

United States Bankruptcy Court
Eastern District of New York

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In re

Chapter 11

Brigid Giambrone,

Case No. 16-42610-cec

Debtor.

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

BRIGID GIAMBRONE’S *AMENDED* DISCLOSURE STATEMENT
IN SUPPORT OF DEBTOR’S *AMENDED* CHAPTER 11 PLAN
DATED OCTOBER 17, 2016

This is the *Amended* Disclosure statement (the “*Amended* Disclosure Statement”) in the chapter 11 case of Brigid Giambrone (hereinafter “Debtor”). This *Amended* Disclosure Statement contains information about the Debtor and describes the Brigid Giambrone *Amended* Plan dated October 17, 2016 (the “*Amended* Plan”) filed by the Debtor on October 18, 2016. ***Your rights may be affected. You should read the Amended Plan and this Amended Disclosure Statement carefully and discuss them with your attorney. If you do not have an attorney, you may wish to consult one.***

I. Purpose of This Document

The Debtor submits this *Amended* Disclosure Statement to all of her creditors in order to comply with the provisions of the Code requiring the submission of information necessary for creditors to arrive at an informed decision in exercising their rights to vote for acceptance or rejection of the *Amended* Plan, presently on file with the United States Bankruptcy Court for the Eastern District of New York (the “Court”). A copy of the *Amended* Plan accompanies this *Amended* Disclosure Statement

II. Summary of *Amended* Plan and Code Provisions for Voting

A. Repayment of Creditors.

The *Amended* Plan provides for payment of administrative expenses and priority claims in full, and provides for payment in full to secured creditors who are wholly secured by first and second mortgage liens against real property owned by the debtor, as modified by agreements, if any, between Debtor and each such secured creditor, either in cash or in deferred cash payments. The unsecured portion of the claims of secured creditors are treated as wholly unsecured under the *Amended* Plan. Secured creditors who are secured by third mortgage liens are treated as wholly unsecured under the *Amended* Plan. The *Amended* Plan provides for payments to unsecured creditors in an amount greater than they would receive in the event of a Chapter 7 liquidation. Funds for the implementation of the *Amended* Plan will be derived from the Debtor's income.

This *Amended* Disclosure Statement contains a detailed discussion of the *Amended* Plan and its implementation. This *Amended* Disclosure Statement should be read in conjunction with the *Amended* Plan, which is a legal document and upon confirmation will become binding on the Parties. Creditors should read the *Amended* Plan and this *Amended* Disclosure Statement in their entirety, rather than relying on this summary. The Debtor urges creditors and other parties in interest to consult with independent counsel in connection with their decision to accept or reject the *Amended* Plan. Approval of this *Amended* Disclosure Statement by the Court is not a decision on the merits of the *Amended* Plan.

B. Voting Procedures and Confirmation Requirements

1. Ballots and Voting Deadline

A Ballot to be used for voting to accept or reject the *Amended* Plan will be distributed, along with this *Amended* Disclosure Statement and the *Amended* Plan, upon approval of the *Amended* Disclosure Statement by the Court. Creditors must (1) carefully review the Ballot and instructions thereon; (2) execute the applicable Ballot; and (3) return the completed Ballot to Fredrick P. Stern, PC, 2163 Sunrise Highway, Islip, New York 11751 so as to be received by 5:00 p.m. on _____. Ballots received after the deadline will not be considered.

2. Creditors Entitled to Vote

Any Creditor of the Debtor whose Claim is impaired under the *Amended* Plan is entitled to vote, provided that (1) its Claim has been scheduled by the Debtor (and such Claim is not scheduled as disputed, contingent or unliquidated), or (2) it has filed a Proof of Claim on or before the last date set by the Court for such filing, and no objection to such Proof of Claim is pending at the time of the Confirmation Hearing. Any Class of Claims that is not impaired by the *Amended* Plan, and each holder of a Claim of Such Class, are conclusively presumed to have accepted the *Amended* Plan and solicitation of acceptances with respect to such Class from the holders of Claims of such Class is not required.

Any Claim as to which an objection has been filed (and such objection is still pending) is

not entitled to vote, unless the Court temporarily allows the Claim in an amount which it deems proper for the purpose of accepting or rejecting the *Amended Plan* upon motion by the Creditor whose Claim is subject to objection. In addition, the vote of a Creditor may not be counted if the Court determines that the Creditor's acceptance or rejection was not solicited or procured in accordance with the provisions of the Bankruptcy Code.

Even though a creditor may not choose to vote or may vote against the *Amended Plan*, the creditor will be bound by the terms and treatment set forth in the *Amended Plan* if the *Amended Plan* is accepted by the requisite majorities in each class of creditors and/or is confirmed by the Court. Creditors who fail to vote will not be counted in determining acceptance or rejection of the *Amended Plan*. Allowance of a claim for voting purposes does not necessarily mean that the claim will be allowed or disallowed for purposes of distribution under the terms of the *Amended Plan*. Any claim to which an objection has been or will be made will be allowed only for distribution after determination by the Court. Such determination may be made after the *Amended Plan* is confirmed.

