtor under the Plan unless such liquidation or reorganization is proposed in the Plan.

The Debtor believes that the Plan satisfies all of the statutory requirements of Chapter 11 of the Bankruptcy Code, that the Debtor has complied or will have complied with all of the requirements of Chapter 11, and that the proposals contained in the Plan are made in good faith.

The Debtor contends that holders of all Claims impaired under the Plan will receive payments under the Plan having a present value as of the Effective Date in amounts not less than the amounts likely to be received if the Debtor were liquidated under Chapter 7 of the Bankruptcy Code.

### **CRAMDOWN**

In the event that any impaired Class of Claims does not accept the Plan, the Bankruptcy Court may still confirm the Plan at the request of the Debtor if, as to each impaired Class which has not accepted the Plan, the Plan "does not discriminate unfairly" and is "fair and equitable."

The Debtor intends to invoke the cramdown provisions of section 1129(b) as to any impaired Class that does not accept the plan.

A plan of reorganization does not discriminate unfairly within the meaning of the Bankruptcy Code if no Class receives less than it is legally entitled to receive for its Claims or equity interests. "Fair and equitable" has different meanings for Secured and Unsecured Claims.

With respect to a Secured Claim, "fair and equitable" means either: (a) the impaired Secured Creditor retains its Liens to the extent of its Allowed Claim and receives deferred cash payments at least equal to the allowed amount of its Claim with a present value as of the Effective Date at least equal to the value of such Creditor's interest in the property securing its Liens; (b) property subject to the Lien of the impaired Secured Creditor is sold free and clear of that Lien, with that Lien attaching to the proceeds of the sale; or (c) the impaired Secured Creditor realizes the "indubitable equivalent" of its Claim under the Plan.

With respect to an Unsecured Claim, "fair and equitable" means either: (a) each impaired Unsecured Creditor receives or retains property of a value equal to the amount of its Allowed Claim; or (b) the holders of Claims and Interests that are junior to the Claims of the dissenting Class will not receive any property under the Plan.

In the event one or more Classes of impaired Claims rejects the Plan, the Bankruptcy Court will determine at the Confirmation Hearing whether the Plan is fair and equitable and does not discriminate unfairly against any rejecting impaired Class of Claims.

### **CONCLUSION**

The Debtor urges the Debtor's Creditors to vote to accept the Plan and to evidence such acceptance by returning their ballots so that they will be received no later than \_\_\_\_\_ , 2016.

Dated: New York, New York  
September 2, 2016

Sugarman's Plaza Limited Partnership  
*Debtor, Debtor-in-Possession and Plan Proponent*

By: Sugarman's Plaza GP, LLC, a Delaware Limited  
Liability Company

By: TCS Associates

By: /s/ \_\_\_\_\_  
Chaim Laufer, General Partner

**THE LAW OFFICE OF DAVID CARLEBACH, ESQ.**

*Attorneys for Sugarman's Plaza Limited Partnership  
Debtor, Debtor-in-Possession and Plan Proponent*

By: /s/ David Carlebach  
55 Broadway, Suite 1902  
New York, New York 10006  
Tel: (212) 785-3041  
Email: [david@carlebachlaw.com](mailto:david@carlebachlaw.com)

Index of Exhibits

Exhibit A: Plan of Reorganization

Exhibit B: Liquidation Analysis

# Exhibit A

## Plan of Reorganization

Exhibit B  
Liquidation Analysis  
(To Be Provided)