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UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In re:	:	Chapter 11
	:	
Constructors Liquidation Inc., et al.,[1]	:	Case No.: 16-10069 (SCC)
	:	
Debtors.	:	(Jointly Administered)

DEBTORS' DISCLOSURE STATEMENT TO ACCOMPANY THEIR JOINT PLAN OF LIQUIDATION DATED JUNE 14, 2016

THIS DISCLOSURE STATEMENT HAS NOT BEEN APPROVED BY THE UNITED STATES BANKRUPTCY COURT FOR THE SOUTHERN DISTRICT OF NEW YORK. UNDER SECTION 1125(b) OF THE BANKRUPTCY CODE FOR USE IN THE SOLICITATION OF ACCEPTANCES OF THE PLAN DESCRIBED HEREIN. ACCORDINGLY, THE FIING AND DISTRIBUTION OF THIS DISCLOSURE STATEMENT IS NOT INTENDED, AND SHOULD NOT BE CONSTRUED, AS A SOLICITATION OF ACCEPTANCES OF SUCH PLAN. THE INFORMATION CONTAINED HEREIN SHOULD NOT BE RELIED UPON FOR ANY PURPOSE BEFORE A DETERMINATION BY THE BANKRUPTCY COURT THAT THIS DISCLOSURE STATEMENT CONTAINS "ADEQUATE INFORMATION" WITHIN THE MEANING OF SECTION 1125(a) OF THE BANKRUPTCY CODE

[1] The Debtors in these chapter 11 cases, the last four digits of each Debtor's federal tax identification number, and their chapter 11 case numbers are Constructors Liquidation Inc. f/k/a NYC Constructors Inc. (7618)(Chapter 11 Case No. 16-10069)("NYCC") and MRP, L.L.C. (0498)(Chapter 11 Case No. 16-10070)("MRP").

TABLE OF CONTENTS

DISCLOSURE STATEMENT

On January 14, 2016 (the "Filing Date"), Constructors Liquidation Inc. f/k/a NYC Constructors Inc. ("NYCC")[2] and MRP, L.L.C. ("MRP") (collectively, the "Debtors") filed voluntary petitions under chapter 11 of title 11 of the United States Code (the "Bankruptcy Code") with the United States Bankruptcy Court for the Southern District of New York.

Pursuant to § 1125 of the Bankruptcy Code, the Debtors submit this disclosure statement (the "Disclosure Statement") relating to its plan of liquidation, dated June 14, 2016 (the "Plan").

I. INTRODUCTION

The Debtors provide this Disclosure Statement to all of the Debtors' known creditors, Equity Interest Holders, and other parties in interest in order to provide adequate information to enable them to make an informed decision as to whether to accept or reject the Plan. All holders of claims and Equity Interests are hereby advised and encouraged to read this Disclosure Statement and the Plan in their entirety before voting to accept or reject the Plan.

The Plan summary and statements made in this Disclosure Statement are qualified in their entirety by reference to the Plan (a copy of which accompanies this Disclosure Statement as **Exhibit "A"**).[3]

By Order dated July ___, 2016, the Bankruptcy Court (i) approved this Disclosure Statement as containing adequate information of a kind and in sufficient detail to enable creditors of the Debtors to make an informed judgment about the Plan, and (ii) scheduled a hearing to confirm the Plan.

The Court's approval of this Disclosure Statement does not constitute a recommendation by the Court either for or against the Plan. No statements or information concerning the Plan and

[2] Subsequent to the Debtors' sale of substantially all of their assets to Banker Steel NY, LLC and Banker Steel NJ, LLC. NYCC changed its name to Constructors Liquidation Inc. on April 5, 2016.

[3] Capitalized terms not otherwise defined in this Disclosure Statement have the meanings assigned to them in the Plan.

the transactions contemplated thereby have been authorized, other than the statements and information set forth in this Disclosure Statement. All other statements regarding the Plan and the transactions contemplated, whether written or oral, are unauthorized.

The Bankruptcy Court has scheduled a hearing to consider Confirmation of the Plan for **August ___, 2016 at _____ __.m.** at the United States Bankruptcy Court located at One Bowling Green, New York, New York 10004. This hearing may be adjourned from time to time without further notice other than by announcement in Court on the scheduled date of such hearing. At that hearing, the Court will consider whether the Plan satisfies the various requirements of the Bankruptcy Code. The Court will then also receive and consider a ballot report prepared by the Debtors concerning the votes for acceptance or rejection of the Plan by the parties entitled to vote.

No representations concerning the Debtors, the estimated value of the Debtors' property and/or the estimated assets to be generated from the liquidation of the Debtors' assets are authorized by the Debtors other than as set forth in this Disclosure Statement. Any representations or inducements made to secure your acceptance which are other than as contained in this Disclosure Statement, should not be relied upon by you in casting your vote with respect to the proposed Plan.

THE DEBTORS BELIEVE THAT THE PLAN PROVIDES THE GREATEST AND EARLIEST POSSIBLE RECOVERIES TO ALL CREDITORS UNDER THE CIRCUMSTANCES. THE DEBTORS BELIEVE THAT ACCEPTANCE OF THE PLAN IS IN THE BEST INTERESTS OF EACH AND EVERY CLASS OF CREDITORS AND RECOMMENDS THAT YOU VOTE TO ACCEPT THE PLAN.

This Disclosure Statement is based upon information available to the Debtors as of the

date of this Disclosure Statement unless another time is specified and does not reflect events that may occur subsequent to that date, which may have a material impact on the information contained in this Disclosure Statement. The Debtors will not make any effort to supplement or amend this Disclosure Statement to reflect changes subsequent to the date hereof.

THIS DOCUMENT WAS COMPILED FROM INFORMATION OBTAINED BY THE DEBTORS FROM NUMEROUS SOURCES BELIEVED TO BE ACCURATE TO THE BEST OF THE DEBTORS' KNOWLEDGE, INFORMATION AND BELIEF.

ALTHOUGH THE DEBTORS' PROFESSIONAL ADVISORS HAVE ASSISTED IN THE PREPARATION OF THIS DISCLOSURE STATEMENT BASED UPON THE FACTUAL INFORMATION AND ASSUMPTIONS RESPECTING THE FINANCIAL, BUSINESS AND ACCOUNTING DATA PROVIDED BY THE DEBTORS, THE DEBTORS' PROFESSIONAL ADVISORS HAVE NOT INDEPENDENTLY VERIFIED THE INFORMATION SET FORTH IN THIS DISCLOSURE STATEMENT AND MAKE NO REPRESENTATIONS OR WARRANTIES AS TO SUCH INFORMATION. SUCH PROFESSIONAL ADVISORS DO NOT REPRESENT OR WARRANT THAT THIS DISCLOSURE STATEMENT IS COMPLETE OR IS FREE FROM ANY INACCURACY OR OMISSION.

HOLDERS OF CLAIMS SHOULD CAREFULLY READ AND CONSIDER THE PLAN AND DISCLOSURE STATEMENT.

CAUTIONARY STATEMENT

CERTAIN INFORMATION INCLUDED IN THIS DISCLOSURE STATEMENT CONTAINS FORWARD-LOOKING STATEMENTS WITHIN THE MEANING OF THE SECURITIES ACT OF 1933, AS AMENDED, THE SECURITIES EXCHANGE ACT OF 1934, AS AMENDED, AND THE PRIVATE SECURITIES LITIGATION REFORM ACT OF

1995, AS AMENDED. SUCH FORWARD-LOOKING INFORMATION IS BASED ON INFORMATION AVAILABLE WHEN SUCH STATEMENTS ARE MADE AND IS SUBJECT TO RISKS AND UNCERTAINTIES THAT COULD CAUSE ACTUAL RESULTS TO DIFFER MATERIALLY FROM THOSE EXPRESSED IN THIS DISCLOSURE STATEMENT.

EXPLANATION OF CHAPTER 11

Chapter 11 of the Bankruptcy Code permits the filing of a chapter 11 plan of liquidation. The Plan sets forth the means for satisfying the Holders of Claims against and Equity Interests in the Debtors'. A chapter 11 plan may provide anything from a complex restructuring of a debtor's business and its related obligations to a simple liquidation of a debtor's assets. In either event, upon confirmation of the chapter 11 plan, it becomes binding on a debtor and all of its creditors and equity holders, and the obligations owed by a debtor to such parties are compromised and exchanged for the obligations specified in the chapter 11 plan.

After a chapter 11 plan has been filed, and a disclosure statement approved, the holders of impaired claims against and interests in a debtor may be permitted to vote to accept or reject the chapter 11 plan, although here when impaired interests in the Debtors are receiving no distributions on account of their equity interests, they are deemed to reject a plan and, thus, are not permitted to vote. Before soliciting acceptances of a proposed chapter 11 plan, section 1125 of the Bankruptcy Code requires the proponents of the chapter 11 plan to prepare a disclosure statement containing adequate information of a kind, and in sufficient detail, to enable a hypothetical reasonable investor to make an informed judgment about the chapter 11 plan. This Disclsoure Statement is presented to Holders of Claims against and Equity Interests in the Debtors to satisfy the requirements of section 1125 of the Bankruptcy Code in connection with the solicitation of votes by the Debtors on the Plan.

The bankruptcy court may confirm a chapter 11 plan even though fewer than all of the classes of impaired claims and interests accept such chapter 11 plan. For a chapter 11 plan to be confirmed, despite its rejection by a class of impaired claims or interests, the chapter 11 plan must be accepted by at least one class of impaired claims (determined without counting the vote of insiders) and the proponent of the chapter 11 plan must show, among other things, that the chapter 11 plan does not "discriminate unfairly" and that the chapter 11 plan is "fair and equitable" with respect to each impaired class of Claims or interests that has not accepted the chapter 11 plan. Here, since the only impaired class entitled to vote consists of the class containing unsecured claims, if the class of unsecured claims (Class 3) votes to reject the Plan, the Bankruptcy Court will not be able to confirm the Plan and the Chapter 11 Cases will either be converted to chapter 7 or dismissed.

