UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

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In re:	Chapter 11
1111 MYRTLE AVENUE GROUP LLC,	Case No. 15-12454 (MKV)
Debtor.	

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DISCLOSURE STATEMENT PURSUANT TO 11 U.S.C. §1125
RELATING TO DEBTOR'S PLAN

1111 MYRTLE AVENUE GROUP LLC (the ñDebtorò) hereby submits this Disclosure Statement (the ñDisclosure Statementò), pursuant to §1125 of Title 11, United States Code (the ñBankruptcy Codeò), in connection with Debtorôs accompanying Plan of Reorganization dated December 12, 2017 (ECF #104) (the ñPlanò). Defined terms in the Plan shall have the same meaning for purposes of this Disclosure Statement.

I. INTRODUCTION

For much of the Chapter 11 case, the Debtor has pursued an adversary proceeding (Adv. Pro No. 15-01348) (the ñAdversary Proceedingò) against Myrtle Property Holdings LLC (ñMPHò) to enforce a pre-petition contract default after MPH failed to close in accordance with a time of the essence closing date. Following a trial, the Bankruptcy Court sustained all of the Debtorôs claims pursuant to Memorandum Opinion, dated August 25, 2017, and directed the entry of an ensuing judgment on September 13, 2017 (the ñJudgmentò). The Judgment permitted the release of the total down payment of $7.5 million to the Debtor as liquidated damages (the ñLiquidated Damages Awardò), and confirmed the Debtorôs continuing and unfettered ownership of its real property at 1101-1123 Myrtle Avenue, Brooklyn, New York (the ñPropertyò).

Armed with a favorable ruling in the Adversary Proceeding, the Debtor has filed the accompanying Plan to utilize the Liquidation Damages Award of $7,500,000 to pay all allowed claims of creditors in full and make a distribution to equity holders.

MPH was previously denied a stay pending appeal by the Bankruptcy Court, and thus there is no legal restraint preventing the Debtor from using the Liquidated Damages Award to satisfy the outstanding mortgage claim of United International Bank n/k/a Preferred Bank (ñPreferred Bankò) and pay Administrative Expense Claims and the other Claims of Creditors.

Because the Debtor is retaining the Property under the Plan, the Debtor will maintain sufficient financial wherewithal to reimburse MPH if MPH is somehow successful on appeal. The Debtor, however, remains confident that the Bankruptcy Courtôs comprehensive ruling will be sustained on appeal. Accordingly, the plan confirmation process should proceed in the interim.

II. SCOPE OF THIS DISCLOSURE STATEMENT

This Disclosure Statement has been prepared by the Debtor, in consultation with its attorneys, Goldberg Weprin Finkel Goldstein LLP, to provide creditors with all relevant information regarding the Debtorôs ability to emerge from Chapter 11 and fund the distributions provided by the Plan. Approval of this Disclosure Statement does not constitute a determination by the Bankruptcy Court as to the merits of the Plan.

III. CONFIRMATION PROCESS

The Confirmation Hearing.

Pursuant to Section 1128 of the Bankruptcy Code, the Bankruptcy Court has scheduled a hearing to consider confirmation of the Plan on _____ __, 2018 at __:__ __.m. The hearing shall be conducted by the Honorable Mary Kay Vyskocil, United States Bankruptcy Judge, in the

United States Bankruptcy Court for the Southern District of New York, One Bowling Green, Courtroom 501, New York, New York 10004

Voting on the Plan.

Because the Plan provides full payment to all creditors based on final allowed claims, the Plan designates all classes of claims as being unimpaired. Thus, the Debtor may not need to formally solicit actual ballots from creditors *per se*. To avoid any potential issues, however, the Debtor requests that all creditors execute a ballot to accept the Plan, even if their votes might prove unnecessary. A ballot accompanies the Plan and Disclosure Statement. Any creditor wishing to vote on the Plan should return their ballots to the Debtorôs counsel by mail to Goldberg Weprin Finkel Goldstein LLP, 1501 Broadway, New York, New York 10036, Attn: Kevin J. Nash or by email to knash@gwfglaw.com on or before _____ ____, 2018.

