

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

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In re:

Chapter 11

**CONGREGATION ACHPRETVIA TAL  
CHAIM SHAR HAYUSHOR, INC.,**

Case No: 16-10092 (MEW)

Debtor.

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**DISCLOSURE STATEMENT FOR PLAN OF LIQUIDATION OF  
CONGREGATION ACHPRETVIA TAL CHAIM SHAR HAYUSHOR, INC.**

**THIS IS NOT A SOLICITATION OF ACCEPTANCES OR REJECTIONS OF THE PLAN FOR THE DEBTOR. ACCEPTANCES OR REJECTIONS MAY NOT BE SOLICITED UNTIL A DISCLOSURE STATEMENT HAS BEEN APPROVED BY THE BANKRUPTCY COURT. THIS DISCLOSURE STATEMENT IS BEING SUBMITTED TO THE BANKRUPTCY COURT FOR APPROVAL BUT HAS NOT BEEN APPROVED BY THE BANKRUPTCY COURT. THE INFORMATION CONTAINED HEREIN IS SUBJECT TO COMPLETION OR AMENDMENT.**

**ROBINSON BROG LEINWAND  
GREENE GENOVESE & GLUCK P.C.  
Attorneys for the Debtor  
875 Third Avenue  
New York, New York 10022  
Tel. No.: 212-603-6300  
A. Mitchell Greene, Esq.  
Steven B. Eichel, Esq.**

**Dated:** New York, New York  
January 20, 2017

**DISCLAIMER**

NO PERSON MAY GIVE ANY INFORMATION OR MAKE ANY REPRESENTATIONS OTHER THAN THE INFORMATION AND REPRESENTATIONS CONTAINED IN THIS DISCLOSURE STATEMENT REGARDING THE PLAN.<sup>1</sup>

THE DISCLOSURE STATEMENT AND ALL EXHIBITS HERETO, INCLUDING THE PLAN, SHOULD BE READ. PLAN SUMMARIES AND STATEMENTS MADE IN THIS DISCLOSURE STATEMENT ARE QUALIFIED IN THEIR ENTIRETY BY REFERENCE TO THE PLAN AND THE EXHIBITS ANNEXED TO THE DISCLOSURE STATEMENT AND THE PLAN. THE STATEMENTS CONTAINED IN THIS DISCLOSURE STATEMENT ARE MADE ONLY AS OF THE DATE HEREOF UNLESS ANOTHER TIME IS SPECIFIED HEREIN. THE TRANSMISSION OF THIS DISCLOSURE STATEMENT SHALL NOT CREATE AN IMPLICATION THAT THERE HAS BEEN NO CHANGE IN THE INFORMATION STATED SINCE THE DATE HEREOF. AFTER THE DATE HEREOF, THERE CAN BE NO ASSURANCE THAT (A) THE INFORMATION AND REPRESENTATIONS CONTAINED HEREIN WILL BE MATERIALLY ACCURATE, AND (B) THIS DISCLOSURE STATEMENT CONTAINS ALL MATERIAL INFORMATION.

THIS DISCLOSURE STATEMENT HAS BEEN PREPARED IN ACCORDANCE WITH SECTION 1125 OF THE BANKRUPTCY CODE AND RULE 3016 OF THE FEDERAL RULES OF BANKRUPTCY PROCEDURE, AND NOT NECESSARILY IN ACCORDANCE WITH FEDERAL OR STATE SECURITIES LAWS OR OTHER NONBANKRUPTCY LAW. THIS DISCLOSURE STATEMENT WAS PREPARED TO PROVIDE HOLDERS OF CLAIMS AGAINST THE DEBTOR WITH "ADEQUATE INFORMATION" (AS DEFINED IN THE BANKRUPTCY CODE) SO THAT THEY CAN MAKE AN INFORMED JUDGMENT ABOUT THE PLAN.

THIS DISCLOSURE STATEMENT SHALL NOT CONSTITUTE OR BE CONSTRUED AS AN ADMISSION OF ANY FACT OR LIABILITY, AS A STIPULATION OR AS A WAIVER, BUT, RATHER, AS A STATEMENT MADE IN SETTLEMENT NEGOTIATIONS. THIS DISCLOSURE STATEMENT SHALL NOT BE ADMISSIBLE IN ANY NON-BANKRUPTCY PROCEEDING INVOLVING THE DEBTOR OR ANY OTHER PARTY, NOR SHALL IT BE CONSTRUED TO BE CONCLUSIVE ADVICE ON THE TAX, SECURITIES, OR OTHER LEGAL EFFECTS OF THE LIQUIDATION OR THE PLAN ON HOLDERS OF CLAIMS AGAINST THE DEBTOR.

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<sup>1</sup> Unless otherwise expressly set forth herein, capitalized terms used but not otherwise herein defined take the same meaning ascribed to such terms in the Plan.

## SUMMARY

A glossary of defined terms frequently used in this disclosure statement is set forth in Article 1 of the plan of reorganization filed with the Bankruptcy Court.

The debtor, **Congregation Achpretvia Tal Chaim Shar Hayushor, Inc.** (the “Debtor” or “Congregation”), has filed its *Plan of Liquidation* dated January 20, 2017 (the “Plan”), with the United States Bankruptcy Court for the Southern District of New York (the “Bankruptcy Court”). This *Disclosure Statement for Plan of Liquidation of Congregation Achpretvia Tal Chaim Shar Hayushor, Inc.*, (the “Disclosure Statement”) has been approved by the Bankruptcy Court for use in connection with confirmation of the Plan pursuant to section 1125 of title 11 of the United States Code (the “Bankruptcy Code”).

**Significantly, and as is described in further detail below, the Plan has been structured so that creditors holding Allowed Claims on the Effective Date will not have to wait for the resolution of the New York Litigation or the sale of the Property to be paid under the Plan, but will be paid their Allowed Claims by the Debtor out of the proceeds of the DIP Loan immediately upon the occurrence of the Effective Date.**

In the Debtor’s opinion, the treatment of Claims under the Plan provides a greater recovery for Creditors than that which is likely to be achieved under other alternatives for the reorganization or liquidation of the Debtor.

**Accordingly, the Debtor believes that Confirmation of the Plan is in the best interests of Creditors.**

The Debtor filed its voluntary petition for relief under Chapter 11 of the Bankruptcy Code on January 15, 2016 (the “Petition Date”) with the Clerk of the United States Bankruptcy Court for the Southern District of New York. No official committee of unsecured creditors has been appointed in this case by the Office of the United States Trustee.

## **THE DEBTOR**

The Congregation was formed on March 15, 1949 to continue the Lisker Dynasty<sup>2</sup> eradicated from Hungary during the Holocaust, pursuant to Article Ten of the Religious Corporations Law of the State of New York, as a religious corporation servicing the Jewish community in the borough of Manhattan, County of New York, City and State of New York.

The Debtor is a New York religious corporation that had operated as a synagogue on the property located at 163 E. 69<sup>th</sup> Street, New York, New York 10021 (the “Property”). Since 1977, the Congregation has served the Upper East Side’s Jewish community. Besides

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<sup>2</sup> The beginnings of Hasidism may be traced to elite groups of Torah scholars and kabbalists in the southeastern region of the Polish–Lithuanian Commonwealth, particularly in the province of Podolia. Each such group was headed by a tsaddik, who represented a new type of religious leadership. A hasidic rebbe refers to great leader of a Hasidic dynasty, also referred to as “Grand Rabbi” in English. Hasidim use the term “rebbe” to denote someone that they perceive not only as the religious leader of their congregation, but as their spiritual adviser and mentor whose views and advice are accepted not only on issues of religious law and practice, but in all arenas of life, including political and social issues. Friedlander Decl. at ¶ 7, n1.

conducting religious services for the community, the Congregation’s property was structurally developed to sustain all facets of Jewish life, including the maintenance of a ritual bath (mikvah).

**THE PLAN**

The Plan provides for (i) the dissolution of the Debtor under New York Religious Corporations Law (the “RCL”) §18, (ii) the payment of all Allowed Claims in full from the debtor in possession financing (the “DIP Financing”), (iii) the repayment of the DIP Financing to the Debtor’s post-petition lender 163 E. 69 DIP Lender, LLC (the “DIP Lender”), along with post-confirmation expenses, U.S. Trustee fees and taxes from the proceeds from the eventual sale of the Property, and (iv) distribution of any excess proceeds after payment of the Congregation’s debts to one or more religious, benevolent, or charitable objects or purposes as the New York Court may approve in accordance with Section 18 of the RCL.

As set forth in Article 2 of the Plan, pursuant to section 1123(a)(1) of the Bankruptcy Code, certain Administrative Claims against the Debtor have not been classified. As set forth in Articles 3 and 4 of the Plan, the Plan classifies the various Claims against the Debtor and specifies their treatment pursuant to sections 1122 and 1123(a) of the Bankruptcy Code. The table below provides a summary of the classification and treatment of Creditor Claims under the Plan. The figures set forth in the table below represent the Debtor’s best estimate of the aggregate amount of Claims in the Case. These estimates are based on an analysis of the Schedules filed by the Debtor, the Proofs of Claim filed by Creditors, and information provided to Debtor’s counsel. There can be no assurance that Claims will be allowed by the Bankruptcy Court in the amounts set forth below. The aggregate amount of Allowed Claims may be significantly lowered from the amounts set forth below as the result of objections to claims which may be brought by the Debtor or through stipulations which may be negotiated with various creditors.

Class and Estimated Amount <sup>3</sup>	Type of Claim	Summary of Treatment
\$3,575,000 <sup>4</sup>	Administrative Claims (excluding Claims for professional compensation and reimbursement and Administrative Tax Claims, but including post-	<b>Non-Voting.</b> Subject to the provisions of article 7 of the Plan with respect to Disputed Claims, each Allowed Administrative Claim, to the extent not previously paid, shall be paid by the Disbursing Agent in Cash in full on (i) the later of (x) the Effective Date, (y) the date payment of such Claim is due under the terms thereof or applicable law, or (z) three business days after such Claim becomes an Allowed Administrative Claim or (ii) as may be

<sup>3</sup> Amounts set forth in this chart are not and should not be deemed admissions by the Debtor as to validity or amount of any scheduled or filed claim. The Debtor reserves all rights to object to any scheduled or filed claim in the Debtor’s case.

<sup>4</sup> \$3,575,000 is the principal amount of the Debtor’s proposed DIP Financing without interest. Interest accrues at 15% per annum.