Substantially all of the Debtors' assets have already been liquidated and converted to cash during the Chapter 11 Cases and the Debtors have ceased operating their businesses. These funds will be distributed to creditors in accordance with the statutory priority set forth in the Bankruptcy Code. In addition, the Plan provides for the liquidation of all of the remaining property of the Debtors' Estates, which consists primarily of Excluded Assets under the Asset Purchase Agreement, and the proceeds thereof. Pursuant to Bankruptcy Code section 1141(d)(3), confirmation of the Plan will not discharge the Debtors from any of their debts which arose prior to the Petition Date, however, Confirmation will make the Plan binding upon the Debtors, holders of Claims and Equity Interests, and other parties in interest regardless of whether they have accepted the Plan. The Plan is premised on the substantive consolidation of the Debtors with respect to the treatment of all Claims and Equity Interests. The Plan serves as a request by the Debtors, in lieu of a separate motion, to the Bankruptcy Court that it grant

substantive consolidation with respect to the treatment of all Claims and Equity Interests of the Debtors.

SUMMARY OF CLASSIFICATION AND TREATMENT

Detailed elsewhere in this Disclosure Statement is a description of the technical aspects of the classification of Claims and Equity Interests, the relative allocations of property to holders of such Claims and Interests, the methodology as to how such property is to be distributed, the risks inherent in the proposed Plan, and the applicable bankruptcy and tax consequences of the proposed liquidation. However, the Debtors believe that a broad overview of what, in the opinion of the Debtors, Creditors are likely to receive under the Plan, will be helpful for your consideration of whether you wish to accept or reject the Plan.

The following is a summary of the classification of all Claims under the Plan and the proposed treatment of each such Class under the Plan. This summary is qualified in its entirety by reference to provisions set forth in the Plan, the terms of which are controlling.

CLASS	DESCRIPTION	KIND OF PROPERTY DISTRIBUTED TO CLASS	PROJECTED ULTIMATE DISTRIBUTION AS PERCENTAGE OF ALLOWED CLAIM
Unclassified Claims	a. Professional Fees and Expenses	Cash	100% as allowed by Court or such lesser amount as agreed between the holder of such claim and the Debtor.
	b. Accounts payable and other obligations which arose post-petition (including Section 503(b)(9) Claims)	Cash	100% on the Effective Date or such lesser amount as agreed between the holder of such claim and the Debtor.
	c. Priority Tax Claims	Cash	100% of such Allowed Priority Tax Claim on the Effective Date or such lesser amount as agreed between the holder of such claim and the Debtor.
Class 1	Secured Claims (if any)	Cash	100% of Allowed Claim on the Effective Date.
Class 2	Priority Claims	Cash	100% of Allowed Claim on the Effective Date.
Class 3	General Unsecured Claims	Cash	*Pro Rata* distribution of Excess Available Cash after taking into account payments of all Administrative Claims and Priority Claims. The Debtors estimate that the amount available to Class 3 unsecured Claim holders will be approximately twenty-five (25%) percent of Allowed Class 3 Claims, except that the Davis-Related Class 3 Claims shall receive approximately twenty (20%) percent.
Class 4	Equity Interest Holders	All Equity Interests Canceled	None.

II. VOTING INSTRUCTIONS AND CONFIRMATION OF PLAN

A. Manner of Voting on Plan

Before voting, this Disclosure Statement as well as the Plan, should be read in its entirety. You should only use the Ballot sent to you with this Disclosure Statement to cast your vote for or against the Plan.

If you hold a Claim in Class 3, included in the package of materials forwarded to you along with this Disclosure Statement and the Plan is a ballot for your acceptance or rejection

of the Plan. You should complete, date and sign your ballot and return it to Tarter Krinsky & Drogin LLP, 1350 Broadway, 11th Floor, New York, New York 10018, Attn: Scott S. Markowitz, Esq., attorneys for Debtors. All ballots must be **received** prior to **5:00 P.M. on August __, 2016**.

B. **Claim Holders Entitled To Vote**

Under the Bankruptcy Code, any holders of Claims in Classes that are "impaired" under the Plan are entitled to vote to accept or reject the Plan, unless such Class neither receives nor retains any property under the Plan (in which case such Class is deemed to have rejected the Plan). Bankruptcy Code §1124 provides generally that a Class is impaired if the legal, equitable or contractual rights of the Claims or interests in that Class are altered.

Subject to the exceptions provided below, any holder whose Claim is impaired under the Plan is entitled to vote if either (i) its Claim has been scheduled by either of the Debtors and such Claim is not scheduled as disputed, contingent or unliquidated; or (ii) such Claim holder has filed a proof of Claim which is not otherwise a Disputed Claim.

A holder of a Disputed Claim is not entitled to vote on the Plan unless such Claim is temporarily allowed by the Debtors or by an order of the Bankruptcy Court in an estimated amount which it deems proper for the purpose of voting to accept or reject the Plan. In other words, only holders of Allowed Claims in impaired classes may vote to accept or reject the Plan. A Claim to which an objection has been filed by the Debtors or a Claim (i) which is listed on the Debtors' Schedules or Amended Schedules as disputed, unliquidated or contingent; and (ii) with respect to which a superseding proof of Claim has not been filed, is not an Allowed Claim for voting purposes, unless the Claim is settled by agreement or the Court allows the Claim (in whole or in part) by Final Order. Upon request of a party-in-interest, the Court may temporarily allow or estimate a Disputed Claim for the purpose of voting on the Plan. Ballots cast in respect

of claims other than Allowed Claims will not be counted. In addition, a vote may be disregarded if the Bankruptcy Court determines that the acceptance or rejection of the Plan by the creditor is not solicited or procured in good faith, or in accordance with the provisions of the Bankruptcy Code.

C. **Classes Impaired Under the Plan**

Claims by Holders in Class 3 are impaired under the Plan and are eligible, subject to the limitations set forth above, to vote to accept or reject the Plan. Claims by Holders in Class 1 and Class 2 are unimpaired under § 1124 of the Bankruptcy Code and therefore not entitled to vote on the Plan. The Equity Interest Holders in Class 4 will not receive any distribution under the Plan. Thus, pursuant to section 1126(g), Equity Interest Holders in Class 4 are deemed to have rejected the Plan and such Holders are not entitled to vote on the Plan.

Any controversy as to whether any Claim or Class of Claims is impaired under the Plan shall, after notice of any hearing, be determined by the Bankruptcy Court.

D. **Vote Required For Class Acceptance**

Section 1126(c) of the Bankruptcy Code defines acceptance of a plan by a Class of impaired Claims as acceptance by at least two-thirds (2/3) in dollar amount and more than one-half (1/2) in number of holders of Allowed Claims in that Class who cast ballots.

Section 1126(d) of the Bankruptcy Code defines acceptance of a plan by a class of Interest holders as acceptance by holders of at least two-thirds (2/3) in amount of the allowed interests of such class who cast ballots.

III. THE DEBTORS AND THEIR OPERATIONS

A. General Background (Prepetition Events)

1. The Debtors Generally

NYC Constructors Inc. ("NYCC") is a corporation organized in 2013 under the laws of the State of New York.[4] MRP is a New Jersey limited liability company, and a wholly owned subsidiary of NYCC. In July, 2014 NYCC purchased certain assets from DCM Erectors Inc. ("DCM") and all membership interests in MRP, then a wholly owned subsidiary of DCM. Barry King, the President of NYCC, through his wholly owned company, B. King Construction Management Inc., is the sole shareholder of NYYC, now known as Constructors Liquidation Inc.

Prior to closing the sale of the Debtors' assets to the Buyer on March 31, 2016, NYCC was engaged in the erection of structural steel at large construction projects in New York City, including the erection of steel at Tower 3 of the World Trade Center, a residential apartment building adjacent to the Museum of Modern Art, and Rockefeller University. MRP was engaged in the steel fabrication industry and fabricated structural steel for large scale construction projects for NYCC as well as other structural steel installers.

As of the Filing Date, the Debtors employed a total of 310 employees (most of whom were union represented iron workers). As of the Filing Date, the Debtors also outsourced some of their back office work, such as accounting and engineering services to a non-debtor affiliate located in Toronto, Canada owned by B. King Construction Management Inc. Since the closing of the sale of the Debtors' assets to Banker Steel NY, LLC ("Banker Steel NY") and Banker Steel NJ, LLC ("Banker Steel NJ" and together with Banker Steel NY, the

[4] As required by the Asset Purchase Agreement, after the Closing, NYC Constructors Inc. changed its name to Constructors Liquidation Inc.

"Buyers") on March 31, 2016, the Debtors do not have any employees.

2. **Events Leading Up To The Debtors' Chapter 11 Filings**

In July 2014, DCM and Larry Davis ("Davis"), the owner of DCM and MRP, were charged in a federal criminal complaint with engaging in a scheme to commit minority- and women-owned business enterprise fraud in connection with two Port Authority of New York and New Jersey ("Port Authority") public construction projects.[5] As a result of the indictment, DCM and Davis were barred from continuing to work on Port Authority projects and from obtaining any new Port Authority contracts. In order to allow the Debtors to continue to operate their businesses and preserve the jobs of their employees, on July 30, 2014, Davis (i) caused DCM to sell its inventory and equipment to NYCC, (ii) caused Federated Equipment Co., L.L.C., an entity he owned, to sell its equipment to NYCC and (iii) caused S. Lalande Holdings Limited, an entity he owned, to sell its 100% membership interest in MRP to NYCC. The total sale price for the inventory, equipment and MRP membership interest was approximately $4,400,000. NYCC issued unsecured promissory notes for the payment of the total purchase price, with principal payable in installments over five years beginning in August 2016 and interest payable at 8% annually beginning in July 2015. As of the Petititon Date, NYCC had not paid any interest on the notes (and principal was not yet due). Additionally, DCM and Davis advanced funds to NYCC from time to time after the sale to help NYCC pay its operating expenses, no part of which was repaid by NYCC. As a result, the entities owned by Davis are collectively the largest unsecured creditors of the Debtors, with total general unsecured claims of approximately $6,136,000. Following the July 30, 2014 asset sales just described, Davis was not, and is not, a director, officer, or employee of either of the Debtors and did not, and does not,

[5] The Debtors understand that DCM and Davis are vigorously defending these charges and that a trial has been scheduled to commence in the U.S. District Court for the Southern District of New York late in 2016.

own any direct, indirect, or beneficial interest in either of the Debtors.