Any objections to confirmation of the Plan must be in writing and filed with the Clerk of the Bankruptcy Court, through the Courtôs ECF System and served upon Goldberg Weprin Finkel Goldstein LLP, 1501 Broadway, 22nd Floor, New York, New York 10036, attention: Kevin J. Nash, Esq., with a courtesy copy delivered to the Honorable Mary Kay Vyskocil, United States Bankruptcy Judge, in the United States Bankruptcy Court for the Southern District of New York, One Bowling Green, Courtroom 501, New York, New York 10004, so as to be received on or before _____ _____, 2018.

IV. SIGNIFICANT EVENTS LEADING TO THE CHAPTER 11 FILINGS

The genesis for the Chapter 11 lies in the Debtorôs disputes with MPH over which party defaulted under the pre-petition contract to purchase the Property. Specifically, the Debtor, as seller, and MPH, as purchaser, entered into a Sale and Purchase Agreement, dated June 20, 2014

(the ñContractò), pursuant to which Debtor agreed to sell to MPH the Property for $20.5 million, including the total $7.5 million deposit (collectively, the ñDepositò).

The Contract contained a provision that permitted MPH to ñassign this Agreement to a newly formed limited liability company, corporation, partnership, trust or any other entity forced to take title to the Property, owned or controlled by Abraham Mandel or Isaac/Shifra Hager.ò

Unbeknownst to the Debtor, however, during the months leading up to an anticipated closing in June of 2015, MPH attempted to assign, or ñflipò the Contract to unauthorized third parties (Kevin Lalezarian) for a profit in violation of the limited assignment clause contained in paragraph 23.

Indeed, while the Contract originally provided for a closing on April 30, 2015, the closing was rescheduled and thereafter adjourned to June 30, 2015.

In the meantime, the Debtor learned of MPHôs duplicitous conduct to improperly ñflipò the Contract in violation of the restrictions on assignment. Because of these restrictions, MPH concocted the proposed ñflipò of the Contract, and it was deliberately concealed from the Debtor through a number of false and misleading statements.

After the closing did not occur on June 30, 2015, the Debtor issued a letter to MPH on July 14, 2015 that, *inter alia*: (a) scheduled a time of the essence closing for July 28, 2015; and (b) indicated that ñ[i]f Purchaser [MPH] fails to appear at the time and place and fails to tender performance under the Contract, Purchaser [MPH] shall be in material default of the Contract entitling Seller to enforce its rights and remedies thereunder.

The parties met on July 28, 2015 to conduct the closing. At the closing, the Debtor made a complete and proper tender of title, as confirmed by the title company present at the closing. Conversely, MPH did not tender funds to close on the purchase and was declared to be in default.

Notwithstanding its own default, MPH took steps to block a resale of the Property through the filing of a specious lawsuit for specific performance in the State Court (Index No. 509230/2015) on the morning of July 28, 2015 in advance of the actual time set for closing later that day.

The filing of this lawsuit constituted an obvious effort to frustrate the Debtor and potentially place the Property in limbo for an extended period of time due to filing of a notice of pendency, which prevented the Debtor from immediately re-marketing or re-financing the Property.

In response, the Debtor commenced this Chapter 11 case on September 1, 2015 to stay the state court action while the Debtor sought a determination from the Bankruptcy Court that MPH was guilty of the default. The Debtor was fearful that protracted state court litigation would negatively impact the Property, and took proactive steps to prevent this through the Chapter 11 filing.

V. SIGNIFICANT EVENTS DURING THE BANKRUPTCY CASE

The Litigation Against MPH

The centerpiece of the Chapter 11 has been ongoing litigation against MPH. On September, 25, 2015, the Debtor commenced the Adversary Proceeding seeking to enforce MPHôs default under the Contract and awarding the $7.5 million Deposit as liquidated damages.