Class and Estimated Amount <sup>3</sup>	Type of Claim	Summary of Treatment
	petition ordinary course liabilities and debtor in possession financing)	otherwise mutually agreed in writing between the Debtor and the Holder of such Claim; <i>provided, however,</i> that any Administrative Claim incurred by the Debtor in the ordinary course of its business shall be paid in full or performed by the Debtor in accordance with the terms and conditions of the particular transaction giving rise to such Administrative Claim and any agreements relating thereto. Pursuant to the DIP Loan Agreement approved by the Bankruptcy Court, the DIP Lender will be repaid on its DIP Loan from the proceeds of the sale of the Property in accordance with the terms of the DIP Loan Agreement and Final DIP Order.
\$0.00	Administrative Tax Claims	<b>Non-Voting.</b> Subject to the provisions of Article 7 of the Plan with respect to Disputed Claims, all Allowed Administrative Tax Claims held by Governmental Units shall be paid, in Cash, in full either (i) on or prior to the Effective Date, or (ii) upon such other terms as may be agreed to, in writing, between the Debtor and such Governmental Units on or before the Confirmation Date.
Approximately \$1,100,000	Administrative Claims for Professional Compensation and Reimbursement	<b>Non-Voting.</b> No later than three days prior to the Confirmation Date, each Professional shall provide the Debtor and the Disbursing Agent with an estimate of the total amount of compensation and expenses for which such Professional expects to seek final compensation pursuant to section 330 of the Bankruptcy Code. On the Effective Date, the Disbursing Agent shall segregate sufficient cash to pay all such estimated compensation and expenses in full unless otherwise agreed to by the Debtor and such Professionals; <i>provided, however,</i> that the failure of a Professional to provide such an estimate shall relieve the Debtor of its obligation to segregate funds for the payment therefore, but shall not relieve the Debtor of the obligation with respect to any allowed compensation and expense reimbursement. All Professionals shall file final

Class and Estimated Amount <sup>3</sup>	Type of Claim	Summary of Treatment
		<p>applications for approval of compensation and reimbursement of reasonable and necessary expenses pursuant to section 330 of the Bankruptcy Code no later than 60 days after the Administrative Bar Date. Any such application timely filed shall be deemed to be an Administrative Claim, subject to the entry of a Final Order by the Bankruptcy Court approving such application. Objections to any Professional's application for compensation or reimbursement must be timely filed and served upon such Professional, and upon the Debtor in accordance with the Bankruptcy Rules. Any such objection not timely filed and served shall be deemed to have been waived. Each Holder of an Allowed Claim for Professional Fees shall receive from the Disbursing Agent, in full satisfaction of such Allowed Claim, Cash in the amount of such Allowed Claim, or in an amount as may be otherwise mutually agreed in writing between the Debtor and the Holder of such Claim, within three days of the entry of a Final Order allowing such Claim.</p>
\$ -0-	Priority Tax Claims	<p><b>Non-Voting.</b> Subject to the provisions of Article 7 of the Plan with respect to Disputed Claims, in full satisfaction, release and discharge of Priority Tax Claims, each Holder of a Priority Tax Claim shall receive, on the Effective Date, or as soon as practicable after each such Claim becomes an Allowed Claim, payment from the Disbursing Agent, (i) in Cash, in the full amount of its Allowed Priority Tax Claim or (ii) as may be otherwise mutually agreed in writing between the Debtor the Holder of such Priority Tax Claim.</p>
Class 1 \$5,700.00	Priority Non-Tax Claims	<p><b>Unimpaired.</b> Subject to the provisions of Article 7 of the Plan with respect to Disputed Claims, in full satisfaction, release and discharge of the Priority Non-Tax Claims, each Holder of a Priority Non-Tax Claim shall receive a Cash payment from the Disbursing Agent in the full amount of such Priority Non-Tax Claim on (i) the</p>

Class and Estimated Amount <sup>3</sup>	Type of Claim	Summary of Treatment
		Effective Date or as soon as practicable after each such Claim becomes an Allowed Claim or (ii) such other date as may otherwise be agreed to in writing by the Debtor and the Holder of such Priority Non-Tax Claim.
Class 2  \$385,000 (estimated amount as of July 1, 2017)	Secured Tax Claim	<b>Unimpaired.</b> Subject to the provisions of Article 7 of the Plan with respect to Disputed Claims, and only to the extent the Holder of the Secured Tax Claim was not paid and satisfied, in full satisfaction, release and discharge of the Secured Tax Claim, each holder of the Secured Tax Claim shall receive (i) a Cash payment from the Disbursing Agent in the full amount of its Allowed Secured Tax Claim on the later of (x) on the Effective Date, or (y) the date such taxes are due under applicable law, or (z) as soon as practicable after such claim becomes an Allowed Secured Tax Claim, or (ii) such other treatment as may otherwise be agreed to in writing by the Debtor and the Holder of such Secured Tax Claim.
Class 3  \$396,950 (with 6% interest through April 2017, \$426,710)	Glick Trust Secured Claim	<b>Unimpaired.</b> Subject to the provisions of Article 7 and the Plan with respect to Disputed Claims, in full satisfaction, release and discharge of the Glick Trust Secured Claim, the Holder of the Glick Trust Secured Claim shall receive (i) a Cash payment from the Disbursing Agent in the full amount of its Glick Trust Secured Claim on the Effective Date, or as soon practicable after such claim becomes an Allowed Claim, or (ii) such other treatment as may otherwise be agreed to in writing by the Debtor and the Holder of the Glick Trust Secured Claim.

Class and Estimated Amount <sup>3</sup>	Type of Claim	Summary of Treatment
Class 4 \$62,000	Other Secured Claim	Subject to the provisions of Article 7 and the Plan with respect to Disputed Claims, in full satisfaction, release of discharge of each Other Secured Claim, each Holder of an Other Secured Claim shall receive (i) a Cash payment from the Disbursing Agent in the full amount of its Allowed Other Secured Claim on the Effective Date, or as soon as practicable after each such Other Secured Claim becomes an Allowed Claim, or (ii) such other treatment as may otherwise be agreed to in writing by the Debtor and the Holder of such Other Secured Claim.
Class 5 filed, scheduled and/or agreed to in the aggregate amount of \$386,689.66 (plus interest)	Unsecured Claims	<b>Unimpaired.</b> Subject to the provisions of Article 7 of the Plan with respect to Disputed Claims, in full satisfaction, settlement, release and discharge of the Class 5 Unsecured Claims, the Holders of the Class 5 Unsecured Claims shall receive (i) a Cash payment from the Disbursing Agent in the full amount of each Holder's Allowed Unsecured Claim with post-petition interest calculated at the federal judgment rate on the Effective Date, or as soon thereafter as practicable after such claim becomes an Allowed Unsecured Claim, or (ii) such other treatment as may otherwise be agreed to in writing by the Debtor and the Holder of such Unsecured Claim.

**CONFIRMATION OF THE PLAN**

Pursuant to section 1128 of the Bankruptcy Code, the Bankruptcy Court has scheduled a hearing to consider Confirmation of the Plan, on \_\_\_\_\_, 2017 at \_\_\_\_\_ a.m., Eastern Time, in the United States Bankruptcy Court for the Southern District of New York, One Bowling Green, Alexander Hamilton Custom House, New York, New York 10004. The Bankruptcy Court has directed that objections, if any, to Confirmation of the Plan be filed and served on or before \_\_\_\_\_, 2017 at 5:00 p.m., in the manner described under "ACCEPTANCE AND CONFIRMATION -- Confirmation Hearing."

At the Confirmation Hearing, the Bankruptcy Court will determine whether the requirements of section 1129(a) of the Bankruptcy Code have been satisfied, in which event the Bankruptcy Court will enter an order confirming the Plan. The Debtor intends to seek Confirmation of the Plan at the Confirmation Hearing. **The Debtor believes that the Plan**



**satisfies all applicable requirements of section 1129(a) of the Bankruptcy Code.** See “ACCEPTANCE AND CONFIRMATION -- Requirements for Confirmation” for a description of such requirements. Confirmation makes the Plan binding upon the Debtor, all Creditors, and other parties regardless of whether they have accepted the Plan.

With the entry of the Confirmation Order, pursuant to section 1141(d) of the Bankruptcy Code, except as otherwise provided in the Plan, the distributions provided for in the Plan will be in exchange for and in complete satisfaction, discharge and release of all Claims against the Debtor or any of its assets or properties, including any Claim accruing after the Petition Date and before the Confirmation Date. As of the Effective Date, all holders of Claims shall be precluded from asserting any Claim against the Debtor or its assets or other interests in the Debtor based on any transaction or other activity of any kind that occurred before the Confirmation Date except as otherwise provided in the Plan.

### **NO VOTING REQUIRED**

As noted herein, all classes of claims are unimpaired under the Plan. Accordingly, Holders of Claims are deemed to have accepted the Plan and voters of Holders of Claims in each class will not be solicited.

### **NOTICE TO HOLDERS OF CLAIMS**

This Disclosure Statement is being furnished by the Debtor to the Debtor’s known Creditors pursuant to section 1125(b) of the Bankruptcy Code in connection with its plan of liquidation by the Debtor. The Plan is filed with the Bankruptcy Court and is incorporated herein by reference. Parties in interest may view the Plan on the Internet at <http://www.nysb.uscourts.gov>.<sup>5</sup>

**THIS DISCLOSURE STATEMENT HAS BEEN PREPARED BY THE DEBTOR. THE STATEMENTS AND OPINIONS SET FORTH HEREIN ARE THOSE OF THE DEBTOR, AND NO OTHER PARTY HAS ANY RESPONSIBILITY WITH RESPECT THERETO.**

**THIS DISCLOSURE STATEMENT CONTAINS IMPORTANT INFORMATION. PLEASE READ THIS DOCUMENT WITH CARE.**

**THE PLAN HAS NOT BEEN APPROVED OR DISAPPROVED BY ANY BANKRUPTCY COURT, THE SECURITIES AND EXCHANGE COMMISSION OR ANY STATE SECURITIES COMMISSION, NOR HAS THE SECURITIES AND EXCHANGE COMMISSION OR ANY STATE SECURITIES COMMISSION PASSED UPON THE FAIRNESS OR MERITS OF THE PLAN OR UPON THE ACCURACY OR ADEQUACY OF THE INFORMATION CONTAINED IN THIS DISCLOSURE STATEMENT. ANY REPRESENTATION TO THE CONTRARY IS UNLAWFUL.**

The historical information concerning the Debtor has been prepared using certain filings made with the Bankruptcy Court and from information provided by the Debtor. The estimates of Claims set forth herein may vary from the final amounts of Claims allowed by the Bankruptcy

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<sup>5</sup>A password is necessary for access to view documents on the Internet.

Court. While every effort has been made to ensure the accuracy of all such information, except as noted in the Disclosure Statement, the information presented herein is unaudited.

This Disclosure Statement contains a summary of certain provisions of the Plan and the transactions contemplated thereunder, and may contain descriptions of certain other related documents. While the Debtor believes that these summaries are fair and accurate, such summaries are qualified to the extent that they do not set forth the entire text of such documents. Reference is made to the Plan and the documents referred to herein and therein, if any, for a complete statement of the terms and provisions thereof. In the event of any inconsistency between the terms of the Plan and this Disclosure Statement, the terms of the Plan shall be controlling. In reviewing the Plan and this Disclosure Statement, the reader should give special attention to "RISK FACTORS." No statements or information concerning the Debtor or its assets, or financial condition, are authorized by the Debtor other than as set forth in this Disclosure Statement and the Plan and the exhibits hereto.

The statements contained in this Disclosure Statement are made as of the date hereof unless another time is specified herein. The delivery of this Disclosure Statement shall not create, under any circumstances, an implication that there has been no change in the facts set forth herein since the date hereof.