3. Definition of Impairment

Under § 1124 of the Bankruptcy Code, a Class of Claims is impaired under a plan of reorganization unless, with respect to each Claim of such Class, the plan (1) leaves unaltered the legal, equitable, and contractual rights of the holder of such Claim, or (2) reinstates the Claim pursuant to its original terms and cures any default.

4. Classes Impaired Under the *Amended Plan*

Creditors holding Claims in Classes 3, 4, 6, 8, 9, 10 and 12 are impaired under the *Amended Plan* and are eligible, subject to the limitations set forth above, to vote to accept or reject the *Amended Plan*. Creditors holding Claims in Classes 1, 2, 5 and 11 are unimpaired under the *Amended Plan*.

5. Vote Required for Acceptance of the *Amended Plan*

The Bankruptcy Code defines acceptance of an *Amended Plan* by a Class of Creditors as acceptance by holders of two-thirds in dollar amount and a majority in number of the Allowed Claims of that Class which actually cast ballots to accept or reject the *Amended Plan*.

6. Requirements for Confirmation

In order to be confirmed (i.e., approved) by the Bankruptcy Court, the *Amended Plan* or its' proponent must (among other requirements set forth in § 1129 of the Bankruptcy Code):

- a. Disclose all compensation paid or promised for professional services rendered or to be

rendered in connection with the case;

b. Propose to pay each member of a class of Claimants, who has not accepted the *Amended Plan*, property at least equal in value to what the Claimant would receive if the Debtor's assets were liquidated on the date of the Confirmation Hearing, and distributed to Creditors according to their rights and priorities under law;

c. Propose to pay all Administrative Claims in full;

d. Propose to pay all Priority Claims in full in deferred payments or cash; and

e. Propose to pay all Priority Tax Claims in full within five years after the order for relief in this case, in a manner not less favorable than the non-priority unsecured claims.

7. Confirmation Hearing

The Bankruptcy Code requires that the Court hold a Confirmation Hearing with notice to all Creditors. The Confirmation Hearing is scheduled for _____, at _____, before the Hon. Carla E. Craig, Chief United States Bankruptcy Judge, Courtroom 3529, of the U.S. Bankruptcy Court, Eastern District of New York, Conrad B. Duberstein Courthouse, 271-C Cadman Plaza West, Brooklyn, New York 11201. The Confirmation Hearing may be adjourned or continued by the Court without further notice except for an announcement made of the adjourned or continued date made at the Confirmation Hearing.

At the Confirmation Hearing, the Court shall determine whether the requirements of the Bankruptcy Code have been satisfied, in which even the Court shall enter an order confirming the *Amended Plan*. With respect to creditor acceptance of the *Amended Plan*, if the requisite members of an impaired Class do not vote to accept the *Amended Plan* as provided in Section II.B.5 above, the debtor may seek confirmation pursuant to § 1129(b) of the Bankruptcy Code, known as the "cramdown" procedure. Pursuant to this section, the Court may confirm the *Amended Plan* notwithstanding the nonacceptance by an impaired Class if at least one impaired Class votes to accept the *Amended Plan*, the *Amended Plan* does not discriminate unfairly, and is "fair and equitable" to the non-accepting Class.

A plan does not discriminate unfairly within the meaning of the Bankruptcy Code if no Class receives more than it is legally entitled to receive for its Claims. The Bankruptcy Code establishes different "fair and equitable" standards for Secured and Unsecured Claims.

With respect to a Secured Claim, a plan may be "fair and equitable" if (1) 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, (2) property subject to the lien of the impaired Secured Creditor is sold free and clear of

that lien, with the lien attaching to the proceeds of sale, and such lien proceeds must be treated in accordance with clauses (1) and (3) hereof, or (3) the impaired Secured Creditor realizes the “indubitable equivalent” of its Claim under the plan.

With respect to an Unsecured Claim, a plan may be “fair and equitable” if (1) each impaired Unsecured Creditor receives or retains property of a value equal to the amount of its Allowed Claim, or (2) the holder of any Claim that is junior to the claims of the dissenting Class will not receive any property under the plan, except that, as the Debtor is an individual, she may retain her property (property of the estate).

Finally, it must be noted that even though a Creditor may vote to reject the *Amended Plan*, such rejection of the confirmed *Amended Plan* does not mean that the Creditor will not be entitled to share in any distributions to be made under the *Amended Plan*.