MPH answered the Debtorôs complaint, and asserted counterclaims alleging the Debtor (not MPH) was in default, and thus MPH sought specific performance and damages against the Debtor. The matter was heavily litigated, with extensive discovery, including depositions of representatives of the proposed unauthorized assignee (Kevin Lalezarian and his attorney) and all of the principals involved.

The Bankruptcy Court conducted a two-day trial, and heard testimony from five witnesses and introduced into evidence dozens of exhibits. Following post-trial submissions and briefing, the Bankruptcy Court issued a comprehensive Memorandum Opinion on August 25, 2017 (the ñDecisionò), in which the Court found that: (a) MPH ñbreached the Agreement by appearing at, but refusing to proceed with, the closingò and (b) the Debtor ñis entitled to retain the $7.5 million contract deposit as liquidated damages pursuant to the Agreement.ò The Decision provides a detailed analysis of the evidence and the legal issues involved. A copy of the Decision is annexed hereto as Exhibit ñAò.

Following the Decision, the Court entered a judgment in favor of the Debtor in the sum of $7,500,000 and dismissed all of MPHôs counterclaims. The funds comprising the Liquidated Damages Award of $7,500,000 are now be held by the Debtor in a separate interest bearing account at Signature Bank pending confirmation of the Plan. The Liquidated Damages Award is the funding source for the Plan.

MPH filed a notice of appeal to the District Court and moved for a stay pending appeal. MPHôs request for a stay was denied by the Bankruptcy Court on October 25, 2017. The District Curt has set a briefing schedule, with final submissions due as follows:

Appellantôs Brief due December 14, 2017
Appelleeôs Brief due January 16, 2018
Appellantôs Reply Brief due February 15, 2018

The Property

The Property is largely occupied by the Social Security Administration pursuant to lease dated September 22, 2006 (the ñGovernment Leaseò) made with General Services Administration (ñGSAò). With the Government Lease previously set to expire on September 22, 2016, the parties commenced negotiations over a possible extension. Ultimately, the parties agreed upon an eighteen (18) month extension through March 21, 2018. The Debtor obtained Bankruptcy Court approval of the extension pursuant to Order dated November 2, 2016 (ECF #78). To date, GSA remains in possession of the Property, but has not indicated whether it intends to stay beyond March 21, 2018.

The other space at the Property, consisting of a retail store, was previously occupied by D&L Dollar, Inc. (ñDollarò) pursuant to lease dated March 16, 2006. The lease expired on March 31, 2016, during the Chapter 11 case.

Prior to expiration of the lease, Dollar accrued substantial rent and tax arrears. The Debtor commenced a separate adversary proceeding (No. 16-01038) to recover the rent arrears, and to compel Dollar to pay on-going rent during the pendency of the litigation. That motion was granted by Order dated June 22, 2016. The Court then entered an Order on July 8, 2016 setting discovery deadlines.

After Dollar failed to comply with the Courtôs Order to remain current on the rent, as well as ignoring the Debtorôs discovery request for production of documents, the Debtor moved to strike Dollarôs answer, award the Debtor judgment, and hold Dollar in contempt for violating the

Courtôs Order relating to payment of rent and discovery. The motion was granted by Order dated September 26, 2016, and a judgment in the amount of $88,268.26 was entered on September 28, 2016. A subsequent appeal was dismissed for lack of prosecution.

Dollar has since vacated the Property, and the Debtorôs efforts to enforce its judgment are ongoing. The Debtor has not yet re-let the space occupied by Dollar, pending final disposition of the Government Lease by GSA. If GSA vacates in 2018, the Property may be sold as a development site. For the time being, however, it is the Debtorôs intention to retain the Property and see what develops with GSA.

The current rent paid by GSA of approximately $100,580 per month is more than sufficient to make debt service on the Debtorôs mortgage with Preferred Bank.

