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Anne Penachio, Esq.

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

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In re

CHAPTER 11

HUGHES CONTRACTING INDUS., LTD.,

CASE NO.: 16-22463 rdd)

Debtor.

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SMALL BUSINESS DISCLOSURE STATEMENT

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I. Introduction

This is the disclosure statement (the “Disclosure Statement”) in the joint small business chapter 11 case of HUGHES CONTRACTING INDUSTRIES, LTD., debtor and debtor-in-possession (“Debtor”) and ANTHONY RUSSO (“Russo”). The Disclosure Statement contains information about the Debtor and describes the Debtor’s Plan of Reorganization, dated January 24, 2017 (the “Plan”). A full copy of the Plan is submitted herewith.

Capitalized terms used in the Disclosure Statement shall have the respective meanings set forth in the Plan.

YOUR RIGHTS MAY BE AFFECTED. YOU SHOULD READ THESE PAPERS CAREFULLY AND DISCUSS THEM WITH YOUR ATTORNEY, IF YOU HAVE ONE. IF YOU DO NOT HAVE AN ATTORNEY, YOU MAY WISH TO CONSULT ONE.

The proposed distributions under the Plan are discussed at pages 10 to 13 of this Disclosure Statement. Holders of Allowed Unsecured Claims are classified in Class 4 and will receive a distribution on their Claims based upon the liquidation value of the Debtor, payable over approximately five years, without interest.

A. Purpose of Disclosure Statement

The Disclosure Statement describes:

- The Debtor and significant event during the chapter 11 bankruptcy case;
- How the Plan proposes to treat Claims or Interests of the type you hold (*i.e.*, what you will receive on your Claim or Interest if the Plan is confirmed)
- Who can vote on or object to the Plan;

- What factors the Court will consider when deciding to confirm the Plan;
- Why the Debtor believes the Plan is feasible, and how the treatment of your Claim or Interest under the Plan compares to what you would receive in liquidation; and
- The effect of Confirmation of the Plan.

BE SURE TO READ THE PLAN, TOGETHER WITH THE DISCLOSURE STATEMENT. THE DISCLOSURE STATEMENT DESCRIBES THE PLAN, BUT IT IS THE PLAN ITSELF, THAT WILL, IF CONFIRMED, ESTABLISH YOUR RIGHTS.

B. Deadlines for Voting and Objecting; Date of Plan Confirmation Hearing

The Court has not yet confirmed the Plan described in the Disclosure Statement. This section describes the procedures pursuant to which the Plan will, or will not, be confirmed.

1. Time and Place of the Hearing to Approve this Disclosure Statement and Confirm the Plan

The hearing at which the Court will determine whether to approve this Disclosure Statement and confirm the Plan will take place. in the Courtroom of the Honorable Robert D. Drain, at the United States Bankruptcy Court for the Southern District of New York, 300 Quarropas Street, White Plains, NY 10601 at a time acceptable to the Court and set by the undersigned. The Debtor and Russo have followed the procedures set forth in Bankruptcy Code Sections 1129 for confirmation of a Small Business Plan.

2. Deadline for Voting to Accept or Reject the Plan

If you are entitled to vote to accept or reject the Plan, vote on the enclosed ballot and return the ballot to Penachio Malara, LLP as explained more fully below. See Section IV. A below for a discussion of voting eligibility requirements.

YOU MUST SUBMIT YOUR BALLOT TO COUNSEL FOR THE DEBTOR, PENACHIO MALARA, LLP BY (I) FACSIMILE TO (914) 946-2882; (II) ELECTRONIC MAIL TO ANNE@PMLAWLLP.COM; OR (III) FIRST CLASS OR OVERNIGHT MAIL TO 235 MAIN STREET, SUITE 610, WHITE PLAINS, NY 10601 ON OR BEFORE THE DATE NOTICED..

3. Deadline for Objecting to the Adequacy of the Disclosure Statement and Confirmation of the Plan

Objections to the Disclosure Statement or to confirmation of the Plan must be filed with the Court and served upon (a) the attorney for the Debtor, Penachio Malara LLP, 235 Main Street, White Plains, NY 10601 and (b) the United States Trustee, 201 Varick Street, Room 1006, New York, NY 10014 on or before the date set forth in the notice.

4. Identity of Person to Contact for More Information

If you want additional information about the Plan, you should contact the attorney for the Debtor, Penachio Malara LLP, 235 Main Street, White Plains, NY 10601.

C. Disclaimer

The Court has not approved this Disclosure Statement as containing adequate information to enable parties affected by the Plan to make an informed judgment about its terms. The Court has not yet determined whether the Plan meets the legal requirements for Confirmation. The Court's approval of this Disclosure Statement is subject to final approval at the hearing on Confirmation of the Plan.