In or about October 2014, NYCC entered into a contract with Tishman Construction (as construction manager on behalf of Silverstein Properties, as owner) to perform structural steel erection and metal deck/shear stud installation at the World Trade Center 3 Tower (the "WTC3 Project") under a fixed priced contract (the "Trade Agreement"). During the course of performing its work on the WTC3 Project, it became evident to NYCC, due to the complexity of the project and other factors, that it would be impossible to complete the WTC3 Project for the fixed price contained in the contract, potentially requiring millions of dollars of additional funding which was unavailable to NYCC. This, in turn, created funding difficulties for NYCC, which caused it to be in violation of its obligations under the Trade Agreement and rendered it unable to complete the WTC3 Project within the required time frame and in accordance with the terms of the Trade Agreement. As a result of NYCC's inability to perform its obligations under the Trade Agreement, in December 2015, Tishman Construction advised NYCC that it intended to cease funding for the WTC3 Project unless NYCC met certain conditions – conditions that NYCC was unable to satisfy given its financial condition. Given these circumstances, NYCC entered into negotiations with Tishman to restructure the contract, but it became clear that a restructuring of the contract was not viable given NYCC's financial situation – leaving NYCC with the prospect of losing all of its investment in the WTC3 Project, and leaving it open to millions of dollars of unpaid claims from WTC3 Project vendors and other parties, not to mention potentially significant damages to Tishman and Silverstein for failure to perform the Trade Agreement.

Additionally, beginning some time after NYCC's purchase of the assets of DCM and other entities owned by Davis, the Debtors had a difficult time funding their

operations, including obtaining required surety bonds and financing. This resulted in the Debtors being unable to secure additional steel erection jobs in New York City.

As a result, the Debtors and Banker Steel Co., LLC ("Banker Steel") commenced negotiations in the summer of 2015 regarding a transaction, pursuant to which Banker Steel, or an entity to be formed by Banker Steel, would acquire substantially all of the Debtors' assets. The parties initially contemplated that the sale would be accomplished outside of the Chapter 11 process. As negotiations progressed, the parties determined that due to a variety of factors (including liquidity problems), a sale transaction that maximized the going concern value of the Debtors' assets would best be accomplished through a section 363 sale under the aegis of the Bankruptcy Court.

During the course of such discussions, NYCC advised Tishman and Silverstein that they were separately in asset purchase negotiations with Banker Steel. Thereafter, extensive meetings among NYCC, Tishman, Silverstein, and Banker Steel took place, which resulted in (i) the Trade Agreement with Tishman being terminated, (ii) Banker Steel, as contractor, and Tishman, as construction manager, entering into a new contract for the completion of the steel work at the WTC3 Project, and (iii) Banker Steel hiring NYCC as its primary subcontractor to perform the steel erection work at the WTC3 Project. In connection with these arrangements, Tishman and Banker Steel (i) provided funding for millions of dollars of potential trust fund and mechanic liens claims, (ii) NYCC was released of millions of dollars of additional potential claims relating to its breach of the Trade Agreement, and (iii) NYCC's workforce and vendor relationships were preserved. The financing by Banker Steel was made by way of a $2,000,000 prepetition loan from Banker Steel NJ to NYCC, which was secured by a first priority lien on substantially all of NYCC's assets. The transaction preserved the going

concern value of the Debtors' assets and facilitated the completion of negotiations with Banker Steel with respect to the purchase of substantially all of the Debtors' assets pursuant to a Section 363 sale to be approved by the Bankruptcy Court.

To assist the Debtors' management in negotiating the sale transaction, navigating the chapter 11 process, and to ensure that the sale process was fair and the assets properly marketed, in or about October 2015, the Debtors retained Getzler Henrich & Associates LLC ("Getzler Henrich") as restructuring advisors and William Henrich of Getzler Henrich, as Chief Restructuring Officer.

3. **Execution of Asset Purchase Agreement**

On January 14, 2016 (on the same date as the Filing Date), the Debtors and the Buyers executed a stalking horse asset purchase agreement (the "Asset Purchase Agreement") for the sale of substantially all of their assets. The total purchase price under the Asset Purchase Agreement (as more full set forth below), consisted of a combination of cash, credit bid of Banker Steel's prepetition loan and DIP Facility (defined below) and the assumption of certain prepetition trade debt, union fringe benefit contributions and post petition trade debt. The assets to be sold consisted primarily of construction/fabrication equipment, inventory, a subcontract with Banker Steel for the WTC3 Project, accounts receivable, intellectual property rights, and a contract to perform the steel installation for a new hospital facility adjacent to the FDR Drive owned by Rockefeller University.

B. **Post-Petition Events**

1. **General**

On January 14, 2016, the Debtors each filed voluntary petitions under chapter 11 of the Bankruptcy Code. Subsequent to the Filing Date, the Debtors remained in possession of their assets and properties and continued to operate their businesses as debtors-in-

possession pursuant to §§ 1107 and 1108 of the Bankruptcy Code. The Debtors' Chapter 11 Cases were assigned to the Honorable Shelley C. Chapman, United States Bankruptcy Judge. The Bankruptcy Court has entered several orders in the Chapter 11 Cases, each of which are available from the clerk of the Bankruptcy Court or may be viewed at the Bankruptcy Court's worldwide website: **www.nysb.uscourts.gov.**

2. **DIP Financing and Cash Collateral**

As indicated above, prior to the Filing Date, the Debtors borrowed $2,000,000 (the "Prepetition Loan") from Banker Steel NJ which was secured by a first security interest on all of the Debtors' assets. The Prepetition Loan proceeds were used to pay Article 3-A claimants from the WTC3 Project. Subsequent to the commencement of the Chapter 11 cases, the Debtors required the use of cash collateral and post-petition financing in order to maintain and preserve the Debtors' business operations and preserve jobs pending a sale of the Debtors' assets to the Buyers or another party submitting a higher and better offer.

The Debtors, in consulation with Banker Steel, and with the assistance of Getzler Henrich determined that the Debtors needed to obtain additional financing of up to $3,000,000 in order to comfortably meet postpetition obligations and preserve the going concern value of the Debtors' businesses pending the sale to Banker Steel or another entity making a higher or better offer for the Debtors' assets. Banker Steel NY agreed to lend to the Debtors $3,000,000 (the "DIP Facility") which would be provided as a debtor in possession loan after the filing of the Debtors' cases.

On the Filing Date, the Debtors filed a motion seeking authority to utilize cash collateral of Banker Steel NJ and obtain financing through the DIP Facility from Banker Steel NY. On January 19, 2016, the Court entered an interim order approving the Debtors' request for use of cash collateral and debtor in possession financing, followed by a final order

dated February 5, 2016 with respect to the foregoing relief. As a result of these Court orders, the Debtors were able to stabilize operations pending a sale of their assets.

3. **First Day Motions**

On the Filing Date, the Debtors commenced their Chapter 11 cases by filing voluntary petitions for relief under Chapter 11 of the Bankruptcy Code. On that date, the Debtors submitted a number of motions and applications requesting so-called "first day orders" which the Bankrutpcy Court subsequently entered. Among others, such "first day orders" included:

- an order directing joint administration of the Debtors' Chapter 11 cases [ECF No. 14];
- an interim order authorizing the Debtors to maintain their pre-petition bank accounts and business forms, and to continue using their cash management system [ECF No. 15];
- an interim order authorizing the Debtors to pay prepetition employee wages, payroll taxes, and other compensation, employee benefits, including union benefits, health insurance and related benefits [ECF No. 16]; and
- an interim order authorizing the Debtors to enter into a DIP Credit Facility [ECF No. 17].

4. **Retention of Professionals**

The Bankruptcy Court authorized the Debtors to retain certain professionals to represent and assist them in connection with the Chapter 11 cases. Specifically, the Debtors have retained, and the Bankruptcy Court has approved the retention of, the following professionals: (a) Tarter Krinsky & Drogin LLP ("TKD"), as bankruptcy counsel, and (b) Getzler Henrich to provide financial advisory services and to designate William H. Henrich as the Debtors' Chief Restructuring Officer.

5. **Section 363 Sale of Substantially All of the Debtors' Assets**

As set forth above, on January 14, 2016, the Debtors and the Buyers executed the Aseet Purchase Agreement for the sale of substantially all of the Debtors' assets.

On January 14, 2016, the Debtors filed a motion for authority to sell their assets under Section 363 of the Bankruptcy Code and to establish procedures for the sale of their assets to the Buyers as the stalking horse purchaser or another party submitting a higher and better bid. The Sale Motion included the terms of the Asset Purchase Agreement between the Debtors and the Buyers in which the Buyers were to purchase substantially all of the Debtors' assets in exchange for (i) a credit bid of the secured Prepetition Loan and the DIP Facility in their entirety, (ii) cash in the amount of $2,000,000, and (iii) assumption of certain prepetition and post-petition trade liabilities, including cure costs as designated in the Asset Purchase Agreement.

The Debtors requested that the sale process take place over a period of approximately 7 weeks to give interested parties an opportunity to submit bids, reasoning that due to the Debtors' prepetition marketing efforts, additional time was not necessary. Indeed, prior to the Filing Date, the Debtors reached out to potential purchasers in the industry understanding that the potential pool of purchasers was limited as only very few companies had the expertise to perform high level steel fabrications and erection work in the New York City market.

On February 5, 2016, the Court entered an order approving the bidding procedures for the Debtors' proposed sale, establishing a bidding deadline of March 15, 2016, scheduling an auction for March 18, 2016 in the event of the receipt of Qualified Bids, and scheduled a sale hearing on March 24, 2016.

Thereafter, Getzler Henrich oversaw the sale process for the Debtors'

assets. These efforts included: preparation of a confidential information memorandum that provided detailed information about the Debtors, including former and current projects, a description of MRP's fabrication facility and key management biographies; identification of potential buyers; assembly of an online data room; and publication of the sale and bidding procedures in the New York Times (National edition), Crain's New York (print ad), and online ads in the Engineering News Record and Construction Magazine.

Getzler Henrich contacted at least 95 potential buyers, of which 8 signed non-disclsoure agreements and 4 conducted extensive due diligence. Despite significant efforts, the Debtors did not receive, other than the Asset Purchase Agreement, any additional proposals for the Debtors' assets. As a result, the scheduled auction for March 18, 2016 was cancelled and the Debtors moved forward with the sale of the Debtors' assets to the Buyers in accordance with the terms of the Purchase Agreement.

On March 28, 2016, the Debtors appeared at the hearing to consider the sale of the Debtors' assets. By Order entered on March 28, 2016, the Court granted the Debtors' motion authorizing the Debtors to sell substantially all of their assets, approving the Asset Purchase Agreement and approving the assumption and assignment of executory conracts and unexpired leases. The sale closed on March 31, 2016. The purchase price totaled approximately $9,000,000, consisting of $2,000,000 cash, credit bids of $2,056,000 (Prepetition Loan) and $2,374,521.09 (DIP Facility), assumption of prepetition liability of $423,070, assumption of post petition payables of $1,700,000, and $60,000 representing cure arrears of assumed and assigned contracts. After the closing, the Debtors ceased operating.