III. REQUISITE DISCLOSURES

A. Representations Limited

NO REPRESENTATIONS CONCERNING THE DEBTOR, PARTICULARLY REGARDING FUTURE BUSINESS OPERATIONS OR THE VALUE OF THE DEBTOR’S ASSETS, HAVE BEEN AUTHORIZED BY THE DEBTOR EXCEPT AS SET FORTH IN THIS STATEMENT. YOU SHOULD NOT RELY ON ANY OTHER REPRESENTATIONS OR INDUCEMENTS PROFFERED TO YOU TO SECURE YOUR ACCEPTANCE OR REJECTION IN ARRIVING AT YOUR DECISION IN VOTING ON THE *AMENDED PLAN*. ANY PERSON MAKING REPRESENTATIONS OR INDUCEMENTS CONCERNING ACCEPTANCE OR REJECTIONS OF THE *AMENDED PLAN* SHOULD BE REPORTED TO COUNSEL FOR THE DEBTOR AT THE ADDRESS ABOVE, TO THE CLERK OF THE COURT AT UNITED STATES BANKRUPTCY COURT, EASTERN DISTRICT OF NEW YORK, CONRAD B. DUBERSTEIN COURTHOUSE, 271-C CADMAN PLAZA EAST, SUITE 1595, BROOKLYN, NY 11201-1800 AND TO THE OFFICE OF THE U.S. TRUSTEE AT 201 VARRICK ST #1006, NEW YORK, NY 10014. FOR VARIOUS REASONS, THE RECORDS OF THE DEBTOR PRIOR TO PREPARATION OF THE *AMENDED PLAN* MAY NOT HAVE BEEN COMPLETE AND THE ACCURACY OF THE INFORMATION SUBMITTED WITH THIS STATEMENT IS DEPENDENT ON INFORMATION SUBMITTED AVAILABLE TO THE DEBTOR WITH THE ASSISTANCE OF COUNSEL. WHILE EVERY EFFORT HAS BEEN MADE TO PROVIDE THE MOST ACCURATE INFORMATION AVAILABLE, THE DEBTOR IS UNABLE TO WARRANT OR REPRESENT THAT ALL INFORMATION IS WITHOUT INACCURACY. THERE ARE NO KNOWN INACCURACIES. WHILE EVERY EFFORT HAS BEEN MADE TO ENSURE THAT THE ASSUMPTIONS ARE VALID AND AS ACCURATE AS CAN BE MADE UNDER THE CIRCUMSTANCES, NEITHER THE DEBTOR NOR HIS ATTORNEYS UNDERTAKE TO CERTIFY THE ABSOLUTE ACCURACY OF THE ASSUMPTIONS OR PROJECTIONS.

NO FORMAL APPRAISALS HAVE BEEN UNDERTAKEN OF THE DEBTOR'S PROPERTY EXCEPT WHERE STATED. THE VALUES PLACED THEREON AND SUMMARIZED BELOW ARE THE DEBTOR-IN-POSSESSION'S BEST ESTIMATE OF THE VALUE OF THE PROPERTY AS OF THE TIME OF THE FILING OF THE *AMENDED* PLAN AND THIS *AMENDED* DISCLOSURE STATEMENT. THESE VALUES MAY DIFFER FROM VALUES PLACED ON THE SAME PROPERTY AT THE TIME OF FILING OF THE PETITION FOR RELIEF AND THE SUBSEQUENT SCHEDULES.

B. Background, Income and Expenses

The Debtor is an individual resident of Richmond County who is retired and earns a pension and a social security income. The Debtor, together with her husband, own six residential real properties which generate a rental income. The Debtor's husband contributes from his own income towards the jointly owned properties. The Debtor's income of \$22,786.34 as disclosed in her Affidavit of June 21, 2016 and on the Chapter 11 Statement of Current Monthly Income for the 6 months before filing remains reasonably accurate. The contribution from Debtor's husband is \$6,691.61 and is the amount disclosed on the Chapter 11 Statement of Current Monthly Income for the 6 months before filing remains reasonably accurate). The Debtor's prepetition income and expenses are reflected on schedules I and J, copies of which are appended hereto as Exhibit A. Debtor's Amended Schedule I and J annexed hereto as Exhibit B shows the Debtor's income and expenses as they currently exist.

The Debtor currently resides in a house owned with her husband located at 108 Holcombe Avenue, Staten Island (Property A). The Debtor owns a second home located at 4516 Seagull Drive, New Port Richey, Florida (Property B). In addition, the Debtor owns rental property and receives monthly rental therefrom as follows:

122 Holcomb Avenue (Property C)	\$3,800.00/month
82 Holcomb Avenue (Property D)	\$2,500.00/month
32 Belfield Avenue (Property E)	\$2,600.00/month
18 Belfield Avenue (Property F)	\$3,400.00/month
93 Bush Avenue (Property G)	\$2,910.73/month
171 Androvette Avenue (Property H)	\$0.00

The rent on Properties D-H remains the same month to month and has remained constant in 2016 over 2015.