D. Debtor's Recommendation

The Debtor believes that confirmation of the Plan is in the best interests of all creditors and strongly recommends that all holders of Claims in Classes entitled to vote for the Plan vote to accept the Plan.

II. Background

A. Description, History and Management of the Debtor's Business

The Debtor is a New York Corporation with its principal place of business at 391 Saw Mill River Road, Yonkers, NY (the "Premises") which it leases from 931 Saw Mill Realty an entity controlled by the father of one of its principals (the "Landlord").

The Debtor is in the business primarily of steel fabrication.

B. Insiders of the Debtor

The Debtor's sole shareholders Russo and Sherene Russo. Both serve in senior roles as officers. Both receive salaries in the range of \$250,000.00 per year.

The Debtor has approximately 10 full-time non-insider employees.

C. Events Leading to the Chapter 11 Filing

The Debtor's bankruptcy filing was the result of a decline in revenue for several years. The decline was due to the general setbacks in the economy, loss of business, and difficulties with labor unions.

D. Significant Events During the Chapter 11 Case

Retention of Attorney for Debtor - By Order of this Court, Penachio Malara, LLP, is authorized to serve as counsel to the Debtor with compensation subject to the approval of the Court in accordance with the Code and Bankruptcy Rules.

Creditors' Committee - No Committee of Unsecured Creditors was appointed in the Debtor's chapter 11 case.

Deadline for Filing Claims - The Court established September 16, 2016 as the deadline for any party to file a proof of pre-petition Claim against the Debtor. Any party that did not file a proof of Claim on or before such deadline and was not listed by the Debtor in its Schedules as holding a Claim that was not contingent, unliquidated or disputed, is not entitled to vote such Claim or receive any distribution in respect of the Claim under the Plan.

Monthly Operations - Since the Filing Date, the Debtor has continued to operate profitably as reflected on the monthly reports.

E. Projected Recovery of Avoidable Transfers

The Debtor has reviewed its books and records for the 2 years prior to its Chapter 11 filing and does not believe that it has any viable basis to pursue any preference, fraudulent conveyance or other avoidance actions.

F. Claims and Objections

The deadline for filing claims against the Debtor was September 16, 2016. A summary of the Claims filed is annexed hereto as Exhibit A. The Schedule includes claims listed as non-contingent, undisputed and unliquidated.

The Debtor is undertaking a claims analysis. It believes that several claims are objectionable. Several claims appear to be excessive and the Debtor is in the process of communicating with the various creditors in an effort to resolve same. The Debtor may move to reduce or expunge the claims of New York State and several trade creditors or otherwise resolve same. A Disputed Claims Reserve will be established for any Disputed Claims.

G. Current and Historical Financial Information

The Debtor's most recent monthly operating report for the month of October 2016, which includes a summary of the Debtor's operations since the Filing Date. The fair market value of the Debtor's assets is limited to cash on hand and used tools.

III. Summary of the Plan

A. Purpose of the Plan

The Plan provides a mechanism pursuant to which the Debtor will satisfy its creditors. As required by the Code, the Plan places Claims and the Interest in various Classes and describes the treatment each Class will receive. The Plan also states whether each Class of Claims or Interest is impaired or unimpaired.

B. Unclassified Claims

Certain types of Claims are automatically entitled to specific treatment under the Code. They are not considered impaired and holders of such Claims do not vote on the Plan. They may, however, object if, in their view, their treatment under the Plan does not comply with that required by the Code. As such, the Debtor has *not* placed the following claims in any Class:

Administrative Expenses - Administrative expenses are costs of administering the Debtor's chapter 11 case, which are allowed under section 507(a)(2) of the Code. Administrative expenses also include the value of any goods sold to the Debtor in the ordinary course of business and received within 20 days before the Filing Date. The Code requires that all administrative expenses be paid on the Effective Date of the Plan, unless a particular claimant agrees to a different treatment. Under the Plan, Administrative Claims consist primarily of Professional Fees estimated to total \$25,000.00. The Plan provides that they will be paid following Court approval

prior to or on the Effective Date unless otherwise agreed to.

C. Classes of Claims and the Equity Interest

The following are the Classes set forth in the Plan, and the proposed treatment that they will receive under the Plan:

1. Class 1: General Unsecured Claims - General Unsecured Claims are not secured by any Assets of the Debtor and are not entitled to priority under Section 507(a) of the Code. Unless the holder of an Allowed Class 4 General Unsecured Claim agrees to less favorable treatment, the Debtor shall pay holders of Allowed Class 2 Claims 20% of the amount of the Claim payable as follows: 10% on the Effective Date of the Plan and 10% within a year of the Effective Date. Claims held by Insiders shall not receive a distribution under the Plan.

