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UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In re:	:	Small Business Chapter 11
HUDSON VALLEY DRYWALL, INC.,	:	Case No. 17-35788
Debtor.	:	

DEBTOR'S DISCLOSURE STATEMENT DATED NOVEMBER 3, 2017

I. INTRODUCTION

This is the disclosure statement (the "Disclosure Statement") in the small business chapter 11 case of Hudson Valley Drywall, Inc. (the "Debtor"). This Disclosure Statement contains information about the Debtor and describes the Debtor's Plan of Reorganization filed by the Debtor on November 3, 2017 (the "Plan"). A full copy of the Plan is attached to this Disclosure Statement as Exhibit A. ***Your rights may be affected. You should read the Plan and this Disclosure Statement carefully and discuss them with your attorney. If you do not have an attorney, you may wish to consult one.***

The proposed distributions under the Plan are discussed at pages __-__ of this Disclosure Statement. Secured creditors are classified in Class 1, and will receive a distribution of 100% of their allowed claims in accordance with their applicable loan agreements. General unsecured creditors are classified in Class 2, and will receive a distribution of 100% of their allowed claims, to be distributed as follows: 90 (ninety) days following confirmation, the reorganized Debtor will make a single lump-sum payment in full. Class 3, comprising the Debtor's union creditors, will be paid according to a certain settlement agreement among the Debtor and those creditors

A. Purpose of This Document

This Disclosure Statement describes:

(i) The Debtor and significant events during the bankruptcy case;
(ii) How the Plan proposes to treat claims or equity interests of the type you hold (*i.e.*, what you will receive on your claim or equity interest if the plan is confirmed);
(iii) Who can vote on or object to the Plan;

(iv) What factors the Bankruptcy Court (the "Court") will consider when deciding whether to confirm the Plan;
(v) Why the Debtor believes the Plan is feasible, and how the treatment of your claim or equity interest under the Plan compares to what you would receive on your claim or equity interest in liquidation; and
(vi) The effect of confirmation of the Plan.

Be sure to read the Plan as well as the Disclosure Statement. This 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 this 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 Finally Approve This Disclosure Statement and Confirm the Plan*

The hearing at which the Court will determine whether to finally approve this Disclosure Statement and confirm the Plan will take place on _____, at _____, at the courtroom located at the United States Bankruptcy Court for the Southern District of New York, 355 Main Street, Poughkeepsie, NY 12601-3315.

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 in the enclosed envelope to Debtor's counsel, Goetz Fitzpatrick LLP, at One Penn Plaza, 31st Floor, New York, NY 10119, attention Gary M. Kushner, Esq. See section IV.A. below for a discussion of voting eligibility requirements.

Your ballot must be received by _____ or it will not be counted.

3. *Deadline For Objecting to the Adequacy of Disclosure and Confirmation of the Plan*

Objections to this Disclosure Statement or to the confirmation of the Plan must be filed with the Court and served upon all parties in interest by _____.

4. *Identity of Person to Contact for More Information*

If you want additional information about the Plan, you should contact Debtor's counsel, Goetz Fitzpatrick LLP, at One Penn Plaza, 31st Floor, New York, NY 10119, attention Gary M. Kushner, Esq.

C. **Disclaimer**

The Court has 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, and the fact that the Court has approved this Disclosure Statement does not constitute an endorsement of the Plan by the Court, or

a recommendation that it be accepted. The Court's approval of this Disclosure Statement is subject to final approval at the hearing on confirmation of the Plan. Objections to the adequacy of this Disclosure Statement may be filed until _____.

II. BACKGROUND

A. Description and History of the Debtor's Business

The Debtor is a family-owned construction company located in Beacon, New York, specializing in metal framing, drywall, acoustical ceilings, doors, hardware and more, with over 50 years of combined construction experience. The Debtor is owned by two brothers, Vincent J. Kelly and Joseph T. Kelly, Jr.

B. Events Leading to Chapter 11 Filing

The brothers' father, Joseph T. Kelly, Sr., owned an unrelated construction company called Xtreme Drywall & Acoustics, Inc. ("Xtreme"). Xtreme was party to various collective bargaining agreements that allowed Xtreme to use union labor to perform work at its construction projects. Xtreme fell behind in its employer contributions to benefit funds maintained by, among others, the New York City District Council of Carpenters Pension Fund (collectively, the "Funds"). The Funds obtained an arbitrator's award against Xtreme in October 2014 in the amount of $343,409.80. The Funds obtained a second arbitrator's award against Extreme in April 2015 in the amount of $152,636.88.