C. Events Leading to Bankruptcy

As a result of the global economic downturn, the Debtor's rental income dropped dramatically from 2009-2012. The Debtor and her husband attempted to bridge the gap in the income needed to cover the carrying costs on their investments by taking out credit lines and hard money loans. The Debtor also had two properties partially destroyed by force majeure. Property

H remains completely untenable and there are two separate litigations pending with insurance companies who have refused to payout under the insurance policies for repairs. While in 2015 income rebounded somewhat, and the Debtor sold off one of the homes to pay down debt, it was too little, too late, to catch up on the mortgage arrears on Properties F and H and the lender on Property C refused to continue accepting interest only payments and declared the loan due in full. In addition, the value of the Debtor's real estate plummeted, so that the properties which have secured liens could not be sold or refinanced. To stop an imminent foreclosure and preserve the income stream, the Debtor filed for Chapter 11 on June 14, 2016.

D. Procedural Posture of the Bankruptcy Case

On June 14, 2016 (the "Petition Date"), the Debtor filed a voluntary petition in this Court for reorganization relief under Chapter 11 of title 11 of the U.S. Code (as amended, the "Bankruptcy Code"). The Debtor continues to hold the assets of the estate as a Debtor-in-Possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. An unsecured creditors' committee has not been appointed in this case. No trustee or examiner has been appointed. Fredrick P. Stern, PC was appointed to represent the Debtor/Debtor-in-Possession as counsel in this case.

During the Bankruptcy case, the Debtor moved to value Properties B, F and H. A hearing is currently scheduled on November 21, 2016 on the motions to value Property F and H. The Debtor has reached an agreement with Branch Bank & Trust with regard to the mortgage on Property B and will enter into a written settlement agreement which will be submitted to the Court for approval.

The Debtor has moved to avoid the second and third mortgages on Property A held by PNC Bank, NA and JP Morgan Chase, NA, respectively. A subsequent appraisal of Property A revealed that the mortgage of PNC Bank, NA is partially secured. The Debtor intends to withdraw the motion to avoid the second mortgage lien of PNC Bank, NA and file a request for loss mitigation under the Court's Loss Mitigation Program, as provided in General Order 582 in the United States Bankruptcy Court for the Eastern District of New York.

The secured creditors on Properties C and F moved to lift the automatic stay. At a hearing held on September 15, 2016 the Court entered a conditional order denying the motions and directing that the Debtor pay adequate protection payments beginning October 1, 2016. (Property C \$3,500.00; Property F \$3,000.00). A conditional order was entered on Property C on September 27, 2016 (Docket No. 47) and on Property F on October 5, 2016 (Docket No. 55). The Debtor is current on her adequate protection payments which have come due since the entry of said orders.

E. Assets

The Debtor's schedules of Assets and Exemptions (Schedules A/B and C) are attached as

Exhibit C. The Debtor's principal assets are real estate which, with the exception of Property D and E, are fully encumbered, household goods, cash on hand of which \$9,500.00 is not exempt. In the event of a Chapter 7 liquidated, it is estimated that there would be approximately \$312,660.00 in the Debtor's estate available for distribution (before trustee commissions and administrative expenses) to unsecured creditors.

F. Creditors Committee

No creditors committee has been formed in this case.

G. Professionals

The Debtor has retained the firm of Fredrick P. Stern, PC and Fredrick P. Stern, Esq. as bankruptcy counsel, which appointment has been approved by this Court. Fredrick P. Stern, PC was paid \$10,000.00 for pre-petition work related to this case which was paid prepetition pursuant to a retainer entered into with Debtor. The Debtor paid the filing fee of \$1,717.00 prior to the filing of this Chapter 11 case. Fredrick P. Stern, PC expects to file shortly a fee application for less than the balance on hand, which fees are subject to court approval.

H. Officers/Directors and Compensation

As an individual debtor, the requirement to disclose the Debtor's officers and directors is inapplicable.

I. Bar Date

An Order Granting Motion To Set Last Day To File Proofs of Claim was granted on October 14, 2016 (Docket No. 62) which set the bar date for the filing of pre-petition claims against the Debtor on November 14, 2016, with government claims due by December 12, 2016. Under the *Amended* Plan, Administrative Claims must be filed by the first Business Day thirty (30) days after the Effective Date.

IV. CLASSIFICATION AND TREATMENT OF CLAIMS

The *Amended* Plan establishes 12 classes inclusive of a category of unclassified claims (for administrative expenses and for priority taxes). The classes of claims are identified and treated as follows:

Unclassified Claims

A. Administrative Expenses. Administrative Expense claims approved and allowed by the Court shall be paid in full, in cash, by the Debtor on the Effective Date of the *Amended* Plan or as soon thereafter as the amount thereof can be fixed, unless a different treatment is agreed to

or provided for in this *Amended Plan*. Administrative Claims which by their terms are not due and payable on or before the Effective Date shall be paid as they come due.