In accordance with the Asset Purchase Agreement, on April 5, 2016 NYC Constructors Inc. changed its name to Constructors Liquidation Inc.

6. **The Debtors Schedules and Statement of Financial Affairs**

On February 16, 2016, each of the Debtors filed their schedules of assets and liabilities (the "Schedules"). In the aggregate, the Debtors scheduled unsecured claims totaling approximately $8.7 million, including intercompany claims but excluding any estimated amounts for unliquidated claims. The Debtors scheduled secured claims totaling approximately $2,000,000 million in aggregate consisting of the Prepetition Loan. On May 13, 2016, the Debtors each filed an amended schedule of unsecured claims reflecting the effect of the closing of the Asset Purchase Agreement, pursuant to which certain previously unpaid claims were paid. The amended Schedules reflect total unsecured claims, including intercompany claims, of approximately $7.7 million.

7. **The Claims Process**

The Bankruptcy Code provides a procedure for each entity with a claim against a debtor to assert such claim. The bankruptcy court establishes a "bar date" – a date by which creditors must file their claims, or else such claims will not participate in the bankruptcy case or any distribution. After the filing of all claims, the debtors or other party in interest evaluates such claims and such parties raise objections to them. These claims objections allow the Debtors estates to minimize claims against them, and thereby maximize the recovery to creditors with allowed claims.

By Order [ECF No. 69] dated February 25, 2016, the Bankruptcy Court established 5:00 p.m. (prevailing Eastern Time) on April 15, 2016 as the Claims Bar Date, or deadline for filing proofs of claim against the Debtors, other than claims of Governmental Units. The Bankruptcy Court established 5:00 p.m. (prevailing Eastern Time) on July 15, 2016 as the deadline for filing proofs of claim by Governmental Units. In addition, by separate Order [ECF No. 69], the Bankrutpcy Court established March 30, 2016 at 5:00 p.m. (prevailing Eastern

Time) as the deadline for filing claims pursuant to 11 U.S.C. § 503(b)(9). These are claims related to the delivery of goods which were incurred by the Debtors within twenty (20) days of the Filing Date. Notice of these claims bar dates were provided to all known creditors and other parties in interest.

The Debtors and their professionals have reviewed the claims filed by Creditors. To the extent the Debtors deem it prudent and/or cost beneficial to object to Claims,that are inconsistent with the Debtors' books and records, the Plan provides that the Debtors/Reorganized Debtors have sixty (60) days from the Effective Date to file objections to filed Claims, unless further extended by Court order. If the Debtor/Reorganized Debtors fail to object to a properly filed proof of Claim on or before sixty (60) days from the Effective Date (or as extended by the Court), then such Claim will be deemed Allowed and will be entitled to the Distribution under the Plan, applicable to the particular Class to which such Claim is a member.

8. **Post-Petition Operations and Select Financial Information**

The Debtors continued to operate their respective businesses in the ordinary course from the Filing Date until March 31, 2016 at which time the Debtors closed on the sale of the Debtors' assets to the Buyers.

From the Filing Date through March 31, 2016, the Debtors had gross revenues of approximately $19.7 million, which generated an operating loss of approximately $4.5 million. Subsequent to March 31, 2016, the Buyers took over all of the Debtors' operations. The Debtors currently have no employees on their payroll; however, Barry King, the Debtors' President, who now works for the Buyers, provides services from time to time in the wind down of the Debtors' businesses and will be the Wind Down Officer under the Plan. Set forth below is a summary of the Debtor's material assets and liabilities.

(a) **Cash on Hand**

As of June 8, 2016, the Debtors had $2.284 million cash on hand to fund the Plan and provide distributions to Creditors.[6] The Debtors' cash is being held in the Debtors' counsel's attorney trust account.

(b) **Liabilities**

The Debtors believe that they have no secured claims. The Debtors believe that other than the professional fees of TKD in the approximate amount of $130,000, Getzler Henrich fees in the approximate amount of $90,000, Section 503(b)(9) Claims in the amount of $120,000, and United States Trustee quarterly fees, there are no other administrative expenses in the Debtors' cases. The Debtors estimate that Holders of Allowed Unsecured Claims, other than the Davis-Related Unsecured Claims, shall receive Distributions under the Plan equal to approximately twenty-five (25%) percent of their Allowed Claims and the Davis Related Unsecured Claims shall receive approximately twenty (20%) percent.[7]

IV. SUMMARY OF THE PLAN

The Debtors submit that the treatment of Creditors under the Plan is more favorable than the treatment Creditors would receive if the Chapter 11 Cases were converted to Chapter 7. Therefore, the Debtors submit that the Plan is in the best interests of the Creditors and the Debtors recommend acceptance of the Plan by holders of Claims in Class 3.

THE SUMMARY OF THE PLAN SET FORTH BELOW IS QUALIFIED IN ITS ENTIRETY BY REFERENCE TO THE PROVISIONS SET FORTH IN THE PLAN, THE TERMS OF WHICH CONTROL.

[6] A portion of the cash on hand earmarked to pay professional fees is subject to return to the Buyers in the event the professional fees are less than the amount budgeted.
[7] See substantive consolidation discussion set forth below.

A. **General**

1. **Brief Explanation of Chapter 11**

Chapter 11 is the principal business reorganization chapter of the Bankruptcy Code. Under Chapter 11, a debtor is authorized to reorganize its business for the benefit of itself and its creditors and Equity Interest Holders, or as in the present case, to engage in the orderly liquidation of its assets. Upon the filing of a petition for reorganization under Chapter 11 and during the pendency of the case, the Bankruptcy Code imposes an automatic stay of all attempts to collect on Claims against the Debtors and to enforce Liens against the Debtors' Property.

Confirmation and consummation of a Chapter 11 plan is the principal objective of a Chapter 11 case. In general, a plan divides the Claims against, and Equity Interests in, a debtor into separate Classes and allocates plan distributions among those Classes. If the legal, equitable and contractual rights of a Class are unaffected by the Plan, such Class is considered "unimpaired." All unimpaired Classes are deemed to have accepted the Plan and, therefore, are not entitled to vote thereon. Bankruptcy Code §1126(g), on the other hand, provides that all Classes of Claims and Equity Interests that do not receive or retain any property under the Plan on account of such Claims and Equity Interests are deemed to have rejected the Plan. All other Classes of Claims and Equity Interests are considered "impaired" and are entitled to vote on the Plan.

Under the Bankruptcy Code, acceptance of the Plan is determined by Class; therefore, it is not required that each holder of a Claim or Equity Interest in an impaired Class vote in favor of the Plan in order for the Bankruptcy Court to confirm the Plan. Generally, each impaired Class must vote to accept the Plan; however, the Bankruptcy Court may confirm the Plan in certain circumstances without the acceptance of all impaired Classes if at least one (1)

impaired Class votes to accept the Plan and certain other statutory tests are satisfied. A further explanation of the requirements for Confirmation if an impaired Class rejects the Plan is set forth below in this Disclosure Statement. Many of these tests are designed to protect the interests of Creditors and Equity Interest Holders who either do not vote, or vote to reject the Plan but who will nonetheless be bound by the Plan if it is confirmed by the Bankruptcy Court.

2. **Acceptance of the Plan**

As a condition to consensual Confirmation, Bankruptcy Code §1129(a) requires that: (a) each impaired Class of Claims or Equity Interests votes to accept the Plan; and (b) the Plan meets the other requirements of §1129(a). As explained above, Classes that are unimpaired are deemed to have accepted the Plan and therefore are not entitled to vote thereon, and Classes that do not receive or retain any property under the Plan are deemed to have rejected the Plan and likewise are not entitled to vote thereon. Accordingly, acceptances of the Plan are being solicited only from those parties who hold Claims or Equity Interests classified in impaired Classes that are to receive Distributions under the Plan.

An impaired Class of Claims will be deemed to have accepted the Plan if holders of at least two-thirds (2/3) in dollar amount and a majority in number of Claims in such Class who cast timely ballots vote to accept the Plan. Holders of Claims who do not timely vote on the Plan are not counted for purposes of determining acceptance or rejection of the Plan by any impaired Class of Claims or Equity Interests.

3. **Classification of Claims and Interests Generally**

Bankruptcy Code §101(5) defines a Claim as: (a) a "right to payment, whether or not such right is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured or unsecured;" or (b) a "right to an equitable remedy for breach or performance if such breach gives rise to a right to payment,

whether or not such right to an equitable remedy is reduced to judgment, fixed, contingent, matured, unmatured, disputed, undisputed, secured or unsecured."

Bankruptcy Code §1123 provides that a plan of reorganization shall designate classes of claims against and equity interests in a debtor. Bankruptcy Code §1122 further requires that each class of claims and equity interests contain only claims or equity interests that are "substantially similar" to each other. The Debtors believe that they have classified all Claims and Equity Interests in compliance with the requirements of §§ 1122 and 1123. However, it is possible that a holder of a Claim or Equity Interest may challenge such classification and that the Bankruptcy Court may find that a different classification is required for the Plan to be confirmed. In such event, the Debtors would, to the extent permitted by the Bankruptcy Court, modify the classifications in the Plan as required and use the acceptances received in this solicitation for the purpose of obtaining the approval of a Class or Classes of which the accepting holder is ultimately deemed to be a member. Any such reclassification could adversely affect the Class of which such holder was initially a member, or any other Class under the Plan, by changing the composition of such Class and the vote required of that Class for approval of the Plan. Furthermore, a reclassification of Claims or Equity Interests could necessitate a resolicitation.

B. **Classification and Treatment of Claims and Interests Under the Plan**

The following describes the classification of Claims and Equity Interests under the Plan and the treatment that holders of Allowed Claims and Allowed Equity Interests are to receive if the Plan is confirmed and becomes effective. A Claim or Equity Interest is classified in a particular Class only to the extent that the Claim or Equity Interest fits within the description of that Class and is classified in a different Class to the extent that any remainder of the Claim or Equity Interest fits within the description of such different Class.

1. **Unclassified Claims**

The Plan does not classify Administrative Claims, statutory fees due to the United States Trustee, or Priority Tax Claims, but does provide for the following treatment of such Claims.