On or about September 16, 2016, the Funds commenced litigation against the Debtor, Joseph T. Kelly, Sr. and Michael DeLuca in the United States District Court for the Southern District of New York, in a case captioned Trustees of the New York City District Council of Carpenters Pension Fund, et al. v. Hudson Valley Drywall, Inc., et al., Case No. 16-07260-GBD (the "Litigation"). In the Litigation, the Funds alleged that the Debtor was an alter ego of Xtreme and should therefore be held jointly and severally liable for the arbitration awards the Funds had secured against Xtreme.

The defendants in the Litigation, including the Debtor, did not answer the complaint. The Funds moved for, and obtained, a default judgment against the Debtor and its co-defendants in the sum of $622,534.08. The District Court entered judgment in the Litigation on March 30, 2017. An amended judgment was entered on May 3, 2017 (the "Judgment"). On May 4, 2017, the Funds restrained the Debtor's bank account at Hudson Valley Federal Credit Union, freezing the Debtor's funds and rendering it unable to pay its employees or purchase materials for use in its construction projects.

The Debtor filed this chapter 11 case to obtain the protection of the automatic stay arising under § 362 of the Bankruptcy Code, immediately resulting in the Funds releasing their restraint on the Debtor's accounts

C. Preference Litigation

The Debtor does not intend to pursue preference, fraudulent conveyance, or other avoidance actions.

D. Management of the Debtor

During the two years prior to the date on which the bankruptcy petition was filed, the officers, directors, managers or other persons in control of the Debtor (collectively the "Managers") were Vincent Kelly and Joseph T. Kelly, Jr.

The Managers of the Debtor during the Debtor's chapter 11 case have been Vincent Kelly and Joseph T. Kelly, Jr.

After the effective date of the order confirming the Plan, the directors, officers, and voting trustees of the Debtor, any affiliate of the Debtor participating in a joint Plan with the Debtor, or successor of the Debtor under the Plan (collectively the "Post Confirmation Managers"), will be Vincent Kelly and Joseph T. Kelly, Jr.

E. **Significant Events During the Bankruptcy Case**

The Debtor retained Goetz Fitzpatrick LLP as its chapter 11 counsel pursuant to order of the Court entered on June 21, 2017 [ECF No. 30].

1. Unauthorized Withdrawal from Debtor's DIP Account

On July 10, 2017, the Debtor called its counsel to advise that the Debtor had discovered three fraudulent transactions in its debtor-in-possession account at TD Bank. The Debtor advised that the amounts fraudulently withdrawn from its account totaled $1,470.75. The nature of the fraud was that a criminal forged three checks with the Debtor's DIP account number, deposited those checks into its own account at TD Bank, and then withdrew the funds. The incident had nothing to do with the Debtor's conduct and did not affect its ability to operate.

On July 11, 2017, Debtor's counsel proactively reached out to the Office of the United States Trustee ("UST") to advise the UST what happened. The email concluded, "Feel free to call or email me if you have any questions." The UST did not respond to counsel's email, nor did the UST reach out to counsel by phone. As a result of the UST not responding to counsel's original communication, the Debtor and its counsel believed that the UST was comfortable with the Debtor and TD Bank handling the issue themselves.

Instead, on Sunday, July 23, 2017, the UST filed a motion to appoint an examiner [ECF No. 35], primarily on the ground that Debtor's counsel's July 11, 2017 email was a "superficial disclosure" of the incident and that "the United States Trustee may not ever learn the entire story from an unbiased source" without the appointment of an examiner.

The Debtor and its counsel were truly surprised by the UST's motion, having believed that the UST was not expecting any further discussion about the issue. The Debtor and its counsel worked with TD Bank to handle the incident in the normal course of business. Banks are required to refund funds fraudulently removed from bank accounts or charged to credit cards. That is exactly what happened here. Indeed, TD Bank refunded the $1,470.75 back to the Debtor on July 26, 2017. The Debtor opened up a new DIP account with TD Bank and transferred all of its funds into that new account. This is all reflected in the monthly operating reports filed for the July and August 2017 periods. There have been no further incidents of this nature, and the Debtor has been made whole.

After the UST filed its motion to appoint an examiner, Debtor's counsel tried on several occasions but could not get in touch with the UST to discuss TD Bank's positive resolution to the fraudulent activity. Unable to resolve the motion on consent, the Debtor filed an opposition to the UST's motion [ECF No. 43]. Upon reading the Debtor's opposition, the UST consented to adjourn its motion and requested that Debtor's counsel draft a report to the UST, the Court and all creditors and parties-in-interest describing the foregoing incident and its successful resolution.

The Debtor filed that report on September 6, 2017 [ECF No. 48]. The report contained a letter from TD Bank explaining that TD Bank had investigated the incident, determined that the Debtor did nothing wrong, and replaced the funds that had been removed from the Debtor's account without authorization.