The total unpaid professional fees as of the date of this *Amended Plan* are estimated to be approximately \$25,000.00, which are not covered by the pre-petition retainer, and additional fees which are expected to be incurred before the Effective Date. The Debtor is unaware of any other unpaid administrative expense claims.

Within this class are all preconfirmation fees payable to the U.S. Trustee pursuant to 28 U.S.C. § 1930(a)(6), which shall be paid on the Effective Date of the *Amended Plan*, if not paid sooner. After confirmation, and until this case is closed, the Debtor shall be responsible for timely payment of fees incurred pursuant to 28 U.S.C. § 1930(a)(6).

B. Priority Taxes: There is a pre-petition claim owed to the New York City Office of Administrative Trials and Hearings in the amount of \$1,000.00 for a violation of NYC Code Section 28-301.1 at Property H. The Debtor's Schedule E/F will be amended accordingly. No proof of claim has been filed by this creditor.

The IRS has not filed a Proof of Claim and the Debtor's tax returns show that no tax is due. To the extent such claims exist, such claims shall be paid in full, with interest at the statutory rate on such claims, in equal quarterly cash payments commencing 90 days after the Effective Date of the *Amended Plan*, amortized over the remaining period of 5 years from the Petition Date, unless a different treatment is agreed to or provided for in the *Amended Plan*.

Classified Claims and Interests

A. Class 1 consists of Priority Claims under 11 U.S.C. § 507 other than Administrative Claims and Priority Tax Claims. The Debtor is aware of a claim by the New York City Office of Administrative Trials and Hearings in the amount of \$1,000.00. No proofs of claim in this class have been filed. Claims in Class 1 shall be paid in full, in cash, by the Debtor on the Effective Date of the *Amended Plan* or as soon thereafter as the amount thereof can be fixed, unless a different treatment is agreed to or provided for in this *Amended Plan*. This class is not impaired.

B. Class 2 consists of the secured prepetition claim of Bank United NA in the amount of \$803,931.47 as of the filing date, secured by a first mortgage on Debtor's real property located at 108 Holcombe Avenue, Staten Island, New York 10312 (Property A). The secured claim of Bank United NA as set forth in Proof of Claim No. 8 will be treated as wholly secured under the *Amended Plan*. As more fully set forth in the Modification Agreement dated October 16, 2015 said loan shall be paid with interest at the rate of two percent (2.00%) per annum with monthly payments of principal and interest in the amount of \$2,342.02 plus an escrow component of \$1,060.30 (which may adjust periodically) for a period of five years at which time the mortgage will adjust as more fully set forth in said Modification Agreement. (See Modification Agreement annexed to Debtor's *Amended Plan* as Exhibit "A").

C. Class 3 consists of the secured prepetition claim of Branch Bank & Trust (“BB&T”) in the amount of \$369,182.62 as of the filing date, secured by a first mortgage on the Debtor’s real property located at 4516 Seagull Drive, New Port Richey, Fl 34652 (Property B). The Debtor has filed a motion to value Property B and to reduce the secured claim of BB&T to \$208,000.00 pursuant to 11 U.S.C. §506.. BB&T filed objections to the motion to value. The parties will stipulate that the value and secured amount of Property B is \$287,000.00 which shall be paid as a secured claim at 3.25%, with the maturity date in the concerned Note extended from November 1, 2038 to October 1, 2046 and the balance of \$146,065.17, shall be treated as unsecured and shall participate pro rata in the unsecured dividend of Class 12. The Debtor shall make monthly payments to BB&T towards its’ allowed secured claim in the monthly sum of \$1,249.04 consisting of principal and interest commencing with the November 1, 2016 payment and concluding with the October 1, 20146 payment, and if any amounts remain outstanding under the existing Note, Debtor will pay that amount in full on that date. The Debtor shall be responsible for the direct payment of taxes, monthly HOA/Condominium dues and insurance upon Property B. The Debtor and BB&T will enter into a written Stipulation of Settlement of the claims set forth in the motion to value which Stipulation shall be “so ordered” by this Court.

D. Class 4 consists of the secured prepetition claim of VNB New York LLC (“VNB”) in the amount of \$621,412.04 as of the filing date, secured by a first mortgage on the Debtor’s real property located at 122 Holcombe Avenue, Sstaten Island, New York 10312 (Property C) as more fully set forth in Proof of Claim 6-2. The secured claim of VNB as set forth in Proof of Claim 6-2 shall be treated as wholly secured under the *Amended* Plan. Said loan shall be paid with interest at the rate of two (2%) percentum per annum based upon a 360 month amortization schedule with monthly payments of principal and interest in the amount of \$2,297.00 plus an escrow component of \$611.22, for taxes only, (which may adjust periodically) for a period of five years at which time a balloon payment of the remaining principal balance of \$540,505.00, together with all accrued interest shall be paid in full. Debtor’s first monthly payment shall begin on October 1, 2016, or the 1st day of the month following the approval of the *Amended* Plan, whichever occurs later.