2. Class of Equity Interest / Class 2- Equity interest holders are parties who hold an ownership interest in the Debtor. The only holders of an equity interest in the Debtor are Russo and Sherene Russo. Such Interests are classified as Class 2. The Plan provides for Russo and Sherene Russo to retain their Interests in the Debtor. The Class 2 Interest are unimpaired under the Plan.

D. Means of Implementing the Plan

Payments to creditors under the Plan will be made from (a) cash contributed by Russo on the Effective Date (10%) and (b) funds realized from the Debtor's business operations following the Effective Date (the remaining 10%).

E. Risk Factors

The proposed Plan has the following risks:

Inability to Operate Profitably - Although the Debtor has been able to operate profitably since the Filing Date, there is no guarantee that profitable operations will continue. The Debtor's profitability depends upon a number of factors (some of which are beyond its control) including (a) its ability to retain its customers and develop new customers, (b) the health of the economy and (c) increases in labor, material and utility costs that are not reimbursed by insurance and cannot be passed on to the customer.

F. Executory Contracts and Unexpired Leases

The Debtor is not a party to any executory contracts.

G. Tax Consequences of the Plan

The Debtor does not believe that it will suffer any material adverse tax consequences from Confirmation of the Plan. **Creditors and the holders of the equity Interests concerned with how the Plan may affect their tax liability should consult with their own accountants, attorneys and/or advisors.**

IV. Confirmation Requirements

To be confirmable, the Plan must meet the requirements listed in Sections 1129(a) or (b) of the Code. These include the requirements that: the Plan must be proposed in good faith; at least one impaired Class of Claims must accept the Plan, without counting the votes of insiders; the Plan must distribute to the creditor or equity interest holder at least as much as the creditor or equity interest holder would receive in a chapter 7 liquidation case, unless the creditor or equity interest holder votes to accept the Plan; and the Plan must be feasible. These requirements are not the

only requirements listed in section 1129, and they are not the only requirements for Confirmation.

A. Who May Vote or Object

Any party in interest may object to Confirmation of the Plan if the party believes that the requirements for Confirmation are not met.

Many parties in interest, however, are not entitled to vote to accept or reject the Plan. A creditor or equity interest holder has a right to vote for or against the Plan only if that holder has a claim or equity interest that is both (1) Allowed or allowed for voting purposes and (2) impaired. In this case, the Debtor believes that Classes 1 is impaired and that holders of Claims in this Class is therefore entitled to vote to accept or reject the Plan.

1. What is an Allowed Claim or Allowed Equity Interest? - Only a creditor or equity interest holder with an Allowed Claim or Interest has the right to vote on the Plan. Under the Plan, a Claim or equity interest is Allowed, if either (a) the Debtor has listed the Claim on the Schedules, unless the Claim has been listed as disputed, contingent or unliquidated or (b) the creditor has filed a proof of Claim or equity interest, unless an objection has been filed to the proof of Claim or equity interest. When a Claim or equity interest is not Allowed, the creditor or equity interest holder cannot vote unless the Court, after notice and a hearing, either overrules the objection or allows the Claim or equity interest for voting purposes pursuant to Bankruptcy Rule 3018(a).

The deadline for filing a proof of claim in this case was September 16, 2016. The deadline for objecting to Claims is 60 days after the Confirmation Date.

2. What is an Impaired Claim or Impaired Equity Interest? - As noted above, the holder of an Allowed Claim or equity interest has the right to vote only if it is in a Class that is *impaired* under the Plan. As provided in section 1124 of the Code, a Class is considered impaired if the

Plan alters the legal, equitable or contractual rights of the members of that Class.

3. Who is Not Entitled to Vote? - The holders of the following six types of claims and equity interests are *not* entitled to vote:

- holders of Claims and equity interests that have been disallowed by an order of the Court;

- holders of other Claims or equity interests that are not Allowed (as discussed above) unless they have been allowed for voting purposes;

- holders of Claims or equity interests in unimpaired Classes;

- holders of Claims entitled to priority pursuant to sections 507(a)(2), (3) and (8) of the Code;

- holders of Claims or equity interests in Classes that do not receive or retain any value under the Plan; and

- administrative expenses.

Even If You Are Not Entitled To Vote On The Plan, You Have A Right To Object To The Confirmation Of The Plan And To The Adequacy Of The Disclosure Statement.

4. Who Can Vote in More Than One Class - A creditor whose Claim is Allowed, in part, as a Secured Claim and, in part, as an Unsecured Claim, or who otherwise holds Claims in multiple Classes, is entitled to vote to accept or reject the Plan in each capacity, and should cast one ballot for each Claim.

B. Votes Necessary to Confirm the Plan

If impaired Classes exist, the Court cannot confirm the Plan unless (1) at least one impaired Class of Claims has accepted the Plan without counting the votes of any insiders within that

Class, and (2) all impaired Classes have voted to accept the Plan, unless the plan is eligible to be confirmed by “cram down” on non-accepting Classes, as discussed later in Section IV B.2.