No solicitation of votes to accept or reject the Plan will be required under the Plan because all creditors are being paid in full on account of their Allowed Claims, and thus are deemed to have accepted the Plan. No Person has been authorized to use or promulgate any information concerning the Debtor or the Plan, other than the information contained in this Disclosure Statement. You should not rely on any information relating to the Debtor or the Plan other than that contained in this Disclosure Statement.

#### **RECOMMENDATION**

In the Debtor's opinion, the treatment to Creditors under the Plan provides payment in full to Holders of Allowed Claims and such Holders will be paid at least as much under this Plan as they would receive under any other alternatives, including liquidation under Chapter 7. See "ALTERNATIVES TO THE PLAN."

**THE DEBTOR BELIEVES THAT CONFIRMATION OF THE PLAN IS IN THE BEST INTERESTS OF CREDITORS.**

#### **EVENTS LEADING TO CHAPTER 11**

Prior to February 2014, the Debtor operated as a synagogue at 163 East 69<sup>th</sup> Street in New York City.

The Congregation was formed on March 15, 1949 to continue the Lisker Dynasty eradicated from Hungary during the Holocaust, pursuant to Article Ten of the Religious Corporations Law of the State of New York, as a religious corporation servicing the Jewish community in the borough of Manhattan, County of New York, City and State of New York.

In February, 2014, Judith Friedlander, the Rebbetzin of the Congregation, who was the mother of Ms. Chave (Eve) Kreger, President of the Congregation (“Kreger”) and Rabbi Harold Friedlander, the Vice President of the Congregation (“Friedlander”), died. While mourning the death of their mother, Kreger and Friedlander recognized that it was up to them to continue the Congregation, the teachings of their ancestors and support of the Lisker Dynasty.

At that time, the Congregation’s Board of Directors (the “Board”) consisted of (i) Kreger, (ii) Friedlander and (iii) Alvin H. Glick (“Glick”).

The Congregation had a valuable Property in New York City, but it had little, if any, liquidity. Glick knew this.

On or about February 25, 2014, within a few weeks of the Rebbetzin’s death, Glick convened a meeting of the Board to, among other things, have (i) M-G Corp, Glick’s company, be named as the broker with respect to the sale of the Property with an agreed upon 5% commission on the sale price of the Property; (ii) retain an appraiser to appraise the Property; and (iii) the Claude Castro & Associates, LLP (the “Castro Firm”) be retained as the Congregation’s lawyer. Glick did not recuse himself from the Board meeting.

Glick convinced Kreger and Friedlander to allow him to supervise the team of accountants and lawyers, and co-ordinate the entire transaction by himself. They mistakenly believed that they did not have to worry about surviving the transition phase as Glick would run the transaction as a fiduciary and, instead, concentrated on developing the Congregation’s next steps for after the sale.

Immediately after the first Board Meeting, Glick informed the Congregation that there was an offer for \$9,750,000.00 (the “Offer”) from 163 East 69.

The Offer was much lower than what Friedlander and Kreger anticipated. Glick said he would justify the low offer to the AG by getting a “favorable” appraisal.

Shortly thereafter, before any appraisal was obtained, Glick convened another board meeting. At that meeting, the Board resolved, in pertinent part, that the Congregation would sell the Property to 163 East 69 for \$9,750,000.00 (the “Transaction”). There was no discussion on the merits of this proposed Transaction or on the fairness of the purchase price. Glick did not recuse himself. He was present at the meeting, participated in it, voted as a director on the resolution to sell the Property for \$9.75 million and executed the resolution as the Board’s secretary.

A short-while thereafter, Glick secured what he had called an “appropriate” appraisal as of March 4, 2014, which Friedlander and Kreger now believe was made to reflect a value which was intentionally below fair market value of the Property. The appraisal valued the Property to be worth \$9,500,000.00.

On or about March 26, 2014, the Congregation entered into the Contract of Sale with the Purchaser. Glick represented that the proceeds from the sale would be paid in December 2014.

Further, while Friedlander and Kreger were preparing for transition to new not-for-profit entities, during the summer of 2014, Glick had the Property gutted, ensuring that the sale would have to go forward and that Glick would earn a commission.

In September, 2014, Glick represented that a petition for the sale of the Property was filed with the New York State Attorney General's Office (the "AG Petition"). Friedlander and Kreger were patient, but by the end of December, 2014, the sale of the Property had still not been consummated and Glick stated the transaction would close in January, 2015. As January, 2015 came and went, the sale of the Property had, again, still not been consummated and the transaction has not closed. During the next 9 months, there were numerous attempts to confirm whether the AG Petition was submitted.

In September 2015, notwithstanding this new information that the AG Petition was never submitted, Glick continued to represent that the Petition to the Attorney General was submitted to other, more senior, individuals at the Office of the Attorney General.

On or about November 10, 2015, 163 East 69 commenced the New York Litigation seeking specific performance directing the Debtor to complete the sale of the Property, which would still require authorization from the New York Supreme Court and the New York State Attorney General due to the Debtor's non-profit status and the express provisions of the Contract of Sale.

On December 23, 2015, an Order to Show Cause was entered in the New York Litigation, which provided that, pending the hearing of the Order to Show Cause, the Congregation was enjoined and restrained from taking any steps and/or actions to sell the Property to any third party.

The Order to Show Cause signed by Justice Friedman contained a TRO enjoining the Debtor from taking steps to sell the Debtor's property "pending the hearing" scheduled for January 19, 2016. The January 19<sup>th</sup> hearing was for the Court to determine whether an order should be entered to maintain the status quo between the parties pending a hearing and determination on the order to show cause. The Supreme Court did not order that the TRO remain in effect pending resolution of plaintiff's motion for a permanent or preliminary injunction.

The Congregation and its Board were faced with an impossible dilemma—either face the loss of its only House of Worship because it lacked the money to defend itself in a transaction it strongly suspected was improper—a result repugnant to the Congregation, or fight for the survival of the Congregation by borrowing the funds necessary to meet the financial demands of the litigation, retain counsel to defend itself in the Action and commence and prosecute this bankruptcy case, a course of action foreign to them.

After the commencement of the New York Litigation in November 2015, the Congregation needed money to defend the Action. At that time, 69<sup>th</sup> Street Capital, LLC ("69<sup>th</sup> Street Capital") was willing to lend money to the Congregation to defend the litigation, pay salaries to the officers of the Congregation, purchase insurance and pay utilities so long as the Congregation would immediately file for relief under chapter 11 of title 11. 69<sup>th</sup> Street Capital was unwilling to fund the uncontrolled litigation in the State Court that would become a long-

term, unwieldy and uncontrolled as well as expensive litigation. 69<sup>th</sup> Street Capital understood that the issue as to the enforceability and rescission of the Contract could be more expeditiously litigated before the Bankruptcy Court. Without the Congregation's agreement to file bankruptcy, 69<sup>th</sup> Street Capital would not have made the loan to the Congregation.

The hearing on the TRO never occurred because the Debtor filed for bankruptcy protection on January 15, 2016 in the United States Bankruptcy Court for the Southern District of New York.

### **SIGNIFICANT EVENTS IN THE CHAPTER 11 CASE**

On the Petition Date, the Debtor filed a voluntary petition for relief under chapter 11 of the Bankruptcy Code with the United States Bankruptcy Court for the Southern District of New York so that it could reorganize its business and debt obligations. The bankruptcy case stayed the New York Litigation. The following discussion is intended to highlight some of the more significant events which have occurred during the pendency of the Debtor's case.

#### **REMOVAL OF NEW YORK LITIGATION AND MOTION TO DISMISS**

On March 4, 2016, the Debtor filed the notice of removal of the New York Litigation. On March 7, 2016, 163 East 69 filed a motion to dismiss the Debtor's chapter 11 case, or in the alternative, to abstain hearing the removed New York State Litigation and to remand it back to State Court. After discovery was taken, the parties reached a settlement which is encompassed in two orders of the Bankruptcy Court dated September 16, 2016. Under these orders, the Bankruptcy Case was not dismissed, but the New York Litigation was remanded back to the New York Supreme Court (the "Motion to Dismiss").

#### **NEW YORK LITIGATION**

Shortly after the Bankruptcy Court remanded the New York Litigation back to New York Supreme Court, 163 East 69 filed an order to show cause seeking, among other things, to (i) restore the New York Litigation to the Part 53 calendar, (ii) restore and reinstate 163 East 69's December 2015 Order to Show Cause, along with the temporary restraining orders issued thereto, (iii) stay the Attorney General from considering the Congregation's application to it, (iv) directing the Attorney General not to consider the application if it was already submitted, and (v) direct the Congregation to file a verified petition seeking approval of the Contract of Sale with the New York Supreme Court.

Judge Ramos denied 163 East 69's request for relief at the Order to Show Cause hearing and at the preliminary injunction hearing, except that the case was restored to the calendar. By order dated January 9, 2017, the court restored the New York Litigation to the Part 53 calendar and denied all of the other relief requested by 163 East 69.

On or about November 4, 2016, 163 East 69 moved for partial summary judgment and to dismiss the Congregation's counterclaims asserted against it. The Congregation filed its response and 163 East 69 filed its reply. Oral argument was scheduled for January 18, 2017. At the hearing, Judge Ramos did not hear arguments on the merits but directed that the case be subject to mandatory mediation.

On or about November 16, 2016, the Congregation made a motion to amend its First Amended Answer with Counterclaims and its Third Party Complaint. The motions were unopposed.

#### **DIP FINANCING**

On January 13, 2017, the Debtor filed a motion seeking approval of \$3,575,000 in DIP financing (the "DIP Motion") to pay for insurance, taxes, property repair and maintenance, administrative expenses, and to fund a plan of liquidation. The interim hearing on the DIP Financing Motion is scheduled for January 24, 2017.

#### **RETENTION OF PROFESSIONALS**

Section 327(a) of the Bankruptcy Code provides that a debtor, with the court's approval, may employ one or more professional persons that do not hold or represent an interest adverse to the estate and that are disinterested persons to represent or assist the debtor in carrying out its duties under the Bankruptcy Code. 11 U.S.C. § 327(a).

On February 16, 2016, the Debtor sought authority from the Bankruptcy Court to retain the law firm of Robinson Brog Leinwand Greene Genovese & Gluck P.C., as its counsel. The application was granted pursuant to an order signed on February 16, 2016 effective as of January 15, 2016.

On February 22, 2016, the Debtor sought authority to retain the law firm of Hansen Law as special real estate counsel. The application was granted on March 4, 2016.

On February 22, 2016, the Debtor sought authority to retain the law firm of Goldstein Hall PLLC as special litigation counsel and not-for-profit counsel. The application was granted on March 4, 2016.

On October 14, 2016, the Debtor sought to retain Windels Marx Lane & Mittendorf, LLP ("Windels Marx") as special not-for-profit counsel in place of Goldstein Hall PLLC. The application was granted on October 25, 2016.

On December 12, 2016, the Debtor sought to retain Duval & Stachenfeld LLP as special not-for-profit counsel to the Debtor in place of Windels Marx. The application was granted on January 11, 2017, effective as of November 28, 2016.