E. Class 5 consists of the secured prepetition claim of Bayview Loan Servicing, LLC (“Bayview”) in the amount of \$528,733.00 as of the filing date, secured by a first mortgage on Debtor’s real property located at 82 Holcombe Avenue, Staten Island, New York 10312 and 32 Belfield Avenue, Staten Island, New York (which share the same tax lot) (Property D and E). The secured claim of Bayview will be treated as wholly secured under the Plan. As more fully set forth in the Modification Agreement said loan shall be paid with interest at the rate of 3.727% per annum with monthly payments of principal and interest in the amount of \$2,042.31 plus an escrow component of \$1,549.33 (which may adjust periodically) for a period of 3 years at which time the mortgage will adjust pursuant to the Modification Agreement. (See Modification Agreement annexed hereto as Exhibit “B”).

F. Class 6 consists of the secured claim of McCormick 105, LLC (“McCormick”) in the amount of \$819,617.11 as of the filing date, secured by a first mortgage on Debtor’s real property

located at 18 Belfield Avenue, Staten Island, New York 10312 (Property F) as more fully set forth in Proof of Claim 5. The Debtor has filed a motion to value Property F and to reduce the secured claim of McCormick to \$680,000.00 pursuant to 11 U.S.C. §506. Once valued, the new principal balance of \$680,000.00 shall be paid with interest at the rate of two (2.00%) percentum per annum based upon a 360 month amortization schedule with monthly payments of principal and interest in the amount of \$2,513.00 plus an escrow component of \$174.00, taxes only, (which may adjust periodically) for a period of five years at which time a balloon payment of the remaining principal balance of \$591,465.00, with all accrued interest, shall be paid in full. Debtor's first monthly payment shall begin on October 1, 2016 or the 1st day of the month following approval of the *Amended Plan*, whichever occurs later. If McCormick disputes the value of the collateral as stated above, it must timely file an objection to confirmation, or the value stated by the Debtor will be determined to be the value of the collateral. The balance of the claim shall be an unsecured Class 12 claim.

G. Class 7 consists of the secured claim of Shellpoint Mortgage Servicing ("Shellpoint") in the amount of \$454,000.00 as of the filing date, secured by a first mortgage on Debtor's real property located at 93 Bush Avenue, Staten Island, New York 10312 (Property G). The secured claim of Shellpoint will be treated as wholly secured under the *Amended Plan*. Said loan shall be paid with interest at the rate of 2.003% per annum with monthly payments of principal and interest in the amount \$1,534.82 plus an escrow component of \$566.45 (which may adjust periodically) pursuant to the Modification Agreement. (See Modification Agreement annexed hereto as Exhibit "C").

H. Class 8 consists of the secured claim of Ocwen Loan Servicing, LLC ("Ocwen") in the amount of \$475,000.00 as of the filing dated, secured by a first mortgage on Debtor's real property located at 171 Androvette Avenue, Staten Island, New York 10312 (Property H). The Debtor has filed a motion to value Property H and to reduce the secured claim of Ocwen to \$210,000.00 pursuant to 11 U.S.C. §506. . A subsequent appraisal of Property H established a value of \$370,000.00 and the Debtor shall amend the motion to value accordingly. Once valued, the new principal balance of \$370,000.00 shall be paid with interest at the rate of two (2%) per centum per annum based upon a 360 month amortization schedule with monthly payments of principal and interest in the amount of \$1,367.59 plus an escrow component of \$400.00 (which may adjust periodically) until October 1, 2034 at which time a balloon payment of the remaining principal balance of \$174,954.66, with all accrued interest, shall be paid in full. Debtor's first monthly payment shall be due on October 1, 2016 or the 1st day of the month following the confirmation of the *Amended Plan*, whichever occurs later. If Ocwen disputes the value of the collateral as stated above, it must timely file an objection to confirmation, or the value stated by the Debtor will be determined to be the value of the collateral. The balance of the claim shall be an unsecured Class 12 claim.

I. Class 9 consists of the secured claim of JP Morgan Chase Bank NA ("Chase") which is secured by a third mortgage on Property A and is wholly unsecured. The Debtor has filed a motion to avoid the claim of Chase pursuant to 11 U.S.C. §522(f). For purposes of payment

under the *Amended Plan*, this claim will be will be treated as a General Unsecured Claim and will receive payment as provided for in Class 11. If Chase disputes the value of the collateral as stated above, it must timely file an objection to confirmation, or the value stated by the Debtor will be determined to be the value of the collateral. The balance of the claim shall be an unsecured Class 12 claim.