2. Settlement of Union Funds' Claims

The Debtor and the Funds began negotiating shortly after the filing of this case and eventually reached a global settlement of their dispute. The parties entered into a settlement agreement on or about September 18, 2017. A stipulation resolving the Funds' claims via the settlement agreement – akin to an objection to the Funds' claim – was so-ordered by the Court on October 19, 2017 [ECF No. 68].

In light of the settlement with the Funds, the Debtor moved to dismiss the chapter 11 case. The motion to dismiss is scheduled to be heard on November 14, 2017.

F. Claims Objections

Except to the extent that a claim is already allowed pursuant to a final non-appealable order, the Debtor reserves the right to object to claims. Therefore, even if your claim is allowed for voting purposes, you may not be entitled to a distribution if an objection to your claim is later upheld. The procedures for resolving disputed claims are set forth in Article V of the Plan. The Debtor expects to object to Claim Nos. 6 and 8 (in the amounts of $500 and $50, respectively) filed by the New York State Department of Taxation and Finance.

G. Current Financial Condition

The identity and fair market value of the estate's assets are listed in Exhibit B, the Debtor's most recent operating report filed October 19, 2017 [ECF No. 67].

III. SUMMARY OF THE PLAN OF REORGANIZATION AND TREATMENT OF CLAIMS AND EQUITY INTERESTS

A. What is the Purpose of the Plan of Reorganization?

As required by the Code, the Plan places claims and equity interests in various classes and describes the treatment each class will receive. The Plan also states whether each class of claims or equity interests is impaired or unimpaired. If the Plan is confirmed, your recovery will be limited to the amount provided by the Plan.

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 Plan Proponent has *not* placed the following claims in any class:

1. *Administrative Expenses*

Administrative expenses are costs or expenses of administering the Debtor's chapter 11 case which are allowed under § 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 date of the bankruptcy petition. 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.

The following chart lists the Debtor's estimated administrative expenses, and their proposed treatment under the Plan:

Type	**Estimated Amount Owed**	**Proposed Treatment**
Expenses Arising in the Ordinary Course of Business After the Petition Date	$70,000	Paid in full on the effective date of the Plan, or according to terms of obligation if later
The Value of Goods Received in the Ordinary Course of Business Within 20 Days Before the Petition Date	$0	Paid in full on the effective date of the Plan, or according to terms of obligation if later
Professional Fees, as approved by the Court.	$75,000	Paid in full on the effective date of the Plan, or according to separate written agreement, or according to court order if such fees have not been approved by the Court on the effective date of the Plan
Clerk's Office Fees	$0	Paid in full on the effective date of the Plan
Other administrative expenses	$0	Paid in full on the effective date of the Plan or according to separate written agreement
Office of the U.S. Trustee Fees	$4,875	Paid in full on the effective date of the Plan
TOTAL	$149,875	

2. *Priority Tax Claims*

Priority tax claims are unsecured income, employment, and other taxes described by § 507(a)(8) of the Code. Unless the holder of such a § 507(a)(8) priority tax claim agrees otherwise, it must receive the present value of such claim, in regular installments paid over a period not exceeding 5 years from the order of relief.

The New York State Department of Finance has filed two § 507(a)(8) priority tax claims. Claim No. 6, in the amount of $500, was assessed for the tax year ending December 2016. Claim No. 8, in the amount of $50, was assessed for the period ending July 27, 2017. The Debtor expects to object to the allowance of both claims. Should these claims be allowed by the Court, the Debtor will pay them in full.

C. **Classes of Claims and Equity Interests**

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

1. *Class of Secured Claims*

Allowed Secured Claims are claims secured by property of the Debtor's bankruptcy estate (or that are subject to setoff) to the extent allowed as secured claims under § 506 of the Code. If the value of the collateral or setoffs securing the creditor's claim is less than the amount of the creditor's allowed claim, the deficiency will be classified as a general unsecured claim.

There is one class of secured claims filed against the Debtor, namely the claims of Ford Credit, GM Financial and U.S. Bank (collectively, the "Secured Auto Lenders"), whose claims are secured by the vehicle identified in the respective purchase money loan agreements. These claims have been designated as Class 1 under the plan. Ford Credit is presently owed approximately $12,008.94. GM Financial is presently owed approximately $58,044.39. U.S. Bank is presently owed approximately $41,852.79. Accordingly, the total amount of Class 1 claims is approximately $111,906.12. These claims will continue to be paid in monthly installments pursuant to the respective loan agreements.