(a) **United States Trustee Fees**

All fees payable by the Debtors under §1930 of Title 28 of the United States Code that have not been paid prior to the Effective Date shall be paid by the Debtors on the Effective Date. In addition, the Debtors, or any successor thereto by merger, consolidation or otherwise, on or after the Effective Date, shall be liable for and the Disbursing Agent shall pay such fees until the entry of a final decree in these cases or until the cases are converted or dismissed. The Disbursing Agent shall file post-Confirmation operating reports with the Bankruptcy Court and the United States Trustee until final decrees are entered.

(b) **Administrative Claims**

An "Administrative Claim" is a Claim for payment of an administrative expense of a kind specified in Bankruptcy Code §503(b) and referred to in Bankruptcy Code §507(a)(2), including the actual and necessary costs and expenses of preserving the estate or operating a debtor's business after the commencement of a chapter 11 case, loans and advances made to the debtor after the chapter 11 filing, compensation for legal and other services and reimbursement of expenses awarded or allowed under Bankruptcy Code § 330(a) or 331, certain retiree benefits, certain reclamation Claims, and all fees and charges against the estate pursuant to Chapter 123 of Title 28 of the United States Code.

The Plan provides that each holder of an Allowed Administrative Claim (including, without limitation, the professionals' fees and expenses incurred by the Professional Persons and allowed in a Final Order of the Bankruptcy Court) shall be paid in Cash

in full by the Disbursing Agent (a) upon the later of the Effective Date or the date upon which the Court enters a Final Order allowing such Administrative Claim; (b) upon such other terms as may exist in accordance with the ordinary course of business of the Debtors; or (c) upon such less favorable terms as may be agreed between any holder of such Administrative Claim and the Debtors.

In accordance with the Asset Purchase Agreement, the Buyers have assumed all unpaid post petition trade payables incurred and unpaid as of the Closing Date, including payables incurred but not yet billed as of the Closing Date. Section 503(b)(9) of the Bankruptcy Code treats claims of prepetition vendors who provided goods to the Debtors within twenty (20) days of the Filing Date as an Administrative Claim. The Debtors estimated that Section 503(b)(9) claims are approximately $120,000 and will be paid in full on the Effective Date.

The Plan further provides that Professional Persons holding claims for services rendered during the Chapter 11 cases must file requests for payment within forty five (45) days after the Confirmation Date. The Debtors estimate that the aggregate amounts due to Professional Persons, after crediting the payments made pursuant to the Monthly Compensation Order, shall total approximately $220,000 and shall consist of the professional fees of Debtors' counsel, TKD and Getzler Henrich.

Administrative Claims representing obligations incurred by the Debtors after the date and time of the entry of the Confirmation Order (including, without limitation, Claims for professionals' fees and expenses) shall not be subject to application to the Bankruptcy Court and may be paid in the ordinary course of business and without Bankruptcy Court approval. After the Confirmation Date, the Disbursing Agent shall, in the ordinary course

of business and without the necessity for any approval by the Court, pay the reasonable fees and expenses of the Professional Persons employed by the Debtors in connection with the implementation and consummation of the Plan, the Claims reconciliation process, and any other matters as to which such Professionals may be engaged. The Plan provides that the fees and expenses of such Professionals shall be submitted monthly to the Debtors by such Professionals in the form of a detailed invoice therefor, and shall be paid by the Debtors upon such submission. If the Debtors dispute the reasonableness of any such invoice and, if the dispute cannot be resolved by the parties, all unresolved disputes shall be submitted to the Bankruptcy Court on notice to the Debtors for a determination of the reasonableness of such invoice.

(c) **Priority Tax Claims**

Each holder of a Priority Tax Claim that has not been paid prior to the Effective Date shall be paid in full or such lesser amount as agreed between the holder of such Priority Tax Claim and the Debtors on the later of (i) the Effective Date; or (ii) the date on which such Priority Tax Claim becomes an Allowed Priority Tax Claim, or as soon thereafter as is practicable.

The holder of an Allowed Priority Tax Claim shall not be entitled to receive any payment on account of interest, or on account of any penalty arising with respect to or in connection with the Allowed Priority Tax Claim, except to the extent allowed as a part of an Allowed Priority Tax Claim pursuant to §507(a)(2) of the Bankruptcy Code. The Debtors believe the only Priority Tax Claim consists of New York State's claim in the amount of $58,373.

2. **Class 1 - Secured Claims**

Class 1 consists of Secured Claims. In light of the closing of the sale of assets to the Buyers, which purchase price included credit bids for the outstanding Prepetition

Loan and the DIP Facility, the Debtors do not believe there are any remaining Secured Claims against the Debtors. To the extent that Secured Claims do exist, holders of Secured Claims will be satisfied in full such that the Debtors will either surrender or abandon any collateral securing the Secured Claim to the holder of the Secured Claim or otherwise pay the holder of the Secured Claim in full with cash, plus applicable contract interest.

Class 1 is unimpaired under the Plan.

3. **Class 2 - Priority Claims**

Class 2 consists of Priority Claims. These are Claims entitled to priority under Section 507(a) of the Bankruptcy Code, other than Priority Tax Claims and Administrative Claims. Each holder of a Class 2 Claim shall be paid in full, to the extent Allowed, on the later of (i) the Effective Date; or (ii) the date on which such Claim becomes an Allowed Claim by Final Order of the Bankruptcy Court. The Debtors do not believe there are any Allowed Class 2 Claims. Class 2 is not impaired under the Plan.

4. **Class 3 - General Unsecured Claims**

Class 3 consists of all Unsecured Claims against the Debtors that are not entitled to priority under Bankruptcy Code §507(a), and that are not classified in any other Class. Class 3 includes any Unsecured Claims arising from the rejection of leases and/or contracts. The Claims in Class 3 are impaired as that term is defined under §1124 of the Bankruptcy Code.

The Plan provides that each Holder of an Allowed Class 3 Claim shall receive its *Pro Rata* share of Excess Available Cash (but not to exceed 100% of the Face Amount of its Allowed Claim). Payments to holders of Allowed Class 3 Claims shall be made as follows: on the later of (i) sixty (60) days after the Effective Date; (ii) within fifteen (15) days after the date on which such Claim becomes an Allowed Unsecured Claim; or (iii) such other date as may be determined by the Disbursing Agent. Unless otherwise provided in the Plan, to

the extent there is Excess Available Cash subsequent to the Effective Date, the Disbursing Agent shall distribute all such Excess Available Cash to the Holders of Allowed Class 3 Claims in amounts necessary to allow such Holders to have received aggregate distributions of Cash up to the Face Amount of their Allowed Claim.

As explained more fully above, the total Claims scheduled or filed by Class 3 creditors that will receive Distributions under the Plan aggregate approximately $8.4 million. Based upon the Debtors' current cash position after deducting necessary payments to Administrative Claims and Priority Tax Claims, the Debtors estimate an approximate Distribution of twenty-five (25%) percent to holders of Class 3 Claims, other than the Davis-Related Unsecured Claims, which will receive an approximate Distribution of twenty (20%) percent, based upon substantive consolidation of the Debtors' bankruptcy Estates and the settlement of potential avoidance actions detailed below.

5. **Class 4 - Equity Interest Holders**

Class 4 consists of the Debtors' Equity Interest Holders. Class 4 is impaired and deemed to reject the Plan. On the Confirmation Date, all equity interests of the Debtors, outstanding as of the Confirmation Date, shall be canceled and terminated, with the holder of record receiving no Distribution, dividend or other payments under the Plan on account of such equity interest.

C. **Conditions to and Means for Consummation of the Plan**

1. **Conditions Precedent to Occurrence of the Effective Date**

The Effective Date shall be the date on which the Confirmation Order shall have been entered and become a Final Order.

2. **Substantive Consolidation for Plan Purposes Only**

The Plan provides for the substantive consolidation of the Debtors

with respect to the voting of all Claims and the treatment of all Claims and Equity Interests. Bankruptcy Code section 105(a) empowers a bankruptcy court to authorize substantive consolidation.

The Plan provides that on and after the Effective Date, all assets and liabilities of the Debtors shall be treated as though they were merged into one for all Plan purposes, including voting, Confirmation and distribution pursuant to the Plan.

Multiple facts support consolidation of the Debtors for Plan purposes. Prior to the Filing Date, the Debtors shared a centralized cash management system and also shared common senior management and directors. The Debtors conducted business through the centralized cash management system as well as intercompany transactions, and each of the operating Debtors was obligated under the same credit facilities, including the Prepetition Loan and the DIP Facility.

Because the Debtors' affairs were integrated, interrelated and entangled from both a functional and financial perspective, the substantive consolidation of the Debtors would be equitable for all creditors and it would be extremely difficult if not impossible to unwind. Substantive consolidation would ensure that the Debtors' creditors, having relied on the creditworthiness of the Debtors as a unit, receive the benefit of distribution in satisfaction of their claims, as available, from a single pool of assets.

Substantive consolidation will also expedite the conclusion of the Debtors' Chapter 11 cases. Absent substantive consolidation, the Debtors would be required to attempt to disentangle their assets and possibly liabilities and litigate the validity and priority of their Intercompany Claims.[8] The reconciliation and resolution of such claims would be extrememly costly and would unnecessarily delay the conclusion of the Debtors' Chapter 11 cases. In

[8] According to the Schedules, NYCC owes MRP approximately $252,000.

addition, most of the Debtors' assets consist of the $2 million received from the Sale under the Asset Purchase Agreement. Abstent substantive consolidation, the Debtors would need to allocate the $2 million purchase price between the respective Debtors which would be extremely difficult if not impossible.

As set forth above, Davis, and entities controlled by Davis hold the largest unsecured claims against the Debtors' bankrutpcy estates. These Claims total approximately $6,136,000, which claims represent approximately 73% of the total amount of Unsecured Claims asserted against the Estates. If the cases were not substantively consolidated, Davis Claims would represent 87.48% of total unsecured claims in NYCC's estate and 34.2% in MRP's estate. If the cases are substantively consolidated, Davis would receive approximately $169,000 more than if the cases were not substantively consolidated and each estate was allocated $1 million from the $2 million total purchase price. In light of possible preference and avoidance causes of action held by the Debtors against Davis (further detailed below) and the difficulty in allocating the asset sales proceeds to each of the Debtors, the Debtors and Davis have reached a settlement of all claims (including potential avoidance actions), wherein Davis and his affiliated entities would waive $100,000 of the distributions on account of the Davis-Related Unsecured Claims and allow this $100,000 to be distributed to the non-Davis unsecured creditors on a pro rata basis.