#### **BAR DATE**

In accordance with the requirements of section 521 of the Bankruptcy Code and Bankruptcy Rule 1007, the Debtor has filed its schedules of assets and liabilities, including schedules of all of its known creditors and the amounts and priorities of the Claims the Debtor believes are owed to such creditors. Pursuant to section 501 of the Bankruptcy Code, any creditor may file a Proof of Claim and, unless disputed, such filed Proof of Claim supersedes the amount and priority set forth in the Debtor's schedules. By order of the Bankruptcy Court dated March 28, 2016, May 11, 2016 was set as the last day for creditors to file Proofs of Claim in the Debtor's Chapter 11 case, with July 13, 2016 set as the last day for governmental units to file Proofs of Claim.

There can be no assurance that the Allowed Claims as determined by the Bankruptcy Court will be in the amounts and priorities stated in the Schedules filed by the Debtor or the Proofs of Claim filed by the Creditors.

#### **OPERATING REPORTS**

Pursuant to the requirements of the Office of the United States Trustee for the Southern District of New York, the Debtor has been preparing and filing monthly operating reports with the Bankruptcy Court. Copies of such reports may be obtained (i) from the Bankruptcy Court during normal business hours, (ii) upon written request made to counsel for the Debtor, or (iii) from the Bankruptcy Court's Electronic Case Filing System ("ECF")<sup>6</sup> which may be accessed at the Bankruptcy Court's Internet website at [www.nysb.uscourts.gov](http://www.nysb.uscourts.gov).

#### **SUMMARY OF THE PLAN**

The following summary of the terms of the plan is qualified in its entirety by reference to the provisions of the Plan, a copy of which is filed with the Clerk of Bankruptcy Court and which is incorporated herein by reference.

#### **CLASSIFICATION OF CLAIMS AND INTERESTS**

Classification of claims is governed, in part, by sections 1122 and 1123(a) of the Bankruptcy Code. Section 1123(a) requires that a plan designate classes of claims, requires that the plan specify the treatment of any impaired class of claims, and requires that the plan provide the same treatment for each claim of a particular class, unless the holder of a claim receiving less favorable treatment consents to such treatment. 11 U.S.C. § 1123(a)(1), (3) and (4). Section 1122(a) of the Bankruptcy Code provides, subject to an exception for administrative convenience, that "a plan may place a claim or interest in a particular class only if such claim or interest is substantially similar to the other claims or interests of such class."

Article 3 of the Plan classifies the various Claims against the Debtor into five classes of Claims:

- Class 1 – Priority Non-Tax Claims
- Class 2 – Secured Tax Claim
- Class 3 – Glick Trust Secured Claim
- Class 4 – Other Secured Claims
- Class 5 – Unsecured Claims

As set forth in Article 2 of the Plan, pursuant to section 1123(a)(1) of the Bankruptcy Code, certain Administrative Claims against the Debtor have not been classified. See "SUMMARY OF THE PLAN -- Treatment of Non-Classified Claims."

#### **TREATMENT OF CLAIMS CLASSIFIED UNDER THE PLAN**

Article 4 of the Plan provides for the treatment of Claims classified in Article 3 of the Plan as follows:

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<sup>6</sup> Filing documents on the ECF requires a password which an attorney may obtain by contacting the Bankruptcy Court's technical assistance department, Monday through Friday, 9:00 a.m. to 4:00 p.m.

**Class 1 – Priority Non-Tax Claims.** Subject to the provisions of Article 7 of the Plan with respect to Disputed Claims, in full satisfaction, release and discharge of the Priority Non-Tax Claims, each Holder of a Priority Non-Tax Claim shall receive a Cash payment from the Disbursing Agent in the full amount of such Priority Non-Tax Claim on (i) the Effective Date or as soon as practicable after each such Claim becomes an Allowed Claim or (ii) such other date as may otherwise be agreed to in writing by the Debtor and the Holder of such Priority Non-Tax Claim. There are two Priority Claims filed against the Debtor totaling \$5,700. The Debtor intends on objecting to the priority classification of these claims.

**Class 2 –Secured Tax Claim.** Subject to the provisions of Article 7 of the Plan with respect to Disputed Claims, and only to the extent the Holder of the Secured Tax Claim was not paid and satisfied, in full satisfaction, release and discharge of the Secured Tax Claim, each holder of the Secured Tax Claim shall receive (i) a Cash payment from the Disbursing Agent in the full amount of its Allowed Secured Tax Claim on the later of (x) on the Effective Date, or (y) the date such taxes are due under applicable law, or (z) as soon as practicable after such claim becomes an Allowed Secured Tax Claim, or (ii) such other treatment as may otherwise be agreed to in writing by the Debtor and the Holder of such Secured Tax Claim. The City of New York is the holder of the Secured Tax Claim against the Debtor, which is estimated at approximately \$385,000 as of July 1, 2017. To the Debtor is reviewing whether its Property is subject to the tax and may object to the claim.

**Class 3 – Glick Trust Secured Claim.** Subject to the provisions of Article 7 and the Plan with respect to Disputed Claims, in full satisfaction, release and discharge of the Glick Trust Secured Claim, the Holder of the Glick Trust Secured Claim shall receive (i) a Cash payment from the Disbursing Agent in the full amount of its Glick Trust Secured Claim on the Effective Date, or as soon practicable after such claim becomes an Allowed Claim, or (ii) such other treatment as may otherwise be agreed to in writing by the Debtor and the Holder of the Glick Trust Secured Claim. The Glick Trust Secured Claim was filed in the principal amount of \$396,000 and, with interest at the contract rate, totals approximately \$428,710. The Debtor believes that Glick’s claim may be subject to equitable subordination and other objections or grounds for disallowance.

**Class 4 - Other Secured Claim.** Subject to the provisions of Article 7 and the Plan with respect to Disputed Claims, in full satisfaction, release of discharge of each Other Secured Claim, each Holder of an Other Secured Claim shall receive (i) a Cash payment from the Disbursing Agent in the full amount of its Allowed Other Secured Claim on the Effective Date, or as soon as practicable after each such Other Secured Claim becomes an Allowed Claim, or (ii) such other treatment as may otherwise be agreed to in writing by the Debtor and the Holder of such Other Secured Claim. The Claim filed by Bed Bug Pest Control, LLC for \$62,000 asserts it is secured by a valid mechanic’s lien. The Debtor has not yet reviewed the validity of this purported lien.

**Class 5 – Unsecured Claims.** Subject to the provisions of Article 7 of the Plan with respect to Disputed Claims, in full satisfaction, settlement, release and discharge of the Class 5 Unsecured Claims, the Holders of the Class 5 Unsecured Claims shall receive (i) a Cash payment from the Disbursing Agent in the full amount of each Holder’s Allowed Unsecured Claim with



post-petition interest calculated at the federal judgment rate on the Effective Date, or as soon thereafter as practicable after such claim becomes an Allowed Unsecured Claim, or (ii) such other treatment as may otherwise be agreed to in writing by the Debtor and the Holder of such Unsecured Claim. Unsecured Claims total \$386,689.66, subject to the Debtor's right to review same.

#### TREATMENT OF NON-CLASSIFIED CLAIMS

Pursuant to section 1123(a)(1) of the Bankruptcy Code, the Plan does not classify Administrative Claims entitled to priority treatment under section 507(a)(1) of the Bankruptcy Code or Claims of Governmental Units entitled to priority pursuant to section 507(a)(8) of the Bankruptcy Code. Article 2 of the Plan provides for the manner of treatment of such non-classified Claims.

**Administrative Claims.** Administrative Claims are the costs and expenses of administration of this Case, allowable under section 503(b) of the Bankruptcy Code, other than Bankruptcy Fees. Administrative Claims include Claims for the provision of goods and services to the Debtor after the Petition Date, Claims of professionals, such as attorneys, appraisers, and accountants, retained pursuant to an order of the Bankruptcy Court, for compensation and reimbursement of expenses under section 330 of the Bankruptcy Code, and tax claims for the period from the Petition Date to the Effective Date of the Plan.

Subject to the provisions of article 7 of the Plan with respect to Disputed Claims, each Allowed Administrative Claim, to the extent not previously paid, shall be paid by the Disbursing Agent in Cash in full on (i) the later of (x) the Effective Date, (y) the date payment of such Claim is due under the terms thereof or applicable law, or (z) three business days after such Claim becomes an Allowed Administrative Claim or (ii) as may be otherwise mutually agreed in writing between the Debtor and the Holder of such Claim; *provided, however*, that any Administrative Claim incurred by the Debtor in the ordinary course shall be paid in full or performed by the Debtor in accordance with the terms and conditions of the particular transaction giving rise to such Administrative Claim and any agreements relating thereto. Pursuant to the DIP Loan Agreement approved by the Bankruptcy Court, the DIP Lender will be repaid on its DIP Loan from the sale of the Property

Article 2 of the Plan sets a final date for the filing of Administrative Claims against the Debtor. The Administrative Bar Date is the first Business Day that is at least 60 days after the Effective Date. In the event that the Plan is confirmed, the Debtor shall deliver a notice of such bar date to all parties-in-interest. The estimated amount of Administrative Claims in this case will be \$3,575,000 based upon a full draw of the Debtor's DIP Loan. Under the DIP Loan Agreement, this Claim may be paid from the proceeds from the sale of the Congregation's Real Property.

**Professionals' Fees.** Section 330 of the Bankruptcy Code sets the standard for the determination by the Bankruptcy Court of the appropriateness of fees to be awarded to Professionals retained by a Debtor in a case under the Bankruptcy Code. In general, "bankruptcy legal services are entitled to command the same competency of counsel as other cases. In that light, the policy of this section is to compensate attorneys and other professionals serving in a

case under title 11 at the same rate as the attorney or other professional would be compensated for performing comparable service other than in a case under title 11.” 124 Cong. Rec. H11091 (Daily ed. Sept. 28, 1978).

With respect to Professionals’ Fees, the Plan provides that, subject to the approval of compensation and reimbursement of expenses pursuant to sections 330 and 331 of the Bankruptcy Code, the Debtor shall pay the Administrative Claims held by Bankruptcy Professionals as follows:

Each Person seeking an award by the Bankruptcy Court of Professional Fees shall file its final application for approval of its Professional Fees no later than 60 days after the Administrative Bar Date. Each Holder of an Allowed Claim for Professional Fees shall receive from the Disbursing Agent, in full satisfaction of such Allowed Claim, Cash in the amount of such Allowed Claim within three days of the entry of a Final Order Allowing such Claim or an amount as may be otherwise mutually agreed upon between the Debtor and the Holder of the Claim.

No later than three days prior to the Confirmation Date, each Professional shall provide the Debtor with an estimate of the total amount of compensation and expenses for which such Professional expects to seek final compensation pursuant to section 330 of the Bankruptcy Code. Such estimates shall include estimated sums for the preparation and prosecution of any application for final compensation. On the Effective Date, the Disbursing Agent shall segregate sufficient cash to pay all such estimated compensation and expenses in full unless otherwise agreed to by the Debtor and such Professionals; *provided, however*, that the failure of a Professional to provide such an estimate shall relieve the Debtor of its obligation to segregate funds for the payment therefore, but shall not relieve the Debtor of the obligation with respect to any allowed compensation and expense reimbursement.