The Preferred Bank Mortgage

The Debtorôs largest creditor is Preferred Bank, which issued a mortgage on December 29, 2009, in conjunction with the Debtorôs acquisition of the Property. As of the Chapter 11 filing date on September 1, 2015, the balance due on the mortgage was $6,167,670.11.

After the Chapter 11 filing, the Debtor entered into a cash collateral stipulation pursuant to which Preferred Bank was granted a priority lien against post-petition rents, and authorized the Debtor to continue to pay operating expenses. The cash collateral stipulation was approved by Order dated December 3, 2015 (ECF # 17). The original one year term of the stipulation has been extended several times, and currently expires on December 31, 2017. The Debtor has negotiated a further extension until April 30, 2018 with Preferred Bank, which will be submitted to the Court for approval shortly.

The Debtor has never missed a payment during the Chapter 11 case, and the mortgage has been paid down to a current balance of $5,754,377.53. The Debtor intends to utilize the Liquidated Damage Award to satisfy and pay Preferred Bank the remaining mortgage balance in full without post-petition default rate interest.

Preferred Bank has informally suggested that it is entitled to default rate interest of 7% above the non-default rate merely because of the Debtorôs Chapter 11 filing. The Debtor has never been guilty of a monetary default (either before or after the Chapter 11 filing), and will challenge any entitlement to post-petition default rate interest based upon a purported technical default arising from the commencement of the bankruptcy case.

It is indisputable that the Chapter 11 filing did not adversely impact either the financial condition of the Debtor or of the Property, but rather gave the Debtor a forum to more expeditiously resolve the dispute with MPH. Accordingly, equitable considerations under Section 506(b) militate against awarding post-petition default interest. This issue will likely be determined in a claims objection to be heard contemporaneously with confirmation.

Personal Injury Claims

During the course of the Chapter 11 case, there have been two personal injury claims asserted against the Debtor. One, asserted by Maria Sanchez, was resolved through a stipulation approved by Order of the Bankruptcy Court dated December 24, 2015 (ECF #26), pursuant to which Ms. Sanchez waived all claims against the Debtor and agreed to limit any recovery on her claim to the proceeds of the Debtorôs insurance.

The second claim involves a ñslip and fallò claim asserted by Roberto Enamorado. Mr. Enamorado commenced an action against the Debtor in the Supreme Court of New York, Kings

County, alleging that he fell on the sidewalk in front of the Debtorôs Property. The action was defended by the Debtorôs insurance company, which recently obtained a stipulation of discontinuance from Mr. Enamorado, after discovery revealed that he fell across the street from the Debtorôs Property. Although Goldmine Developer, Inc. (ñGoldmineò), the property owner on whose sidewalk the fall occurred, has asserted a potential crossclaim against the Debtor, Goldmine has not filed a proof of claim in the bankruptcy case. Moreover, the stipulation of discontinuance by the plaintiff negates any claim which Goldmine might assert as to the Debtor. Accordingly, the Debtorôs plan makes no provision for payment of this unfiled claim.

VI. CLASSIFICATION AND TREATMENT OF CLAIMS UNDER THE PLAN

The Plan classifies the various pre-petition claims and interests into essentially three classes as outlined below. Administrative expenses are not separately classified, and consist of the professional fees and expenses to be awarded to the Debtorôs bankruptcy counsel, Goldberg Weprin Finkel Goldstein LLP. Additionally, U.S. Trustee Fees shall be paid by the Debtor until the bankruptcy case is closed.

A. Summary of Classification and Treatment of Claims and Equity Interests

The Plan categories into Classes and treats Claims against the Debtor for all purposes, including voting, confirmation and distribution pursuant hereto and pursuant to sections 1122 and 1123(a)(1) of the Bankruptcy Code, as follows:

Class	Designation	Impaired
Class 1	Secured first mortgage claim of Preferred Bank	No
Class 2	General Unsecured Claims	No
Class 3	Equity Interests	N/A

B. Classification, Treatment and Voting

Class 1— Secured Claim of Preferred Bank

Classification: Class 1 is comprised of the allowed secured claim of Preferred Bank.