In these cases, entry of the Confirmation Order shall constitute the approval, pursuant to sections 105(a) and 1123(a) of the Bankrutpcy Code, effective as of the Effective Date, of the substantive consolidation of the Debtors Estates for purposes of confirming and consummating the Plan, including, but not limited to, voting, confirmation, and distribution. Accordingly, (a) no distributions shall be made under the Plan on account of the

Intercompany Claims, if any, among the Debtors, (b) the assets and liabilities of the Debtors will be deemed to be the assets and liabilities of a single, consolidated entity, (c) each and every claim filed or to be filed in the Chapter 11 cases against the Debtors shall be considered filed against the consolidated Debtors and shall be considered one claim against and obligation of the consolidated Debtors on and after the Effective Date, (d) all joint obligations of the Debtors, and all multiple claims against such entities on account of such joint obligations, are considered a single claim against the consolidated Debtors, and (e) all guaranties by any of the Debtors of the obligations of any of the Debtors arising prior to the Effective Date shall be deemed eliminated under the Plan so that any claim against any of the Debtors and any guaranty thereof executed by any other Debtor and any joint and several liability of any of the Debtors shall be deemed to be one obligation of the deemed consolidated Debtors.

Such deemed consolidation, however, shall not (other than for purposes related to funding distributions under the Plan) affect (a) the legal and organizational structure of the Debtors, (b) executory contracts or unexpired leases that were entered into during the Chapter 11 cases or that have been or will be assumed or rejected, and (c) the Debtors' ability to subordinate or otherwise challenge claims on an entity-by-entity basis. Moreover, the Debtors reserve the right to seek confirmation of the Plan on an entity-by-entity basis.

In the event the Bankruptcy Court does not authorize the substantive consolidation of the Debtors' Estates: (a) the Plan shall be treated as a separate plan of liquidation for each Debtor and (b) the Debtors shall not be required to resolicit votes with respect to the Plan.

For the reasons set forth above, the Debtors believe the requirements for substantive consolidation of the Debtors with respect to voting and treatment of all claims and

interests are satisfied.

3. **Settlement with Davis**

According to the Debtors' statement of financial affairs, DCM Erectors Inc. (a Davis owned entity) received payments of $397,000 from MRP, and $285,000 from NYCC within ninety (90) days of the Filing Date. Aside from these potentially avoidable preferential payments to DCM Erectors Inc., NYCC made total payments of approximately $23 million, and MRP made total payments of approximately $4.4 million to various creditors within the ninety-day (90) period within the Filing Date. Many of these payments which may on the face meet the statutory definition of a preference set forth in the Bankruptcy Code in that they were payments made on account of an antecedent debt within ninety days of the bankruptcy filings, the Debtors and its professionals have preliminarily reviewed this list of potentially avoidable preferential payments and have determined that the bulk of the payments were either made to the Debtors' payroll processing firm or to subcontractors which constitute Article 3-A of the New York Lien Law Claims, and under well-established law are not recoverable as preferential payments. In total, payments to DCM Erectors Inc. during the preferential period were approximately 2.5% of all payments made to creditors in the preference period. Rather than litigating with DCM Erectors over the potential recovery of the payments made in the preference period, or seeking to disallow such claims under section 502(d) of the Bankruptcy Code, the Debtors professionals contacted Davis' bankrutpcy counsel and requested that Davis forego Distributions on a portion of the Davis-Related Unsecured Claims as detailed above in the substantive consolidation discussion. After some arms-length negotiations Davis agreed that $100,000 of Distributions allocable to the Davis-Related Unsecured Claims would be made available to the other Class 3 Unsecured Claimholders. This will result in a Distribution of approximately twenty-five (25%) percent to holders of Class 3 Claims, exclusive of the Davis-

Related Unsecured Claims, and result in an approximate twenty (20%) percent Distribution to the Davis-Related Unsecured Claims. Pursuant to section 1123(b)(3) of the Bankruptcy Code and Rule 9019 of the Bankruptcy Rules, the Confirmation Order shall be deemed an order approving this settlement of the potential Article 5 avoidance actions which the Estates may have against DCM Erectors Inc. or any of the other entities owned and/or controlled by Davis.

4. **Funding of the Plan**

Aside from a credit bid, the Debtors received cash in the amount of $2,000,000 from the sale of the Debtors' assets, which is available to distribute to Creditors in the order of priority under the Bankruptcy Code. The Debtors believe that the Excluded Assets have little or no value. The Debtors also currently have additional cash on hand of $284,000, which is earmarked to pay professional fees and fees due to the United States Trustee.

D. **Objections to Claims**

The Plan provides that all objections to Claims shall be filed by the Debtors and served on the holders of such Claims within sixty (60) days after the Effective Date. If the objection to a proof of Claim that relates to a Disputed Claim has not been filed by the applicable date, the Claim to which the proof of Claim relates shall be treated as an Allowed Claim for purposes of Distributions under the Plan.

E. **Resolution of Disputed Claims**

The Plan provides that Disputed Claims shall be divided into two (2) portions: the "non-disputed portion" and the "disputed portion." The Disbursing Agent shall pay the non-disputed portion of a Disputed Claim in accordance with Plan provisions for payment of a Claim in its Class. The disputed portion will be protected by the Disputed Claims Reserve.

F. **Reserve Accounts for Disputed Claims**

The Plan provides that on and after the date on which the Disbursing Agent makes

its first payment and any subsequent payment to holders of Allowed Claims pursuant to Article IV of the Plan, the Disbursing Agent shall hold in one or more Disputed Claims Reserves, Cash in an aggregate amount sufficient to pay each holder of a Disputed Claim (i) the amount of Cash that such holder would have been entitled to receive under this Plan for the disputed portion of such Claim if such disputed portion of such Claim had been an Allowed Claim on the date of such payments; (ii) such lesser amount as the Court may estimate pursuant to Section C of Article VII of the Plan or may otherwise order. Cash withheld and reserved for payments to holders of Disputed Claims shall be held and deposited by the Disbursing Agent in one or more segregated reserve accounts to be used to satisfy such Claims if and when such Disputed Claims become Allowed Claims.

G. **Estimation**

The Plan provides that the Debtors may, at any time, request that the Court estimate any Disputed Claim pursuant to §502(c) of the Bankruptcy Code, regardless of whether the Debtors have previously objected to such Claim. The Court will retain jurisdiction to estimate any Claim at any time, including during litigation concerning any objection to such Claim. In the event that the Court estimates any Disputed Claim, that estimated amount may constitute either the Allowed Amount of such Claim, the amount on which a reserve is to be calculated for purposes of the Disputed Claims Reserve, or a maximum limitation on such Claim, as determined by the Court. If the estimated amount constitutes a maximum limitation on such Claim, the Debtors may elect to pursue any supplemental proceedings to object to any ultimate payment of such Claim. All of the aforementioned Claims objection, estimation and resolution procedures are cumulative and not necessarily exclusive of one another.

H. **Allowance of Disputed Claims**

The Plan provides that if, on or after the Effective Date, any Disputed Claim

becomes an Allowed Claim, the Disbursing Agent shall, within thirty (30) days after the date on which the Claim becomes an Allowed Claim, or as soon thereafter as is practicable, pay to the holder of such Allowed Claim the amount of Cash that such holder would have been entitled to receive under the Plan if such disputed portion of such Claim had been an Allowed Claim on the Effective Date. Notwithstanding anything to the contrary contained in the Plan, the Disbursing Agent shall make a Distribution on the non-disputed portion of an Unsecured Claim in accordance with the provisions of the Plan.

I. **Release of Funds from Disputed Claims Reserve**

The Plan provides that if at any time, or from time to time, after the Effective Date, there shall be Cash in the Disputed Claims Reserve in an amount in excess of the amount which the Debtors are required at such time to reserve on account of Disputed Claims under this Plan or pursuant to any Order of the Bankruptcy Court, such excess funds shall be remitted to the Disbursing Agent for Distribution under the Plan.

J. **Limitation on Liability**

The Plan provides that neither the Debtors nor the Wind Down Officer appointed in the Chapter 11 Cases, Disbursing Agent, and their respective officers, directors, shareholders, employees, trustees, members, affiliates and agents (including any professional entities employed by one or more of them), shall have any liability to any holder of an Administrative Claim, Priority Claim, Unsecured Claim or Equity Interest, or any other person under any theory of liability, for any act taken or omission made since the Filing Date or in connection with, related to, or arising out of, the formulation, implementation, confirmation or consummation of the Plan, the Disclosure Statement, or any other contract, instrument, release, agreement or document created in connection with the Plan, the pursuit of approval of the Disclosure Statement, the solicitation of votes for

the Plan, the pursuit of the confirmation of the Plan, or the administration of the Debtors' case, the Plan or the property to be distributed under the Plan, except for the willful misconduct, gross negligence or breach of fiduciary duty as determined by Final Order of the Bankruptcy Court and, in all respects, shall be entitled to rely upon the advice of counsel with respect to their duties and responsibilities under the Plan. The limitation of liability set forth herein shall be deemed to be no greater in scope than the protections afforded under §1125(e) of the Bankruptcy Code. In addition, nothing herein shall be interpreted to permit a release in violation of §1.8(h)(1) of the New York State Rules of Professional Conduct. Nothing herein shall limit the right of the United States Government, local governments or any of their agencies, to assert any claim against the foregoing parties, including without limitation, any claim arising under the Internal Revenue Code, the environmental laws, or the criminal laws of the United States, nor shall anything in the Confirmation Order or Plan limit, impair, or in any way affect the application of any laws or regulations of the United States or local governments. Any action commenced by any person or entity against the Chief Wind Down Officer and the Disbursing Agent shall only be pursued in the Bankruptcy Court unless permission is granted by the Bankruptcy Court to pursue the Chief Wind Down Officer and the Disbursing Agent in another court.

K. **Certain Other Provisions of The Plan**

The Plan contains other provisions consistent with the requirements of Chapter 11 of the Bankruptcy Code, including provisions for the Distribution of Cash and the collection and disposition of assets of the Debtor's Estate.

1. **No Discharge**

Since the Plan is a liquidating plan, pursuant to §1141(d)(3) of the

Bankruptcy Code, confirmation of the Plan will not discharge the Debtors. However, the Plan is binding on all entities, whether or not such entity voted for or against the Plan, to the fullest extent permitted by §1141 of the Bankruptcy Code.

2. **Disbursing Agent**

TKD shall act as Disbursing Agent under the Plan and shall be in charge of all matters relating to the Distributions required by the Plan. The Disbursing Agent shall not be required to obtain a bond. In the event that the Disbursing Agent changes prior to the entry of an order of final decree closing the Debtors' Chapter 11 cases, the Bankruptcy Court and the United States Trustee shall be notified in writing of the identity and address of the new Disbursing Agent.