All Professionals shall file final applications for approval of compensation and reimbursement of reasonable and necessary expenses pursuant to section 330 of the Bankruptcy Code no later than 60 days after the Administrative Bar Date. Any such application timely filed shall be deemed to be an Administrative Claim, subject to the entry of a Final Order by the Bankruptcy Court approving such application. Objections to any Professional’s application for compensation or reimbursement must be timely filed and served upon such Professional, and upon the Debtor in accordance with the Bankruptcy Rules or as may be agreed between the Professional and the objecting party. Any such objection not timely filed and served shall be deemed to have been waived. The estimated Professional Fee Claims are \$1,100,000, subject to allowance by the Court upon final applications to be filed by the Professionals retained in this Chapter 11 case.

**Administrative Tax Claims.** Subject to the provisions of Article 7 of the Plan with respect to Disputed Claims, all Allowed Administrative Tax Claims held by Governmental Units shall be paid, in Cash, in full either (i) on or prior to the Effective Date, or (ii) upon such other terms as may be agreed to, in writing, between the Debtor and such Governmental Units on or before the Confirmation Date.

**Priority Tax Claims.** Subject to the provisions of Article 7 of the Plan with respect to Disputed Claims, in full satisfaction, release and discharge of Priority Tax Claims, each Holder of a Priority Tax Claim shall receive, on the Effective Date, or as soon as practicable after each such Claim becomes an Allowed Claim, payment from the Disbursing Agent, (i) in Cash, in the full amount of its Allowed Priority Tax Claim or (ii) as may be otherwise mutually agreed in writing between the Debtor the Holder of such Priority Tax Claim.

**Bankruptcy Fees.** All fees and charges assessed against the Debtor under section 1930 of title 28 of the United States Code and any applicable interest thereon shall be paid in full as required by statute and until the closing, conversion or dismissal of this Case, whichever is earlier. The Debtor shall continue to be responsible for the payment of any such fees and charges.

#### **DISPUTED CLAIMS**

Article 7 of the Plan contains a mechanism for resolving disputes concerning the amount of certain Claims asserted against the Debtor.

**Time to Object.** Unless otherwise ordered by the Bankruptcy Court, objections to the allowance of any Claim may be filed no later than the later to occur of (i) 60 days after the Effective Date or (ii) 60 days after the date proof of such Claim or a request for payment of such Claim is filed. Until the earlier of (i) the filing of an objection to a Proof of Claim or (ii) the last date to file objections to Claims as established by the Plan or by Final Order, Claims shall be deemed to be Disputed in their entirety if, (i) the amount specified in a Proof of Claim exceeds the amount of any corresponding Claim listed in the Schedules; (ii) any corresponding Claim listed in the Schedules has been scheduled as disputed, contingent or unliquidated; or (iii) no corresponding Claim has been listed in the Schedules.

#### **DISTRIBUTIONS UNDER THE PLAN**

Article 7 contains provisions governing the making of distributions on account of Claims. In general, any payments, distributions or other performance to be made pursuant to the Plan on account of any Allowed Claim shall be deemed to be timely made if made on or within five days following the later of (i) the expiration of any applicable objection deadline with respect to Disputed Claims or (ii) such other time as provided in the Plan. All Cash payments to be made by the Debtor pursuant to the Plan shall be made by wire transfer or check drawn on a domestic bank. To the extent that any distribution is not paid on the Effective Date, funds in an amount necessary to satisfy any such unpaid claim shall be maintained in an escrow account for distribution thereafter.

**Disbursing Agent.** Robinson Brog Leinwand Greene Genovese & Gluck P.C. shall be the Disbursing Agent and other than the payments to be made at the closing of the sale of the Apartment, shall make distributions under the Plan.

**Timing of Distributions Under the Plan.** Subject to sections 7.6 and 7.8 of the Plan, any payments, distributions or other performance to be made pursuant to the Plan on account of any Disputed Claim, shall be deemed to be timely made if made on or within five days following

the later of (i) the expiration of any applicable objection deadline with respect to such Disputed Claim or (ii) such other times provided in the Plan.

**Method of Payment.** Unless otherwise expressly agreed, in writing, all Cash payments to be made pursuant to the Plan shall be made by wire transfer of check drawn on a domestic bank.

**No Distribution Pending Allowance.** Notwithstanding any other provision of the Plan, no payment or distribution of any kind shall be made with respect to any portion of a Disputed Claim unless and until all objections to such Claim are resolved by Final Order.

**Distribution After Allowance.** Within 30 days after the entry of a Final Order resolving an objection to a Disputed Claim, the Disbursing Agent shall distribute all Cash or other property, including any interest, dividends or proceeds thereof, to which a Holder is then entitled with respect to any formerly Disputed Claim that has become an Allowed Claim.

**Surrender of Instruments; Execution of Satisfactions and Releases.**

(a) Notwithstanding any other provision of the Plan, no Creditor that holds a note or other instrument evidencing such Creditor's Claim may receive any distribution with respect to such Claim unless and until the original note or other original instrument evidencing such Claim shall have been validly surrendered to the Disbursing Agent at the sole cost and expense of such Creditor.

(b) Any Cash or property to be distributed pursuant to the Plan on account of any such Claim shall, pending surrender, be treated as an undeliverable distribution pursuant to section 7.13 of the Plan.

(c) In the event any Creditor is unable to surrender a note or other instrument evidencing a Claim against the Debtor that has been destroyed, lost or stolen, such entity may receive a distribution with respect to such Claim by presenting to the Disbursing Agent, in a form acceptable to the Disbursing Agent: (i) proof of such entity's title to such Claim; (ii) an affidavit to the effect that the same has been lost and after diligent search cannot be located; and (iii) such indemnification as may be required by the Disbursing Agent and all other entities deemed appropriate by the Disbursing Agent from any loss, action, suit or any claim whatsoever which may be made as a result of such entity's receipt of a distribution under the Plan.

(d) All questions as to the validity, form or eligibility of any note or other instrument evidencing a Claim so surrendered shall be resolved by Final Order of the Bankruptcy Court. The Disbursing Agent shall not be under any duty to give notification of defects in such tender or shall incur liability for failure to give notification of such defects.

**Delivery of Distributions.** Except as provided in sections 7.13, 7.14 and 7.15 of the Plan, distributions to Holders of Allowed Claims shall be made: (1) at the addresses set forth on the respective Proofs of Claim filed by such Holders; (2) at the addresses set forth in any written notices of address changes delivered to the Disbursing Agent after the date of any related Proof of Claim; or (3) at the address reflected in the Schedules if no Proof of Claim is filed and the Disbursing Agent has not received a written notice of a change of address.

**Undeliverable Distributions.**

(a) If the distribution to the Holder of any Claim is returned to the Disbursing Agent as undeliverable, no further distribution shall be made to such Holder unless and until the Disbursing Agent is notified in writing of such Holder's then current address. Undeliverable distributions shall remain in the possession of the Disbursing Agent until the earlier of (i) such time as a distribution becomes deliverable or (ii) such undeliverable distribution becomes an unclaimed distribution pursuant to section 7.14 of the Plan.

(b) Until such time as an undeliverable distribution becomes an unclaimed distribution pursuant to section 7.14 of the Plan, within 30 days after the end of each calendar quarter following the Effective Date, the Disbursing Agent shall make distributions of all Cash and other property that has become deliverable during the preceding quarter. Each such distribution shall include the net return yielded from the investment of any undeliverable Cash, from the date such distribution would have been due had it then been deliverable to the date that such distribution becomes deliverable.

(c) Nothing contained in the Plan shall require the Debtor or Disbursing Agent to attempt to locate any Holder of an Allowed Claim.

**Unclaimed Distributions.** Any Cash or other assets to be distributed under the Plan shall revert to the Debtor, to be redistributed pursuant to the terms of the Plan, if it is not claimed by the entity entitled thereto before the later of (i) one year after the Effective Date; (ii) one year after such scheduled payment to such entity under Article 4 of the Plan; or (iii) one year after an Order allowing the Claim of that entity becomes a Final Order, and such entity's claim shall be reduced to zero.

**Set-offs.** The Disbursing Agent may, but shall not be required to, set-off against the distributions to be made pursuant to the Plan the claims, obligations, rights, causes of action and liabilities of any nature that the Debtor may hold against the Holder of an Allowed Claim, *provided, however*, that neither the failure to effect such a set-off nor the allowance of any claim hereunder shall constitute a waiver or release by the Debtor (or the Disbursing Agent) of any such claims, obligations, rights, causes of action and liabilities that the Debtor or the Disbursing Agent has or may have against such Holder. To the extent the Disbursing Agent elects to effectuate a set-off, the Disbursing Agent shall notify the Holder of the Allowed Claim in writing at least ten (10) days prior to effectuating the set-off. To the extent the Holder of an Allowed Claim objects to the set-off, a written objection shall be provided to the Disbursing Agent no later than three (3) days prior to the set-off date or the objection shall be waived.

**Estimation of Claims.** The Debtor may at any time request that the Bankruptcy Court estimate any contingent, unliquidated, or Disputed Claim pursuant to section 502(c) of the Bankruptcy Code regardless of whether the Debtor previously objected to such Claim or whether the Bankruptcy Court has ruled on any such objection, and the Bankruptcy Court will retain jurisdiction to estimate any Claim at any time during litigation concerning any objection to any Claim, including, without limitation, during the pendency of any appeal relating to any such objection. In the event that the Bankruptcy Court estimates any contingent, unliquidated, or Disputed Claim, the amount so estimated shall constitute either the Allowed amount of such

Claim or a maximum limitation on such Claim, as determined by the Bankruptcy Court. If the estimated amount constitutes a maximum limitation on the amount of such Claim, the Debtor may pursue supplementary proceedings to object to the allowance of such Claim. All of the aforementioned objection, estimation and resolution procedures are intended to be cumulative and not exclusive of one another. Claims may be estimated and subsequently compromised, settled, withdrawn, or resolved by any mechanism approved by the Bankruptcy Court.

#### **DISTRIBUTIONS WITH RESPECT TO DISPUTED CLAIMS**

During the pendency of any objection to any Claim, no distribution under the Plan will be made to the holder of such Claim. However, there will be set aside and reserved on behalf of such Disputed Claim such cash or property as the holder thereof would be entitled to receive in the event such Claim was an Allowed Claim on the date of such distribution. The Debtor may seek an order of the Bankruptcy Court estimating or limiting the amount of Cash or property that must be deposited in respect of any such disputed Claims. Cash held in reserve for disputed Claims will be held in trust for the benefit of the holders of such Claims.

Within 30 days after the entry of a Final Order resolving an objection to a Disputed Claim, the Disbursing Agent shall distribute all Cash or other property, including any interest, dividends or proceeds thereof, to which a holder is then entitled with respect to any formerly Disputed Claim that has become an Allowed Claim. To the extent practicable, the Disbursing Agent shall hold such cash in a segregated account in accordance with section 345 of the Bankruptcy Code, and may invest any cash or other property segregated on account of a Disputed Claim, undeliverable distribution, or any proceeds thereof; however, the Disbursing Agent shall be under no obligation to so invest such Cash or proceeds and shall have no liability to any party for any investment made or any omission to invest such Cash, other property or proceeds. Any segregated amounts remaining after all Disputed Claims have been resolved will be retained by Debtor until it dissolves and then shall be applied to one or more charities.