Treatment: Preferred Bank filed a pre-petition claim in the total sum of $6,167,670.11. During the Chapter 11 case, the Debtor has remained current with respect to all post-petition debt service, including interest and amortization. Accordingly, the Debtorôs loan balance has been reduced since the bankruptcy filing to the current principal balance of $5,754,377.53, as of November 16, 2017.

This loan balance, which will be further reduced through Confirmation based on continued monthly payments by the Debtor in the regular course of business, shall be paid in full on the Effective Date from the Confirmation Fund without post-petition default interest, pre-payment or penalty, if any. It is the Debtorôs position that Preferred Bank is not properly entitled to receipt of post-petition default interest under U.S.C § 506 (a) in view of the fact that the Debtor has consistently paid all mortgage payments on a timely basis throughout the Chapter 11 case, and the Debtor was not in arrears at the time of the Chapter 11 filing. Thus, the Debtor should not be penalized by the imposition of post-petition default interest of seven (7) points above the regular contract rate merely because it filed a Chapter 11 petition.

Voting: The Class 1 claim of Preferred Bank is not impaired because the Debtor intends to pay Preferred Bank its Allowed Claim, in full, even if default interest is awarded over the Debtorôs objection.

Class 2 — Unsecured General Claims

Classification: Class 2 is comprised of the Allowed Claims of General Unsecured Creditors.

Treatment: The holders of Allowed General Unsecured Claims shall receive a cash dividend equal to one-hundred (100%) percent of their Allowed Claims on the Effective Date.

Voting: Class 2 is not impaired because Allowed General Unsecured Claims shall be paid full with post-petition interest at the federal judgment rate.

Class 3 — Equity Interests

Classification: Class 3 is comprised of the Equity Interests of The Myrtle Avenue Trust No. 1, The Myrtle Avenue Trust No. 2, and The Myrtle Avenue Trust No. 3 (collectively ñthe Equity Holdersò).

Treatment: The respective Equity Holders shall each retain their membership interests in the Debtor and Reorganized Debtor, as the case may be, without change or modification. All excess funds, held by the Debtor in its operating accounts following payments of Allowed Claims, shall be distributed to the Class 3 Equity Holders or their trust beneficiaries on a *pro rata* basis.

Voting: As insiders of the Debtor, the votes of the Class 3 Equity Holders are not counted in considering Confirmation of the Plan.

C. IMPLEMENTATION OF THE PLAN

Implementation. The Plan shall be implemented through the distribution of the funds on hand, which shall be transferred into the confirmation account for distribution under the Plan. The Debtor currently has on deposit the sum of $2,058,246 as of November 30, 2017 in its DIP accounts. Additionally, the Debtor has established a separate interest bearing account for the

deposit of the Liquidated Damages Award with Signature Bank currently totaling $7,502,466.13. Thus, all told, there is more than $9,500,000 available for distribution to creditors and agency holders.

Discharge of Obligations. In consideration of the distributions hereunder, the Claims of Creditors, including Maria Sanchez, Roberto Enamorado and Goldmine, shall be deemed released and discharged, together with release of all guaranties or other obligations that relate to the secured mortgage claims of Preferred Bank based on full payment of the Allowed Amounts. Additionally, Preferred Bank shall be required to execute and deliver a satisfaction or assignment of mortgage, in recordable form, at the Debtorôs option upon receipt of its distribution hereunder on account of its Allowed Claim.

Retention of all Assets. On and after the Effective Date, title to the Property and all other assets shall be re-vested in the Reorganized Debtor free and clear of all Claims, liens, and taxes, but subject to any appellation rights that MPH may have.

Preservation of Other Rights and Causes of Action. Any Causes of Action belonging to the Debtor against third parties, shall remain Property of the Debtor's estate and shall be re-vested in the Reorganized Debtor.