3. **Payments by Cash**

Payments to be made by the Disbursing Agent pursuant to the Plan shall be made by check drawn on a domestic bank.

4. **Unclaimed Distributions**

The Plan provides that Distributions to holders of Allowed Claims shall be made at the address of each such holder as set forth on the proofs of Claim filed by such holders (unless no Proof of Claim has been filed, in which case then to the address set forth on the Schedules filed with the Court), unless superseded by a written notice to the Disbursing Agent providing actual knowledge to the Disbursing Agent of a change of address.

The Plan further provides that if any holder's Distribution is returned as undeliverable, no further Distributions to such holder shall be made unless and until the Disbursing Agent is notified in writing of such holder's then current address, at which time all Distributions shall be made to such holder, without interest.

The Plan further provides that all Claims for undeliverable Distributions

shall be made on or before the earlier of (i) with respect to the initial Distributions made on or after the Effective Date, one hundred and twenty (120) days after the date such undeliverable Distribution was initially made; and (ii) with respect to the Distributions made on a subsequent interim payment date, ninety (90) days after the date such undeliverable Distribution was initially made. If any Claim for an undeliverable Distribution is not timely made as provided in the foregoing sentence, such Claim shall be forever barred.

After such date (as applicable), all unclaimed property shall be applied first to satisfy the costs of administering and fully consummating this Plan, then to Available Cash for Distribution in accordance with this Plan, and the holder of any such Claim shall not be entitled to any other or further Distribution under this Plan on account of such undeliverable Distribution or such Claim, unless the holder of such Claim moves the Court, on notice to the Disbursing Agent, to reinstate such Claim, which motion shall be granted provided that Available Cash remains from which such Distributions on account of such Claim could be made.

5. **Executory Contracts and Unexpired Leases**

(a) **Assumption and Rejection Generally**

Subject to approval of the Bankruptcy Court, the Bankruptcy Code empowers a debtor-in-possession to assume or reject executory contracts and unexpired leases. As a general matter, an "executory contract" is a contract under which material performance (other than the payment of money) remains due by each party thereto. If an executory contract is rejected, the non-debtor party to that contract may file a Claim for any damages incurred by reason of the rejection. In the case of rejection of leases for non-residential real property, resulting damage Claims are subject to certain limitations imposed by the Bankruptcy Code. If an executory contract or unexpired lease is assumed, the debtor-in-possession is bound to perform its obligations arising thereunder in accordance with the terms of such agreement.

(b) **Rejection of Executory Contracts and Unexpired Leases**

The Plan provides that, as of the date the Plan is confirmed, any executory contract or unexpired lease that has not yet been (a) assumed and assigned in connection with the Sale or through the Plan, or (b) rejected, shall be deemed to be rejected by the Debtors as of the Confirmation Date.

Any Claim arising by reason of the rejection of an executory contract must be filed no later than thirty (30) days after the Bankruptcy Court authorizes the rejection.

Claims arising out of the rejection of executory contracts or unexpired leases will be considered Class 3 Claims (General Unsecured Claims). The Debtors do not believe there are or will be any rejection damage claims.

6. **Avoidance Actions and Other Causes of Action**

Pursuant to the Asset Purchase Agreement and Sale Order approving the sale of substantially all of the assets, the Buyers did not purchase any chapter 5 avoidance actions. After preliminary investigation, the Debtors intend to forego actions against Creditors to collect preferential payments that may have been received by them. In general, a preferential payment are monies the Debtors paid to creditors within ninety (90) days prior to the bankruptcy filing while the Debtors were insolvent, on account of antecedent debts and not paid within their ordinary business terms. The Debtors do not believe the expense of such actions are justified by the amounts at stake. Except for some payments to Davis entities (which while they may be avoidable, the Debtors propose to forego in view of the resolution further detailed in the discussion above), the Debtors believe substantially all payments were made in the ordinary course of business and according to ordinary business terms. The Debtors are unaware of any transfers which may be avoidable as constructively fraudulent transfers. Effective upon the

Confirmation Date, the Debtors waive, release and relinquish any and all of their claims and rights, if any, relating to any transfers of the Debtors' property to or for the benefit of any creditor which could be avoided, recovered or subordinated pursuant to the provisions in §§547 and 548 of the Bankruptcy Code.

7. **Professional Fees and Expenses**

The Plan provides that Professionals requesting compensation in the Chapter 11 Cases shall file an application for an allowance of final compensation and reimbursement of expenses in the Chapter 11 Cases incurred through the Confirmation Date within forty five (45) days after the Confirmation Order.

8. **Abandonment and Destruction of Books and Records**

All books and records of the Debtors were transferred to the Buyers in connection with the sale. To the extent any books and records (including any digital records and computer hardware) were not transferred by the Sale, they shall be abandoned and destroyed at the discretion of the Wind Down Officer on the date the Chapter 11 cases are closed.

9. **Retention of Jurisdiction**

The Plan provides that, from and after the Confirmation Date and until such time as all payments and Distributions required to be made by the Debtors have been made, the Bankruptcy Court shall retain jurisdiction over the Debtors' Chapter 11 Cases for all purposes permitted under the Code, including, without limitation, the following:

(a) To hear and determine any dispute relating to the Plan or any property described in the Plan and to enforce its provisions.

(b) To hear and determine all issues arising out of any motions, applications, adversary proceedings or contested or litigated matters in the Chapter 11 Cases pending at the Confirmation Date or commenced thereafter.

(c) To order recovery of any assets of either Debtor, whether title is presently held in the name of the Debtor or a third party.

(d) To hear and determine motions to approve the sale of the Excluded Assets of the Debtors under §363 of the Bankruptcy Code and/or the rejection or assumption of executory contracts under §365 of the Bankruptcy Code.

(e) To hear and determine all issues relating to any purchases, sales or contracts made or undertaken by the Debtor during the pendency of the Chapter 11 Cases.

(f) To hear and determine all objections to Claims and all controversies concerning classification, allowance, valuation, liquidation, estimation, or satisfaction of Claims.

(g) To make orders allowing amendment of the schedules filed in the Chapter 11 Cases for any purpose including, without limitation, to prosecute objections to Claims not previously listed as disputed, contingent or unliquidated.

(h) To hear and determine all applications for compensation of professional and similar fees and reimbursement of expenses arising out of or relating to the case or any Claims.

(i) To hear and determine any and all motions to abandon property of the Debtors' estate.

(j) To make such other orders or give such directions as permitted by §1142 of the Bankruptcy Code.

(k) To consider and order any modifications or amendments requested to the Plan.

(l) To remedy any defect or omission or reconcile any inconsistency

in the Plan or the Confirmation Order in such manner as may be necessary or desirable to carry out the purposes and intent of the Plan.

(m) To make all orders necessary or appropriate to carry out the provisions of the Plan.

(n) To enforce all orders previously entered by the Bankruptcy Court.

(o) To determine such other matters as may be provided for in the Confirmation Order or as may be authorized under the Bankruptcy Code, including hearing any matters related to any claims asserted against the Wind Down Officer or the Disbursing Agent.

10. Postconfirmation Management of the Debtor

After the Confirmation Date, the Debtors shall be managed by the Wind Down Officer after the Effective Date. The Debtors believe that the appointment of Barry King as the Wind Down Officer of the Debtors is consistent with the interests of creditors, Equity Interest Holders and with public policy. The Wind Down Officer will not receive any compensation for acting as Wind Down Officer.

V. CONFIRMATION PROCEDURES

In order for the Plan to be confirmed by the Bankruptcy Court, all of the applicable requirements of Bankruptcy Code §1129 must be met. These include, among others, requirements that the Plan: (i) is accepted by all impaired Classes or, if rejected by an impaired Class, "does not discriminate unfairly" and is "fair and equitable" as to each rejecting Class; (ii) is feasible; and (iii) is in the best interests of holders of Claims or Equity Interests in each impaired Class.

A. Solicitation of Votes; Acceptance

The Debtors are soliciting the acceptance of the Plan from all holders of Claims in Classes that are impaired under the Plan and receiving Distributions thereunder.

Classes 1 and 2 are not impaired under the Plan. Since these Classes are unimpaired, they are deemed to have accepted the Plan and therefore are not entitled to vote thereon.

Class 3 is an impaired class with the right to vote to accept or reject the Plan. Class 3 will be deemed to have accepted the Plan, if the Plan is accepted by holders of at least two thirds (2/3) in dollar amount and more than one half (1/2) in number of the Claims in that Class that have cast ballots on the Plan. A vote may be disregarded if the Bankruptcy Court determines, after notice and a hearing, that such vote was not solicited or procured, or made in good faith, or in accordance with the applicable provisions of the Bankruptcy Code.

Class 4 is an impaired class and deemed to reject the Plan. All equity interests in the Debtors existing as of the Filing Date will be canceled and terminated on the Confirmation Date. Class 4 Equity Interest Holders are not entitled to vote on the Plan.

B. **Confirmation Hearing**

Bankruptcy Code § 1128(a) requires the Bankruptcy Court, after notice, to hold a hearing on confirmation of the Plan (the "Confirmation Hearing") after the period for submission of Ballots has expired. The Confirmation Hearing may be postponed from time to time by the Bankruptcy Court without further notice except for an announcement of the postponement made at the Confirmation Hearing. Bankruptcy Code §1128(b) provides that any party in interest may object to confirmation of the Plan. Objections must be made in writing, specifying in detail the name and address of the person or entity objecting, the grounds for the objection and the nature and amount of the Claim held by the objector, and must otherwise comply with the requirements of the Bankruptcy Rules and the Local Bankruptcy Rules. Objections must be filed with the Clerk of the Bankruptcy Court, with a courtesy copy delivered to the chambers of the Honorable Shelley C. Chapman, United States Bankruptcy Judge, and served upon the parties so designated

in the Order and Notice accompanying this Disclosure Statement on or before the time and date designated in such Order and Notice. **FAILURE TO TIMELY FILE AND SERVE AN OBJECTION TO CONFIRMATION MAY BE DEEMED BY THE BANKRUPTCY COURT TO BE CONSENT TO CONFIRMATION OF THE PLAN.**

At the Confirmation Hearing, the Bankruptcy Court will determine, among other things, whether the following confirmation requirements specified in Bankruptcy Code §1129 have been satisfied:

1. The Plan complies with the applicable provisions of the Bankruptcy Code.

2. The Debtors have complied with the applicable provisions of the Bankruptcy Code.

3. The Plan has been proposed in good faith and not by any means proscribed by law.

4. Any payment made or promised by the Debtors for services or for costs and expenses in, or in connection with, the Chapter 11 Cases, or in connection with the Plan and incident to the Chapter 11 Cases, have been approved by, or is subject to approval of, the Bankruptcy Court as reasonable.