J. Class 10 consists of the secured claim of PNC Bank NA (“PNC”) in the amount of \$76,005.69 as of the filing date, secured by a second mortgage on Debtor’s real property located at 108 Holcomb Avenue, Staten Island, New York 10312 (Property A). The secured claim of PNC is currently not in arrears. The Debtor’s post-petition mortgage payments shall be modified under the Court’s Loss Mitigation Program, as provided in General Order 582 in the United States Bankruptcy Court for the Eastern District of New York. The Debtor’s post-petition mortgage payments under the Loss Mitigation calculation with the full balance due on the mortgage to be paid at 2% interest amortized over 15 years which will amount to a payment of \$489.07.

K. Class 11 consists of the secured claim of Santander Bank USA (“Santander”). The Santander claim shall be valued under 11 U.S.C. §506(a) at \$18,209.54 less the sum of payments made post-petition. If Santander disputes the value of the collateral stated above, it must timely file an objection to confirmation, or the value stated by Debtor will be determined to be the value of the collateral.

L. Class 12 consists of all general unsecured claims against the Debtor, including Classes Classes 9 and the unsecured portions of classes 3, 6 and 8 . Holders of Class 12 claims shall be paid *pro rata*, a total of \$252,000.00, to be paid in monthly installments of \$2,100.00 within ten days after the Effective Date and \$2,100.00 per month for a period of 119 months thereafter, and Confirmation of the *Amended Plan* shall serve to release any holder of a Class 12 claim as of the Petition Date of any claim or cause of action against such holder (other than defenses of setoff or recoupment). Payments on Class 12 claims shall be mailed to the address of the creditor on the proof of claim unless the creditor files a change of address notice with the Court. Any check mailed to the proper address and returned by the post office as undeliverable, or not deposited within 180 days, shall be void and the funds retained may be retained by the Debtor.

V. Implementation of *Amended Plan*

The Debtor shall fund the *Amended Plan* from income from her social security and pension income, rents from real estate and the contribution from the Debtor’s husband. The Debtor shall retain the Assets of the estate, and shall pay ordinary living expenses, pay the operating expenses for the real estate, and pay the creditors the amounts set forth in the *Amended Plan* therefrom. Consistent with the provisions of the *Amended Plan* and subject to any releases provided for herein, the Debtor reserves her right to begin or continue any adversary proceeding permitted under the Code and Rules to collect any debts, or to pursue claims in any court of competent jurisdiction. Except as expressly provided for in the *Amended Plan*, nothing in the

Amended Plan shall be deemed to constitute a waiver of any claim that the Debtor may assert against any other party, including the holder of any claim provided for in the *Amended* Plan, and the allowance of any claim against the Debtor or the Estate shall not bar any claim by the Debtor against the holder of such claim.

It is estimated that the amounts required for implementation of the *Amended* Plan upon the Effective Date and within 6 months thereof are as follows:

Administrative expense claims: \$25,000.00 (in excess of advance payments)

Priority tax claims: \$0.00

Class 1: \$1,000.00

Class 2: \$20,413.92

Class 3: \$7,494.24

Class 4: \$17,449.32

Class 5: \$21,549.84

Class 6: \$16,122.00

Class 7: \$2,101.27

Class 8: \$10,605.54

Class 9: \$0.00

Class 10: \$2,934.42

Class 11: \$2,154.78

Class 12: \$12,600.00

The total comes to approximately \$139,425.33 which the Debtor can afford based on current income and cash on hand. Monthly projections of income and expenses are included in Exhibit "D" and show that the Debtor can make the payments required under the *Amended* Plan.

VI. Analysis of Liquidation Value of Estate

In the event of liquidation of the Debtor's Estate, there is nonexempt cash of \$0.00 plus

approximately \$347,400.00 in proceeds from the sale of Debtor's real estate. This would be subject to trustee commissions of approximately \$21,350, and administrative expenses including closing costs, real estate brokerage commissions and trustee counsel fees of approximately \$90,000.00 leaving, pretax, approximately \$236,050.00 for unsecured creditors. The *Amended Plan* pays at least \$252,000.00. There are no avoidable prepetition transfers.

As such, after payment of secured claims, it is clear that the distribution to unsecured creditors in a Chapter 7 liquidation would be substantially less than under the *Amended Plan*.

VII. Repayment Projections

The Debtor projects that the secured claims of Classes 2, 5, 7 and 10 will be paid in full as modified by the agreements between the Debtor's and each individual Secured Creditor. If Class 12 accepts the *Amended Plan*, assuming that all claims are allowed, the general unsecured claims will be paid approximately 38% of their claims.

VIII. Tax Consequences

The Debtor is not qualified to advise creditors of the specific tax ramifications to them of confirmation of the *Amended Plan*, and therefore makes no representations in this regard. However, the Debtor is not aware of any potential material federal tax consequences to creditors that would result from confirmation of the *Amended Plan*. Each creditor is urged to consult with a tax advisor on such matters.