#### **COMPLIANCE WITH TAX REQUIREMENTS**

In connection with the Plan, the Disbursing Agent shall comply with all withholding and reporting requirements imposed by federal, state and local taxing authorities and distributions under the Plan shall be subject to such withholding and reporting requirements provided, however, that the transfer of any Cash, property or other interest under the Plan shall not be subject to any federal, state or local tax to the fullest extent provided under section 1146 of the Bankruptcy Code. As a condition to making any distribution under the Plan, the Reorganized Debtor and the Disbursing Agent may require that the Holder of an Allowed Claim provide such holder's taxpayer identification number and such other information and certification as may be deemed necessary to comply with applicable tax reporting and withholding laws.

#### **EFFECTIVE DATE**

The Effective Date of the Plan shall be the first Business Day after which all of the conditions to the Effective Date, specified in Section 11.1 of the Plan.

### **TREATMENT OF EXECUTORY CONTRACTS AND UNEXPIRED LEASES**

**Assumption and Assignment of Executory Contracts and Unexpired Leases.** On the Effective Date, the Contract of Sale with 163 East 69 is neither being assumed nor rejected. It is subject to the resolution of the New York Litigation. All other Executory Contracts and Unexpired Leases to which Debtor is a party, if any, shall be deemed rejected.

**Rejection Claims.** Allowed Claims arising from the rejection of any Executory Contract or Unexpired Lease shall be treated as a Class 5 Unsecured Claim.

A Proof of Claim with respect to any Unsecured Claim for damages arising from the rejection of an Executory Contract or Unexpired Lease pursuant to the Plan shall not be timely filed unless it is filed with the Bankruptcy Court and served so that it is received by the Disbursing Agent not later than 30 days after the earlier of (i) the date of entry of a Final Order approving such rejection (unless such Final Order expressly provides a Bar Date with respect to such Claim, in which event no Proof of Claim with respect to such Claim shall be deemed timely unless it is filed with the Bankruptcy Court and served in the manner provided in such Final Order), and (ii) the Effective Date. Any such Proof of Claim not timely filed and served shall be forever barred from assertion and may not be enforced against the property of the Estate, the Debtor, or their successors or respective properties.

**Rule 9019 and Resolution of the New York Litigation.** The Debtor and 163 East 69 are currently litigating the enforceability of the Contract of Sale in the New York Litigation. If the Debtor is successful, the Contract of Sale will be rescinded or determined to be unenforceable and there is no contract to be assumed or rejected. If 163 East 69 is successful in the New York Litigation, 163 East 69 may be entitled to specific performance and the Debtor may be constrained to perform its obligations under the Contract of Sale and sell the Property for \$9.75 million. Accordingly, the Contract of Sale is not subject to assumption or rejection under this Plan.

### **IMPLEMENTATION OF THE PLAN**

**Implementation.** The Debtor shall take all necessary steps, and perform all necessary acts, to consummate the terms and conditions of the Plan. The Confirmation Order shall contain appropriate provisions, consistent with Section 1142 of the Bankruptcy Code, directing the Debtor and any other necessary party to execute or deliver or to join in the execution or delivery of any instrument required to effect a transfer of property required by the Plan or subsequent court order and to perform any act, that is necessary for the consummation of the Plan.

As indicated above, if 163 East 69 is successful in the New York Litigation, the Debtor may be required to consummate the sale of the Property to 163 East 69 pursuant to the Contract of Sale. If the Debtor is not required to do so (such as, for example, if the Debtor is successful in the New York Litigation, if the parties to the New York Litigation enter into a compromise and settlement, or if 163 East 69 fails to comply with its obligations under the Contract of Sale), then the Debtor shall sell the Property in such manner, and pursuant to such procedures, as may be further ordered by the Bankruptcy Court.

After the resolution of the New York Litigation and the sale of the Property, the Debtor shall use the Sale Proceeds to repay the DIP Loan pursuant to the DIP Loan Agreement, and will satisfy any remaining post-confirmation expenses.

The Debtor shall seek New York Court approval for the dissolution of the Congregation pursuant to Section 18 of the RCL. The Debtor shall thereafter distribute all remaining net proceeds from the sale of the Property to such religious, benevolent or charitable objects or purposes as the New York Court may approve in accordance with such Section 18 of the RCL.

The Confirmation Order shall contain appropriate provisions, consistent with section 1142 of the Bankruptcy Code, directing the Debtor and any other necessary party to execute or deliver or to join in the execution or delivery of any instrument required to effect the dissolution of the Congregation pursuant to Section 18 of the RCL, including the distribution of net sale proceeds as approved by the New York Court.

**Plan Funding.** Funding for the Plan shall be from the DIP Loan and the sale of the Debtor's Property.

**Vesting of Assets.** Except as otherwise provided in the Plan, on the Effective Date, (i) the Property shall vest in the Debtor until it is dissolved and the Property is sold to either 163 East 69 or a different purchaser, and (ii) any and all Liens, Claims and encumbrances that have not been expressly preserved under the Plan shall be deemed extinguished as of such date. Following the Effective Date, the Debtor may settle and compromise any objections to claims in accordance with the provisions of the Bankruptcy Code and the Bankruptcy Rules. Notwithstanding the foregoing, the sale of the Property shall require the approval of the Bankruptcy Court as otherwise provided in Section 363 of the Bankruptcy Code.

**Execution of Documents.**

(a) On the later of the Effective Date or the closing of the sale of the Property, the Debtor, and any necessary party thereto, shall execute, release and deliver all documents reasonably necessary to consummate the transactions contemplated by the terms and conditions of the Plan.

(b) Except as otherwise provided in the Plan, all assets transferred (i) by the Debtor or (ii) by any non-debtor third party in accordance with the terms of the Plan shall be, as of the Effective Date, deemed to be free and clear of all Liens, Claims and encumbrances and any and all Liens, Claims and encumbrances that have not been expressly preserved under the Plan shall be deemed extinguished as of such date.

(c) Pursuant to sections 105, 1141(c) and 1142(b) of the Bankruptcy Code, the Debtor shall be authorized to execute, in the name of any necessary party any estoppel certificate, or any notice of satisfaction, release or discharge of any Lien, Claim or encumbrance (including, any Lien, Claim or encumbrance that is to be released and satisfied upon the Debtor's compliance with the provisions of Article 4 of the Plan) not expressly preserved in the Plan and deliver such notices to any and all federal, state and local governmental agencies or departments for filing and recordation, and the Confirmation Order shall expressly so provide.



**Filing of Documents.** Pursuant to sections 105, 1141(c) and 1142(b) of the Bankruptcy Code, each and every federal, state and local governmental agency or department, shall be directed to accept and record any and all documents and instruments necessary, useful or appropriate to effectuate, implement and consummate the transactions contemplated by the Plan, and any and all notices of satisfaction, release or discharge or assignment of any Lien, Claim or encumbrance not expressly preserved by the Plan.

**Distributions.** All payments required to be made under the Plan shall be made by the Disbursing Agent for disbursement in accordance with the terms of the Plan.

**Preservation of Rights of Action.**

(a) Except as otherwise provided in the Plan or in any contract, instrument, release or other agreement entered into in connection with the Plan, the Debtor shall retain any claims, counter-claims, cross-claims, rights or causes of action that it may have, including but not limited to, any claims against 163 East 69, Debtor's former counsel, and the Debtor's former director, Alvin Glick.

(b) Notwithstanding any provision of the Plan to the contrary, definitions and descriptions contained herein respecting pre-Petition Date documents, agreements or claims are provided solely for the purpose of identification and classification thereof and do not constitute an admission by the Debtor of the existence, validity, allowance, or amount of any such claim, document or agreement. The Debtor expressly reserves the right to challenge the existence, validity, allowance, or amount of any such claim, document or agreement.

**Transfer Taxes**

(a) Pursuant to section 1146(a) of the Bankruptcy Code, the issuance, transfer, or exchange of any security and the making or delivery of any instrument of transfer in connection with or in furtherance of the Plan, shall be exempted and shall not be subject to tax under any law imposing a stamp tax, real estate Transfer Tax, mortgage recording tax or similar tax, including any such taxes due on the sale or transfer of the Property and to the extent provided by 1146 of the Bankruptcy Code, if any, shall not be subject to any state, local or federal law imposing such tax.

(b) Pursuant to section 1142(b) of the Bankruptcy Code, the Confirmation Order shall direct the appropriate recording office to record any recordable document executed in connection with the consummation of the Plan, without the payment of Transfer Taxes. The appropriate recording office in the State of New York or its municipalities and counties shall record any recordable document executed in connection therewith without the payment of any Transfer Taxes.

**Post-Confirmation Management and Compensation.** Until the Debtor is dissolved pursuant to New York Religious Corporations Law §18, the post-confirmation management of the Debtor will be Eve Kreger, as President, and Harold Friedlander as Vice President. Ms. Kreger and Mr. Friedlander will each earn a salary of \$7,500 per month. The directors of the Congregation will be Eve Kreger, Harold Friedlander and Ralph Kreger.

## **MISCELLANEOUS PROVISIONS**

### **MODIFICATION AND REVOCATION OF THE PLAN**

The Plan may be altered, amended or modified by the Debtor, at any time before the substantial consummation of the Plan, as provided in sections 1101(a) and 1127 of the Bankruptcy Code and Bankruptcy Rule 3019. Section 1127 of the Bankruptcy Code authorizes the proponent of a plan of reorganization to modify such plan at any time prior to confirmation of the plan so long as the plan, as modified, continues to meet certain technical requirements of sections 1122 and 1123 of the Bankruptcy Code with respect to the classification of Claims and Interests and the contents of a plan. Prior to Confirmation, if a proponent files modifications to a plan, pursuant to section 1127(a) “the plan as modified becomes the plan.” No order of the Court is required to modify the Plan under the terms of section 1127(a); however, the proponent of a modification to a plan must comply with section 1125 of the Bankruptcy Code with respect to the plan as modified. In other words, if a modification materially alters the treatment of any Creditor who has accepted the Plan, the Debtor will be required to make additional disclosures to those Creditors whose treatment has been materially and adversely altered and give such Creditors an opportunity to change their votes.

The Debtor may revoke or withdraw the Plan at any time prior to entry of the Confirmation Order. If the Debtor revokes or withdraws the Plan, or if no Confirmation Order is entered, the Plan shall be null and void, and nothing contained in the Plan shall (i) constitute a waiver or release of any Claims by or against the Debtor; or (ii) prejudice, in any manner, the rights of the Debtor or any other party in any further proceedings involving the Debtor or its Estate.