Post-Confirmation Management. The Reorganized Debtor shall continue to be managed by the current members and manager, Aaron Ambalu.

Treatment of all Existing Leases and Executory Contracts. Any and all existing executory contracts and unexpired leases not previously formally assumed, rejected or otherwise terminated by the Debtor in connection with prior adversary proceedings shall be deemed assumed by virtue of Confirmation of the Plan

Conditions Precedent to the Effective Date. The following are conditions to the Plan:

(a) The Confirmation Order shall have been entered by the Bankruptcy Court confirming the Plan pursuant to Final Order; and

(b) There shall not be in effect on the Effective Date, any Order entered by a court of competent jurisdiction staying, restraining, enjoining or otherwise prohibiting or making illegal the consummation of any of the transactions contemplated by the Plan.

Retention of Jurisdiction. Post-confirmation, the Bankruptcy Court shall retain jurisdiction to hear the following matters: (a) Resolve all matters arising under or relating to the Plan, including, without limitation, the enforcement, and interpretation of any orders entered relating to the Adversary Proceeding 15-01348 involving MPH or the appeal of the Judgment; (b) Allow, disallow, determine, liquidate or classify, any secured or unsecured Claims, including, without limitation, the resolution of any request for payment of any Administrative Expenses, the resolution of any and all objections to the allowance any Claims, and the resolution of any pending adversary proceeding; (c) Grant or deny applications for allowance of final compensation and reimbursement of expenses by the Professionals retained during the bankruptcy case; (d) Resolve any motions or applications pending on the Effective Date; (e) Ensure that distributions to holders of Allowed Claims are accomplished pursuant to the Plan; (f) Enter such Orders as may be necessary or appropriate to implement or consummate the provisions of the Plan, or to enforce all orders, judgments, injunctions, and rulings entered in connection with the bankruptcy case; (g) Issue any orders or take such other actions as may be necessary or appropriate to restrain interference by any person or entity with consummation or enforcement of the Plan; and (h) Enter a Final Decree closing the bankruptcy case.

VII. LEGAL REQUIREMENTS FOR CONFIRMATION OF THE PLAN

Under bankruptcy law, a plan can be confirmed if it is accepted by all classes of unimpaired claims and otherwise meets the requirements of 11 U.S.C. § 1129(a). In this Chapter 11 case, all allowed claims will be paid in full. As a result, there are no impaired classes.

The other requirements of Section 1129(a) include determinations by the Bankruptcy Court that: (i) the contents of the Plan comply with various technical requirements of the Bankruptcy Code, (ii) the Debtor has proposed the Plan in good faith, (iii) the Debtor has made disclosures concerning the Plan that are adequate and include information concerning all payments made or promised in connection with the Plan, (iv) the Plan is in the ñbest interestò of all creditors, as may be applicable, and (v) the Plan is feasible.

The Debtor believes that the Plan easily complies with the requirements of the Bankruptcy Code, has been proposed in good faith, and this Disclosure Statement includes all necessary disclosures and information. Under Section 1129(a) the two key findings relate to the best interests of creditors and feasibility.

The ñbest interestò testò under 11 U.S.C. §1129(a)(7) essentially requires that creditors be paid at least as much as they would receive in a liquidation under Chapter 7. Since all allowed claims are being paid in full, the Debtor meets this requirement.

The Plan also meets the requirements of feasibility pursuant to §1129(a)(11) since all of the funds to consummate the Plan are already being held by the Debtor. The cash in the DIP operating account and the Liquidated Damages Award are more than sufficient to pay all allowed claims and make a distribution to insiders while maintaining sufficient capital reserves.

XI. CONCLUSION

The Debtor respectfully submits that the Plan represents a fair and proper conclusion to this bankruptcy case, and should be confirmed.

Dated: New York, New York
December 19, 2017

1111 MYRTLE AVENUE GROUP LLC

By: /s/ Aaron C. Ambalu
Name: Aaron C. Ambalu
Title: Manager

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