No material tax consequences to the Debtor are anticipated as a result of the confirmation fo the *Amended Plan*. Any forgiveness of indebtedness would be exempt from taxation under IRC § 108. The Debtor's basis in the secured property will have to be adjusted, but no tax will be due as a result thereof until any such property is sold.

IX. Income

Pursuant to Amended Schedules I and J, the Debtor's projected disposable income is positive \$3,359.48. The Debtor's annualized Current Monthly Income is \$188,048.00 which is above the median income for the Debtor's household size. Debtor's wages/commission income since filing has roughly equal to that which is and it is believed that the Debtor can make the payments required under the *Amended Plan*.

X. Modifications or Withdrawals of the Plan

The Debtor may alter, amend, or modify the *Amended Plan* under § 1127(a) of the Bankruptcy Code at any time before the Confirmation Date, so long as the *Amended Plan*, as modified, meets the requirements of §§ 1122 and 1123. The Debtor may also alter, amend or modify the *Amended Plan* under § 1127(b), following the Confirmation Date but before the

Effective Date. The Debtor may revoke or withdraw the *Amended Plan* before the Confirmation Date. If the *Amended Plan* is revoked or withdrawn before the Confirmation Date, the *Amended Plan* shall be of no force or effect, and shall be deemed null and void. If the *Amended Plan* is revoked or withdrawn before the Confirmation Date, nothing contained herein shall in any way effect or prejudice the rights of the Debtor with regard to Claims, Avoidance Actions, or any other rights or interests. After confirmation, the *Amended Plan* may be modified pursuant to §1127(e). The payments on the Classes 10 and 11 Claims shall not be deemed payments under the Plan for purposes of §1127(e), such that the *Amended Plan* may not be modified under §1127(e) after payment in full of Class 12 claims.

XI. Objections to Claims, Counterclaims, and Avoidance Actions

Any objections to Claims must be filed within thirty days following the Effective Date. The Debtor believes that the claims resolution process should not delay Confirmation of the *Amended Plan*. The Debtor reserves the right to file objections to any Claims, either as currently filed or as may be amended. In order to expedite payments to creditors, the Debtor seeks Confirmation notwithstanding the fact that certain Claims may be disputed. The fact that the Debtor may have not objected to a particular Claim does not mean that the Debtor will not object to such Claim. Accordingly, the Debtor makes no representations either in the *Amended Plan* or this *Amended Disclosure Statement* as to the validity of any Claim filed, and Creditors should not make any assumption based upon the fact that no objection has yet been filed to any individual Claim.

XII. Miscellaneous Amended Plan Provisions

A. Executory Contracts and Unexpired Leases

Pursuant to Article VI of the *Amended Plan*, any prepetition Executory Contracts and Leases in effect as of the Effective Date (other than any leases to tenants) and not specifically rejected will be deemed rejected as of the Effective Date. Any Claims arising from the rejection of Contracts and Leases must be filed on or before the Rejection Claim Bar Date. The Rejection Claim Bar Date is 30 days after the Effective Date, or, if later, 30 days after entry of a Final Order rejecting *Amended* the Executory Contract or Lease. Absent the filing of a proof of claim on or before the Rejection Claim Bar Date, all Rejection Claims shall be forever barred from assertion and shall not be enforceable against the Debtor, her Estate, Assets, or properties. All Rejection Claims shall be General Unsecured Claims.

B. Retention of Jurisdiction, Closing

Pursuant to §§ 205(a) and 1142 of the Bankruptcy Code, the *Amended Plan* provides for the Court to retain exclusive jurisdiction over all matters relating to the *Amended Plan*, including the allowance of Claims and the adjudication of any Avoidance Actions. Upon substantial consummation of the *Amended Plan*, the case shall be closed, but shall be subject to reopening to

enforce the terms of the *Amended* Plan and to enter a discharge. This provision serves to avoid the need to pay U.S. Trustee fees after substantial consummation, an expense Debtor can ill afford.

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

XIII. DISCHARGE

Upon completion of all payments due to Class 12 as provided for in the *Amended* Plan, the Debtor shall be entitled to a discharge of and from all debts dischargeable under § 1141(d) of the Code (which shall include Class 12 Claims). The payments on the Classes 2-12 shall not be deemed payments under the plan for purposes of § 1141(d)(5)(A), such that the Debtor shall be entitled to her discharge upon completion of payments to Class 12 claims.

XIV. CONCLUSION

As stated previously, the Debtor is the proponent of the *Amended* Plan and urges you to vote to accept the *Amended* Plan. The information and materials provided in this *Amended* Disclosure Statement are intended to assist you in voting on the *Amended* Plan in an informed fashion. Since confirmation of the *Amended* Plan will be binding on your interests, the Debtor invites you to review these materials and make such further inquiries as may be appropriate.

/s/Brigid Giambrone

Brigid Giambrone, Debtor

/s/Fredrick P. Stern

Fredrick P. Stern, Attorney for Debtor