### **RETENTION OF JURISDICTION**

Notwithstanding the entry of the Confirmation Order or the occurrence of the Effective Date, until the Case is closed, the Bankruptcy Court shall retain and have original, but not exclusive, jurisdiction to:

(a) Insure that the Plan is consummated, and to enter any Order pursuant to section 1142(b) of the Bankruptcy Code, to compel the Debtor, and any other necessary party, to take such action and execute such documents to effectuate the Plan;

(b) Consider any modification of the Plan proposed pursuant to section 1127 of the Bankruptcy Code and Bankruptcy Rule 3019;

(c) Approve the sale of the Property, and all procedures governing such sale;

(d) Allow, disallow, determine, liquidate, classify or establish the priority, secured or unsecured status of any Claim, including, without limitation, the resolution of any request for payment of any Administrative Expense, the resolution of any and all objections to the allowance or priority of Claims, and the resolution of any adversary proceeding;

(e) Grant or deny any and all applications for allowance of compensation or reimbursement of expenses authorized pursuant to the Bankruptcy Code or the Plan, for any period ending on or before the Effective Date;

(f) Resolve any motions pending on the Effective Date to assume, assume and assign or reject any Executory Contract or Unexpired Lease to which the Debtor is a party or with respect to which the Debtor may be liable and to hear, determine and if necessary, liquidate, any and all Claims arising therefrom;

(g) Ensure that distributions to Holders of Allowed Claims are accomplished in accordance with the provisions of this Plan;

(h) Decide or otherwise resolve any and all applications, motions, adversary proceedings, contested or litigated matters, and any other matters or grant or deny any applications involving the Debtor that may be pending on the Effective Date;

(i) Enter such orders as may be necessary to facilitate the dissolution of the Congregation pursuant to the RCL;

(j) Enter such Orders as may be necessary or appropriate to implement or consummate the provisions of the Plan and all contracts, instruments, releases and other agreements or documents created in connection with the Plan or Disclosure Statement or to enforce all orders, judgments, injunctions, and rulings entered in connection with the Case, including, but not limited to any Order necessary to enforce the provisions of article 7 of the Plan;

(k) Resolve any and all controversies, suits or issues that may arise in connection with the consummation, interpretation or enforcement of the Plan or any Entity's obligations incurred in connection with the Plan;

(l) Modify the Plan before or after the Effective Date pursuant to section 1127 of the Bankruptcy Code, or to modify the Disclosure Statement or any contract, instrument, release or other agreement or document created in connection with the Plan or Disclosure Statement;

(m) Remedy any defect or omission or reconcile any inconsistency in any Order, the Plan, the Disclosure Statement or any contract, instrument, release or other agreement or document created in connection with the Plan, to the extent authorized herein or in the Bankruptcy Code;

(n) Issue any injunctions, enter and implement other Orders or take such other actions as may be necessary or appropriate to restrain interference by any entity with consummation or enforcement of the Plan;

(o) Enter and implement such Orders as are necessary or appropriate if the Confirmation Order is for any reason modified, stayed, reversed, revoked or vacated;

(p) Determine any dispute arising under or related to the Plan, including, without limitation, any dispute concerning the scope or effect of any release or discharge provided for by the Plan or the Confirmation Order;

(q) Determine any other matters that may arise in connection with or relate to the Plan, the Disclosure Statement, the Confirmation Order or any contract, instrument, release or other agreement or document created in connection with the Plan or Disclosure Statement; and

(r) Enter an Order or Final Decree concluding the Case.

## **RISK FACTORS**

### **Certain Risk Factors Affecting the Debtor**

#### **A. Certain Bankruptcy Law Considerations.**

##### *1. Risk of Non-Confirmation of the Plan.*

Although the Debtor believes that the Plan will satisfy all requirements necessary for confirmation by the Bankruptcy Court, there can be no assurance that the Bankruptcy Court will reach the same conclusion or that modifications of the Plan will not be required for confirmation or that such modifications would not necessitate resolicitation of votes.

##### *2. Risk Related to Non-Approval of DIP Loan*

In the event the Bankruptcy Court does not grant approval to the DIP Loan, the Debtor would be unable to fund the Plan until after the New York Litigation is resolved or the Plan is sold, resulting in a delay of uncertain duration until creditor's claims could be paid.

##### *3. Risk Related to DIP Loan*

In the event of an event of default under the DIP Facility, the DIP Lender may seek, among other things, to exercise certain remedies and to take certain other actions against the Debtor.

#### **B. Additional Factors to be Considered**

##### *1. The Debtor Has No Duty to Update*

The statements contained in this Disclosure Statement are made by the Debtor as of the Commencement Date, unless otherwise specified herein, and the delivery of this Disclosure Statement after that date does not imply that there has been no change in the information set forth herein since that date. The Debtor has no duty to update this Disclosure Statement unless otherwise ordered to do so by the Bankruptcy Court.

##### *2. No Representation Outside This Disclosure Statement Are Authorized*

No representations concerning or related to the Debtor, the Chapter 11 Case, or the Plan are authorized by the Bankruptcy Court or the Bankruptcy Code, other than as set forth in this Disclosure Statement. Any representations or inducements made to secure your acceptance or rejection of the Plan that are other than as contained in, or included with, this Disclosure Statement should not be relied upon by you in arriving at your decision.

##### *3. No Legal or Tax Advice is Provided to You by This Disclosure Statement*

The contents of this Disclosure Statement should not be construed as legal, business, or tax advice. Each holder of a Claim should consult his, her, or its own legal counsel and accountant as to legal, tax, and other matters his, her, or its Claim.

This Disclosure Statement is not legal advice to you. This Disclosure Statement may not be relied upon for any purpose other than to determine how to vote on the Plan or object to confirmation of the Plan.

4. *No Admission Made*

Nothing contained in the Plan will constitute an admission of, or be deemed evidence of, the tax or other legal effects of the Plan on the Debtor or on holders of Claims.

5. *Failure to Identify Litigation Claims or Projected Objections*

No reliance should be placed on the fact that particular litigation claim or projected objection to a particular Claim is, or is not, identified in this Disclosure Statement. The Debtor may seek to investigate, file, and prosecute Claims and may object to Claims after the Confirmation or Effective Date of the Plan irrespective of whether this Disclosure Statement identifies such Claims or objections to such Claims.

6. *No Waiver of Right to Object or Right to Recover Transfers and Assets*

The vote by a holder of a Claim for or against the Plan does not constitute a waiver or release of any claims, causes of action, or rights of the Debtor (or any entity, as the case may be) to object to that holder's Claim, or recover any preferential, fraudulent, or other voidable transfer of assets, regardless of whether any claims or causes of action of the Debtor or its Estate are specifically or generally identified in this Disclosure Statement.

7. *Information Was Provided by the Debtor and Was Relied Upon by the Debtor's Advisors*

The Debtor's advisors have relied upon information provided by the Debtor in connection with the preparation of this Disclosure Statement. Although the Debtor's advisors have performed certain limited due diligence in connection with the preparation of this Disclosure Statement, they have not independently verified the information contained in this Disclosure Statement.

**CONFIRMATION OF THE PLAN**

All distributions to Creditors are contingent on the Plan being confirmed by this Court. Otherwise, the Debtor is not obligated, in any way, to make the payments required hereunder.

**CREDITORS ARE UNIMPAIRED**

As all Holders of Allowed Claims will be paid in full on account of their respective claims, the Creditors in each class are unimpaired and are deemed to have accepted the Plan. As a result, none of the Creditors will vote on the Plan.

**ACCEPTANCE AND CONFIRMATION**

**CONFIRMATION HEARING**

The Bankruptcy Code requires that the Bankruptcy Court, after notice, hold a hearing to consider confirmation of the Plan. The Confirmation Hearing is scheduled to commence on \_\_\_\_\_, 2017 at \_\_\_\_\_ a.m. in the United States Bankruptcy Court, Southern District of New York, One Bowling Green, Alexander Hamilton Customs House, New York, New York. The Confirmation Hearing may be adjourned from time to time by the Bankruptcy Court without further notice except for an announcement made at the Confirmation Hearing.

Any party in interest may object to Confirmation of the Plan by filing a written objection, setting forth their identity and standing and the facts and authorities upon which any objection is based, in the Office of the Clerk of the Bankruptcy Court, no later than August 25, 2015, and by delivering a courtesy copy to the Chambers of the presiding judge. Copies of all objections must also be served so that they are received, as required by the Court upon (i) Robinson Brog Leinwand Greene Genovese & Gluck P.C., 875 Third Avenue, 9<sup>th</sup> Fl., New York, New York 10022, Attn.: A. Mitchell Greene, Esq., and (ii) the Office of the United States Trustee, 201 Varick Street, Suite 1006, New York, New York 10014. Any objection that is not timely filed and served as required by any order of this Court, will not be considered by this Court at the Confirmation Hearing.

#### REQUIREMENTS FOR CONFIRMATION

At the Confirmation Hearing, the Bankruptcy Court will determine whether the requirements of section 1129 of the Bankruptcy Code have been satisfied, in which event the Bankruptcy Court will enter an order confirming the Plan. These requirements include determinations by the Bankruptcy Court that: (i) the Plan has classified Claims in a permissible manner, (ii) the contents of the Plan comply with various technical requirements of the Bankruptcy Code, (iii) the Debtor has proposed the Plan in good faith, (iv) the Debtor has made disclosures concerning the Plan that are adequate and include information concerning all payments made or promised in connection with the Plan and the Case, (v) the Plan is in the “best interest” of all Creditors, (vi) the Plan is feasible, and (vii) the Plan has been accepted by the requisite number and amount of Creditors in each Class entitled to vote on the Plan, or that the Plan may be confirmed without such acceptances. The Debtor believes that all of these conditions have been or will be met prior to the Confirmation Hearing.

**Best Interest Test.** The so-called “best interest” test requires that each impaired Creditor and impaired Interest Holder either (a) accepts the Plan or (b) receives or retains under the Plan property of a value, as of the Effective Date of the Plan, that is not less than the value such entity would receive or retain if the Debtor was to be liquidated under Chapter 7 of the Bankruptcy Code.

To determine what the holders in each Impaired Class of Claims or Interest would receive if the Debtor were liquidated under Chapter 7, the Bankruptcy Court must determine the dollar amount that would be generated from the liquidation of the Debtor’s assets and properties in a Chapter 7 liquidation case. The amount that would be available for satisfaction of Allowed Claims against the Debtor would consist of the proceeds resulting from the disposition of the Debtors’ assets, augmented by the cash held by the Debtor at the commencement of the Chapter 7 case. Such amount would be reduced by the amount of any Claim or Claims secured by the Debtors’ assets, the costs and expenses of the liquidation, and such additional Administrative Claims and Priority Claims that may have accrued. Such value is then juxtaposed against the amount creditors are receiving under the Plan to determine if the value each impaired creditor is receiving is the same or more than such creditor would receive from a Chapter 7 liquidation on the Confirmation Date.

The costs of liquidation under Chapter 7 would become Administrative Claims with the highest priority against the proceeds of liquidation. Such costs would include the fees payable to

a Chapter 7 Trustee, as well as those which might be payable to attorneys, financial advisors, appraisers, accountants and other professionals that such a Trustee may engage to assist in the liquidation. In addition, Chapter 7 costs would include any liabilities incurred or assumed pursuant to the transactions necessary to effectuate the liquidation.

After satisfying Administrative Claims arising in the course of the Chapter 7 liquidation, the proceeds of the liquidation would then be payable to satisfy any unpaid expenses incurred during the time the Case was pending under chapter 11, including compensation for the Debtors' attorneys, financial advisors, appraisers, accountants and other professionals whose retention was approved by the Court.

Due to the large amount of "equity" in the Property, the Debtor believes that Holders of all Claims would receive a distribution that is not less than the value that the Holder of an Allowed Claim would receive if the Debtor was to be liquidated under Chapter 7 of the Bankruptcy Code. Thus, this Plan satisfies the "Best Interests" test.