1. Votes Necessary for a Class to Accept the Plan - A Class of Claims accepts the Plan if both of the following occur: (1) the holders of more than one-half (1/2) of the Allowed Claims in the Class, who vote, cast their votes to accept the Plan, and (2) the holders of at least two-thirds (2/3) in dollar amount of the Allowed Claims in the Class, who vote, cast their votes to accept the Plan. In this case, because the holder of the Interest is not impaired under the Plan, Class 5 is deemed to have accepted the Plan and is therefore not entitled to vote.

2. Treatment of Non-Accepting Classes - Even if one or more impaired Classes reject the Plan, the Court may nonetheless confirm the Plan if the non-accepting Classes are treated in the manner prescribed by Section 1129 of the Code. A Plan that binds non-accepting Classes is commonly referred to as a “cram down” plan. The Code allows the Plan to bind non-accepting creditors or equity interests if it meets all of the requirements for consensual Confirmation except the voting requirements of section 1129(a)(8) of the Code, does not “discriminate unfairly,” and is “fair and equitable” toward each Class that has not voted to accept the Plan.

You should consult your own attorney if a “cram down” confirmation will affect your Claim or equity interest because the variations on this general rule are numerous and complex.

C. Liquidation Analysis

To confirm the Plan, the Court must find that all creditors and equity interest holders who do not accept the Plan will receive as much under the Plan as such Claim and equity interest holders would receive in a chapter 7 liquidation.

The Debtor will pay to creditors under the

Plan a sum greater than or equal to the liquidation value of its assets.

D. Feasibility

The Court must determine that Confirmation 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 or reorganization is proposed in the Plan. Based upon the operating reports filed by the Debtor, the Plan is feasible.

1. Ability to Initially Fund Plan - The Debtor's principal will fund the initial payment under the Plan. The Debtor, which is required to fund the second payment of 10% within a year of the Effective Date, believes that it will have enough cash on hand to make the required payment.

2. Ability to Make Future Plan Payments and Operate Without Further Reorganization - The Debtor must also show that it will have enough cash over the lifetime of the Plan to make the required Plan payments. The Debtor will provide updated projections prior to the hearing on Confirmation of the Plan. Please contact the undersigned to obtain a copy.

The Debtor's projections show that the Debtor will have sufficient cash flow to make payments called. In the event that the Debtor is unable to make a payment, the Debtor believes that it can borrow the funds necessary to make the payments from insiders.

You Should Consult with Your Accountant or other Financial Advisor If You Have Any Questions Pertaining to These Projections.

V. EFFECT OF CONFIRMATION

A. Release

Following the Confirmation Date, the Plan shall bind the Debtor and all holders of Claims and the holder of the Interest, whether or not said holders are impaired under the Plan and whether or not said holders have accepted the Plan, and all rights of such holders shall be governed by the

Plan. On the Effective Date, all Assets shall be held by the Debtor free of Claims and Liens and subject to the requirements hereunder.

As provided in Bankruptcy Code § 1141(d)(3), the Plan does grants the Debtor a discharge. Notwithstanding the foregoing, except as otherwise provided herein, (1) the rights afforded in the Plan and the treatment of all Claims and Equity Interests shall be in exchange for and in complete satisfaction, discharge and release of such Claims and Equity Interests of any nature whatsoever, including any interest accrued on the Claims from and after the Petition Date, against the Debtor, or any of its assets or properties and (2) all persons shall be precluded from asserting against the Debtor, or any of its Assets or properties any other or further Claims or Equity Interests based upon any act or omission, transaction or other activity of any kind or nature that occurred before the Confirmation Date, except as otherwise provided in the Plan.

B. Modification of the Plan

The Debtor and Russo may modify the Plan at any time before Confirmation of the Plan. However, the Court may require a new disclosure statement and/or re-voting on the Plan. The Debtor may also seek to modify the Plan after Confirmation only if (1) the Plan has not been substantially consummated *and* (2) the Court authorizes the proposed modifications after notice and a hearing.

C. Final Decree

Once the estate has been fully administered, as provided in Bankruptcy Rule 3022, the Debtor shall file a motion with the Court to obtain a final decree to close the case. Alternatively, the Court may enter such a final decree on its own motion.

VI. RECOMMENDATION AND CONCLUSION

The Debtor believes that the Plan provides the greatest and earliest possible recovery to holders of Allowed Claims and is in the best interests of creditors. The Debtor therefore recommends that each holder of a Claim that is entitled to vote on the Plan vote to accept the Plan.

VII. AMENDMENT

The Debtor anticipates amending this disclosure statement and the Plan. In the event that it is amended, it will provide notice to all interested parties.

Dated: White Plains, NY
January 30, 2017

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/s/ Anne Penachio,
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