5. The Debtors have disclosed the identity and affiliations of all individuals proposed to serve, after confirmation, as directors or officers of the Debtors and the appointment to or continuance in such positions by those individuals is consistent with the interests of creditors and Equity Interest holders and with public policy; and (b) the Debtors have disclosed the identities of any insider(s) that will be employed or retained by the Reorganized Debtors and the nature of any proposed compensation for such insider(s).

6. Each holder of a Claim in an impaired Class either has accepted the Plan or will

receive or retain under the Plan property of a value, as of the Effective Date, that is not less than the amount that such entity would receive or retain if the Debtor were liquidated on such date under Chapter 7 of the Bankruptcy Code. See "Best Interests Test" below.

7. Each Class of Claims and Equity Interests has either accepted the Plan or is not impaired under the Plan.

8. Except to the extent that the holder of a Claim has agreed to different treatment, the Plan provides that: (a) Allowed Administrative Claims will be paid in full on the later of the Effective Date, or the date the Claim is Allowed; (b) other Priority Claims will be paid in full on the Effective Date; and (c) Priority Tax Claims will receive payment in full plus interest over five (5) years from the Filing Date.

9. At least one impaired Class has accepted the Plan, determined without including any acceptance of the Plan by any insider holding a Claim in such Class.

10. Confirmation of the Plan is not likely to be followed by the liquidation of, or the need for, further financial reorganization by the Debtors.

C. **Best Interests Test/Liquidation Analysis**

The "best interests of creditors" test requires that the Bankruptcy Court find either that all members of each impaired Class have accepted the Plan or that each holder of an Allowed Claim or interest of each impaired Class of Claims or interests 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, that is not less than the amount that such holder would so receive or retain if the debtor were liquidated under Chapter 7 of the Bankruptcy Code on such date.

To calculate what holders of Claims would receive if the Debtors were hypothetically liquidated under Chapter 7 of the Bankruptcy Code, the Court must first determine the dollar amount that would be realized from the liquidation (the "Chapter 7

Liquidation Fund"). The Chapter 7 Liquidation Fund would consist of the net proceeds from the disposition of the Debtors' Excluded Assets (after satisfaction of any valid liens) augmented by the Cash held by the Debtors and recoveries on actions against third parties, if any. The Chapter 7 Liquidation Fund would then be reduced by the costs of the liquidation. The costs of liquidation under Chapter 7 would include the fees and expenses of a trustee, as well as those of counsel and other professionals that might be retained by the trustee, selling expenses, any unpaid expenses incurred by the Debtors during their Chapter 11 cases (such as fees for attorneys, financial advisors and accountants) which would be allowed in the Chapter 7 proceedings, interest expense on secured debt and claims incurred by the Debtors during the pendency of the case. These claims would be paid in full out of the Chapter 7 Liquidation Fund before the balance of the Chapter 7 Liquidation Fund, if any, would be made available to holders of Unsecured Claims. In addition, other claims which would arise upon conversion to a Chapter 7 case would dilute the balance of the Chapter 7 Liquidation Fund available to holders of Claims. Moreover, additional claims against the Debtors' estates might arise as the result of the establishment of a new bar date for the filing of claims in Chapter 7 cases for the Debtors. The present value of the distributions out of the Chapter 7 Liquidation Fund (after deducting the amounts described above) are then compared with the present value of the property offered to each of the Classes of Claims and holders of Equity Interests under the Plan to determine if the Plan is in the best interests of each holder of a Claim.

The Debtors believe that a Chapter 7 conversion would result in diminution in the value to be realized under the Plan by holders of Claims. That belief is based upon, among other factors: (a) the additional administrative expenses involved in the appointment of a trustee, attorneys, accountants, and other Chapter 7 professionals; and (b) the substantial time which

would elapse before creditors would receive any distribution in respect of their Claims due to a trustee's need to become familiar with the Chapter 11 cases and the Debtors' books and records, and the trustee's duty to conduct independent investigations. The Debtors' estimated liquidation analysis and the assumptions upon which it is based is annexed hereto as **Exhibit "B."** As indicated in the Debtors' liquidation analysis, the Debtors believe that conversion to Chapter 7 would result in a reduction in the amount of the distributions to unsecured creditors as a result of additional Chapter 7 administrative expenses.

D. **Cram Down**

The Bankruptcy Code provides a mechanism by which a plan may be confirmed even if it has been rejected by an impaired class of claims. Under the "cram down" provisions of §1129(b) of the Bankruptcy Code, the proponent of the Plan (in this case the Debtors) may request that it be confirmed despite its rejection by an impaired class, and the court will confirm the Plan if it (i) does not discriminate unfairly against a dissenting impaired class; and (ii) is fair and equitable with respect to such class.

The Bankruptcy Code sets forth specific guidelines for determining whether a plan is fair and equitable with respect to a particular class of claims. For unsecured claims, as are those in Class 3, a plan must provide that Equity Interest holders do not receive or retain any property in account of their interest.

Here, the Plan is essentially a waterfall plan, providing that all funds in the Debtors' bankruptcy Estates shall be distributed to creditors in accordance with the statutory priorities set forth in the Bankruptcy Code. There will be no recovery for Equity Interest Holders. Because the only Class entitled to vote on the Plan is Class 3, a cram down is not possible, and, if Class 3 rejects the Plan, the Bankruptcy Court may have to convert the chapter 11 cases under chapter 7 or dismiss the chapter 11 cases.

VI. CERTAIN FEDERAL INCOME TAX CONSIDERATIONS

A. Federal Income Tax Consequences

1. Introduction

The implementation of the Plan may have federal, state and local tax consequences to the Debtors, their creditors and Equity Interest Holders. No tax opinion has been sought or will be obtained with respect to any tax consequences of the Plan. This Disclosure Statement does not constitute and is not intended to constitute either a tax opinion or tax advice to any person, and the summary contained herein is provided for informational purposes only.

The discussion below summarizes only certain of the federal income tax consquences associated with the implementation of the Plan. This discussion does not attempt to comment on all aspects of the federal income tax consequences associated with the Plan, nor does it attempt to consider various facts or limitations applicable to any particular creditor or Equity Interest Holder which may modify or alter the consequences described herein. This discussion does not address state, local or foreign tax consequences or the consequences of any federal tax other than the federal income tax.

The following discussion is based upon the provisions of the Internal Revenue Code of 1986, as amended (the "Internal Revenue Code"), the regulations promulgated thereunder, existing judicial decisions and administrative rulings. In light of the numerous recent amendments to the Internal Revenue Code, no assurance can be given that legislative, judicial or administrative changes will not be forthcoming that would affect the accuracy of the discussion below. Any such changes could be material and could be retroactive with respect to the transactions entered into or completed prior to the enactment or promulgation thereof. The tax consequences of certain aspects of the Plan are uncertain due to the lack of applicable legal

authority and may be subject to judicial or administrative interpretations that differ from the discussion below.

CREDITORS AND EQUITY INTEREST HOLDERS ARE ADVISED TO CONSULT WITH THEIR OWN TAX ADVISORS REGARDING THE TAX CONSEQUENCES TO THEM AND TO THE DEBTORS OF THE TRANSACTIONS CONTEMPLATED BY THE PLAN, INCLUDING FEDERAL, STATE, LOCAL AND FOREIGN TAX CONSEQUENCES.

2. **Cancellation of Debt Income**

A taxpayer generally must include in gross income the amount of any discharged indebtedness realized during the taxable year, except to the extent payment of such indebtedness would have given rise to a deduction. Such amounts, however, are not included in income where the discharge of indebtedness is accomplished pursuant to a plan approved by the court in a case under the Bankruptcy Code. Instead, the amount of discharged indebtedness that would otherwise have been required to be included in income will be applied to reduce the attributes of the taxpayer in the following order: (i) net operating loss carryovers; (ii) general business credit carryovers; and (iii) the taxpayer's basis in property and foreign tax credit carryovers. Under the Plan, satisfaction of Claims will give rise to a discharge of indebtedness income to the Debtors. Nothing contained in this general discussion regarding discharge of indebtedness for tax purposes shall be deemed to imply that the Debtor will be granted a discharge in violation of §1141(d)(3) of the Bankruptcy Code.

3. **Tax Consequences to Creditors**

Since the tax consequences for each creditor will depend, to a considerable extent, upon its particular situation, the Debtors suggest that each creditor review the entire Plan and this Disclosure Statement to best determine the effect of the Plan on it.

VII. VOTING INSTRUCTIONS

Creditors should complete and sign the enclosed ballot and return it to Tarter Krinsky & Drogin LLP, 1350 Broadway, 11th Floor, New York, New York 10018, Attention: Scott S. Markowitz, Esq. A ballot is enclosed with each copy of this Disclosure Statement being sent to all holders of impaired Claims that filed proofs of Claim or were Scheduled by the Debtors. Ballots must be received on or before **5:00 p.m. (Eastern Daylight Time) on August __, 2016**.

If a ballot is damaged or lost, or if you have any questions concerning any voting procedures, you may contact Tarter Krinsky & Drogin LLP, 1350 Broadway, 11th Floor, New York, New York 10018, attorneys for the Debtor, Attention: Scott S. Markowitz, Esq, (212) 216-8000.

VIII. CONCLUSION AND RECOMMENDATION

The Debtors believe that confirmation and implementation of the Plan is preferable to any other alternative. The only other alternative is a conversion to Chapter 7 or a dismissal of the Chapter 11 cases. Accordingly, the Debtors urge holders of Claims to vote to accept the Plan by so indicating on their ballots and returning them as specified in the Order and Notice accompanying this Disclosure Statement.

Dated: June 14, 2016
New York, New York

CONSTRUCTORS LIQUIDATION INC. f/k/a NYC CONSTRUCTORS INC.
Debtor and Debtor-in-Possession

By: /s/ Barry King
Barry King
President

MRP, L.L.C.
Debtor and Debtor-in-Possession

By: /s/ Barry King
Barry King
Vice President

TARTER KRINSKY & DROGIN LLP
Attorneys for Constructors Liquidation Inc. f/k/a NYC Constructors Inc. And MRP, L.L.C. Debtors and Debtors-in-Possession

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