**Liquidation Analysis.** The Plan provides for payment of all Allowed Claims in full. As a result, the Debtor has concluded that the Plan provides to each Creditor a recovery with a present value at least equal to the present value of the distribution which such person would receive if the Debtor was liquidated under Chapter 7 of the Bankruptcy Code.

Due to the substantial amount of value in the Property in excess of the Congregation debt, the Debtor believes that the Holders of Allowed Claims would be paid in full if the assets were sold in a Chapter 7 liquidation, just like the Creditors will be paid in full under the Plan.

Although the Debtor further believes that the net effect of a conversion of this case to Chapter 7 would be to (i) increase the administrative expenses of the estate and (ii) decrease the funds available for charities, the distribution to the Creditors would be the same.

The Debtor is litigating with 163 East 69 in the New York Litigation. One of the major issues is the valuation of the Property. Two appraisals of the Property were submitted to the New York Supreme Court. The Lower of these two appraisals is \$9.5 million. Even using this appraisal, there is more than sufficient money available to pay all Creditors in full, whether or not the Debtor's Property is sold under a Plan or in a Chapter 7 liquidation. The Debtor has borrowed \$3,575,000 to pay all claims in this case, including administrative claims. Even if the administrative claims exceed that amount, there are several million dollars of equity in the Property. As a result, the Creditors will receive the same 100 cent distribution under the Plan and in a Chapter 7 liquidation.

Accordingly, the Debtor believes that the Plan provides Creditors with at least as much as they would be entitled to receive in a Chapter 7 liquidation.

**Feasibility.** For the Plan to be confirmed, it must be demonstrated that consummation of the Plan is not likely to be followed by the liquidation or the need for further financial reorganization of the Debtor unless such liquidation is set forth in the Plan. The Plan provides for the sale of substantially all of the Debtor's assets and the distribution of the proceeds of such sale. Accordingly, the Debtor believes all Plan obligations will be satisfied without the need for further financial reorganization of the Debtor.

### **NO VOTING**

As noted herein, all classes of Claims are not impaired by the Plan. Accordingly, all Holders of Claims are deemed to have accepted the Plan and votes of Holders of Claims in each class will not be solicited.

### **EFFECT OF CONFIRMATION**

#### **INJUNCTION**

**Except (i) as otherwise provided in the Plan or (ii) in any Final Order entered by the Bankruptcy Court, and so long as all payments have been made under the Plan, all persons who have held, hold, or may hold Claims against the Debtor that arose before or were held as of the Effective Date, are permanently enjoined, on and after the Effective Date, from the commencement or continuation of any action, the employment of process, from taking any act to collect, enforce, attach, recover or offset against such claim and taking any act to create, perfect or enforce any lien or encumbrance against property of the estate retained by the Debtor (including cash from the sale of the Property) or distributed to Creditors under the Plan.**

#### **LIMITATION OF LIABILITY**

**Neither the Debtor, nor any professional person employed by any of them (the "Released Parties"), shall have or incur any liability to any entity for any action taken or omitted to be taken in connection with or related to the formulation, preparation, dissemination, Confirmation or consummation of the Plan, the Disclosure Statement or any contract, instrument, release or other agreement or document created or entered into, or any other action taken or omitted to be taken in connection with this Case or the Plan, except in the case of fraud, gross negligence, willful misconduct, malpractice, breach of fiduciary duty, criminal conduct, unauthorized use of confidential information that causes damages, or ultra vires acts. Nothing in Article 8.2 of the Plan shall limit the liability of the Debtor's professionals pursuant to Rule 1.8(h)(1) of the New York State Rules of Professional Conduct. From and after the Effective Date, a copy of the Confirmation Order and the Plan shall constitute, and may be submitted as, a complete defense to any claim or liability released pursuant to Article 8 of the Plan.**

#### **EXCEPTION FOR THE UNITED STATES**

**As to the United States of America, its agencies, departments, or agents (collectively, the "United States"), nothing in the Plan or Confirmation Order shall limit or expand the scope of discharge, release or injunction to which the Debtor is entitled to under the Bankruptcy Code, if any. The release and injunction provisions contained in the Plan and Confirmation Order are not intended and shall not be construed to bar the United States from, subsequent to the Confirmation Order, pursuing any police or regulatory action.**

**Accordingly, notwithstanding anything contained in the Plan or Confirmation Order to the contrary, nothing in the Plan or Confirmation Order shall discharge, release, impair or otherwise preclude: (1) any liability to the United States that is not a "claim" within the meaning of section 101(5) of the Bankruptcy Code; (2) any Claim of the United States arising on or after the Confirmation Date; (3) any valid right of setoff or recoupment**



of the United States against the Debtor; or (4) any liability of the Debtor under environmental law to any Governmental Unit (as defined by section 101(27) of the Bankruptcy Code) as the owner or operator of property that such entity owns or operates after the Confirmation Date. Nor shall anything in this Confirmation Order or the Plan: (i) enjoin or otherwise bar the United States or any Governmental Unit from asserting or enforcing, outside the Bankruptcy Court, any liability described in the preceding sentence; or (ii) divest any court, commission, or tribunal of jurisdiction to determine whether any liabilities asserted by the United States or any Governmental Unit are discharged or otherwise barred by this Confirmation Order, the Plan, or the Bankruptcy Code.

Moreover, nothing in the Confirmation Order or the Plan shall release or exculpate any non-debtor, including any Released Parties, from any liability to the United States, including but not limited to any liabilities arising under the Internal Revenue Code, the environmental laws, or the criminal laws against the Released Parties, nor shall anything in this Confirmation Order or the Plan enjoin the United States from bringing any claim, suit, action or other proceeding against the Released Parties for any liability whatsoever.

Nothing contained in the Plan or Confirmation Order shall be deemed to determine the tax liability of any person or entity, including but not limited to the Debtor, nor shall the Plan or Confirmation Order be deemed to have determined the federal tax treatment of any item, distribution, or entity, including the federal tax consequences of this Plan, nor shall anything in this Plan or Confirmation Order be deemed to have conferred jurisdiction upon the Bankruptcy Court to make determinations as to federal tax liability and federal tax treatment except as provided under 11 U.S.C. § 505.

#### ALTERNATIVES TO THE PLAN

If the Plan is not confirmed by the Bankruptcy Court, the alternatives may include (a) liquidation of the Debtor under Chapter 7 of the Bankruptcy Code; (b) the formulation, promulgation and confirmation of an alternative plan; or (c) dismissal of the Debtor's case.

The Debtor believes that the Plan provides a recovery to all Creditors equal to or greater than would be obtainable in Chapter 7 liquidation and thus is the best option available to the Debtor and its estate.

#### CERTAIN FEDERAL INCOME TAX CONSEQUENCES

The following summary of certain U.S. Federal income tax consequences is for informational purposes only and is not a substitute for careful tax planning and advice based upon the particular circumstances pertaining to each holder of an Allowed Claim or Interest. Each holder of an Allowed Claim is urged to consult his or her own tax advisor. This summary does not cover all potential U.S. federal income tax consequences that could possible arise under the Plan and does not address the Plan's U.S. federal income tax consequences for any holder of an Allowed Claim that is a partnership (or other pass-through entity) or otherwise subject to special tax rules.

The Debtor has not requested any ruling from the Internal Revenue Service or any other taxing authority with respect to such matters nor will the Debtor, with respect to the federal income tax consequences of the Plan, obtain any opinion of counsel. Consequently, there can be no assurance that the treatment set forth in the following discussion will be accepted by the IRS.

The Debtor offers no statements or opinions that are to be relied upon by the creditors as to the treatment of creditors' claims under the Plan. Matters not discussed in this Disclosure Statement may affect the tax consequences of the Plan on any particular holder of a Claim.

This summary is based upon the laws in effect on the date of this Disclosure Statement and existing judicial and administrative interpretations thereof, all of which are subject to change, possibly with retroactive effect. Holders of Allowed Claims should consult their own tax advisors as to the Plan's specific federal, state, local and foreign income and other tax consequences.

The tax consequences to Creditors will differ and will depend on factors specific to each Creditor, including but not limited to: (i) whether the Claim constitutes a claim for principal or interest; (ii) the origin of the Claim; (iii) the type of consideration received by the Creditor or in exchange for the Claim; (iv) whether the Creditor is a United States person or foreign person for tax purposes; (v) whether the Creditor reports income on the accrual or cash basis method; (vi) whether the Creditor has taken a bad debt deduction or otherwise recognized loss with respect to a Claim.

**THERE ARE MANY FACTORS WHICH WILL DETERMINE THE TAX CONSEQUENCES TO EACH CREDITOR. FURTHERMORE, THE TAX CONSEQUENCES OF THE PLAN ARE COMPLEX, AND IN SOME CASES, UNCERTAIN. THEREFORE IT IS IMPORTANT THAT EACH CREDITOR HOLDER OBTAIN HIS, HER OR ITS OWN TAX ADVICE REGARDING THE TAX CONSEQUENCES TO SUCH CREDITOR AS A RESULT OF THE PLAN.**

**THE DISCUSSION HEREIN IS NOT INTENDED OR WRITTEN TO BE USED, AND CANNOT BE USED, BY ANY CREDITOR FOR THE PURPOSE OF AVOIDING TAX PENALTIES THAT MAY BE IMPOSED ON A TAX PAYER. THE DISCUSSION HEREIN WAS WRITTEN TO SUPPORT THE TRANSACTIONS DESCRIBED IN THIS DISCLOSURE STATEMENT. EACH CREDITOR SHOULD SEEK ADVICE BASED UPON THE CREDITOR'S PARTICULAR CIRCUMSTANCES FROM AN INDEPENDENT TAX ADVISOR.**

#### **ADDITIONAL INFORMATION**

Requests for information and additional copies of this Disclosure Statement and the other materials delivered together herewith and all deliveries, correspondence and questions, as the case may be, relating to the Plan should be directed to the Debtor's counsel, Robinson Brog Leinwand Greene Genovese & Gluck P.C., 875 Third Avenue, 9<sup>th</sup> Fl., New York, New York 10022, Attn.: A. Mitchell Greene, (212) 603-6300.

Copies of all pleadings, orders, lists, schedules, proofs of claims or other documents submitted in these cases are on file in the Office of the Clerk of the United States Bankruptcy Court at One Bowling Green, New York, New York, and are available for public inspection Monday through Friday, between the hours of 9:00 a.m. and 4:00 p.m. and are also available for viewing on the Internet at <http://www.nysb.uscourts.gov>.

**CONCLUSION**

The Debtor believes the Plan is in the best interests of all.

**DATED:** New York, New York  
January 20, 2017

**CONGREGATION ACHPRETVIA TAL CHAIM  
SHAR HAYUSHOR, INC.**

**By: /s/ Harold Friedlander**  
**Harold Friedlander, Vice President**

**ROBINSON BROG LEINWAND  
GREENE GENOVESE & GLUCK P.C.  
Attorneys for the Debtor  
875 Third Avenue, 9<sup>th</sup> Floor  
New York, New York 10022  
Tel. No.: (212) 603-6300**

**By: /s/ A. Mitchell Greene**  
**A. Mitchell Greene**