2. *Class of Priority Unsecured Claims*

Certain priority claims that are referred to in §§ 507(a)(1), (4), (5), (6), and (7) of the Code are required to be placed in classes. The Code requires that each holder of such a claim receive cash on the effective date of the Plan equal to the allowed amount of such claim. However, a class of holders of such claims may vote to accept different treatment. There are no priority claims filed against the Debtor that are required to be placed in classes.

The New York State Department of Finance has filed two § 507(a)(8) priority tax claims. Claim No. 6, in the amount of $500, was assessed for the tax year ending December 2016. Claim No. 8, in the amount of $50, was assessed for the period ending July 27, 2017. The Debtor expects to object to the allowance of both claims. Should these claims be allowed by the Court, the Debtor will pay them in full.

3. *Classes of General Unsecured Claims*

General unsecured claims are not secured by property of the estate and are not entitled to priority under § 507(a) of the Code. The Debtor is proposing two classes of general unsecured claims. None of the unsecured claims are impaired.

Class 2 under the Plan covers all unsecured claims allowed under § 502 of the Code except for those covered in Class 3 under the Plan. These claims are not secured by property of the estate and are not entitled to priority under § 507(a) of the Code. They consist of approximately $70,000 in undisputed claims and will be paid within 90 days of the entry of the confirmation order.

Class 3 under the Plan covers the Funds' claims pursuant to that certain settlement agreement dated on or about September 18, 2017 (the "Settlement Agreement"), a stipulation approving which was so-ordered by the Court on October 19, 2017 [ECF No. 68]. Pursuant to the Settlement Agreement, the Funds' allowed claim, which will be paid in full, is $250,000, of which $50,000 was already paid. The Debtor shall pay the remaining $200,000 in 18 monthly installments of $11,111.11 each between November 1, 2017 and April 1, 2019.

4. *Class of Equity Interest Holders*

Equity interest holders are parties who hold an ownership interest (*i.e.*, equity interest) in the Debtor. In a corporation, entities holding preferred or common stock are equity interest holders. Class 4 under the Plan consists of the Debtor's two equity holders, Joseph T. Kelly, Jr. and Vincent Kelly.

The class of equity holders will retain its current equity interest.

D. **Means of Implementing the Plan**

1. *Source of Payments*

Payments and distributions under the Plan will be funded through cash flow from operations and future income, primarily the net proceeds generated from the Debtor's construction projects.

2. *Post-confirmation Management*

The Post-Confirmation Managers of the Debtor shall be the same as it has been since the Debtor's founding, namely Joseph T. Kelly, Jr., Vice President, and Vincent J. Kelly, President.

E. **Risk Factors**

The Plan is subject to risks in that the Debtor's operations and financial results are subject to uncertainties, including those described below, that could significantly affect the Debtor's ability to make payments required under the Plan.

Construction market fluctuations, which are caused by such factors as economic cycles in New York and shifts in demand of property owners, affect the Debtor. It is difficult to completely avoid the impact of market fluctuations due to economic cycles and changes in the demand for construction work. Market downturns, therefore, could lead to decline in the demand for construction work, as well as lower prices for that work. Consequently, market downturns could reduce the Debtor's revenues and ability to make the proposed payments under the Plan.

The construction industry is extremely competitive, and the Debtor is exposed to fierce competition from rival companies in areas such as pricing, speed, safety and quality. The competitive environment surrounding the Debtor may further intensify. In the event that the Debtor cannot maintain its competitiveness, the Debtor's market share may decline, which may negatively impact the Debtor's revenues and ability to make the proposed payments under the Plan.

The Debtor relies on certain key customers for the bulk of construction projects. The decision by these key customers to cease hiring the Debtor as a subcontractor, or to dramatically reduce the number of subcontracts offered to the Debtor, could negatively impact the Debtor's revenues and ability to make the proposed payments under the Plan.

F. **Executory Contracts and Unexpired Leases**

The Plan, in Article 6.01, lists all executory contracts and unexpired leases that the Debtor will assume under the Plan. Assumption means that the Debtor has elected to continue to perform the

obligations under such contracts and unexpired leases, and to cure defaults of the type that must be cured under the Code, if any. The Debtor is not in default of any of its executory contracts or leases.

If you object to the assumption of your unexpired lease or executory contract, the proposed cure of any defaults, or the adequacy of assurance of performance, you must file and serve your objection to the Plan within the deadline for objecting to the confirmation of the Plan, unless the Court has set an earlier time.

All executory contracts and unexpired leases that are not listed in Article 6.01 will be rejected under the Plan. Consult your adviser or attorney for more specific information about particular contracts or leases.

If you object to the rejection of your contract or lease, you must file and serve your objection to the Plan within the deadline for objecting to the confirmation of the Plan.

The Deadline for Filing a Proof of Claim Based on a Claim Arising from the Rejection of a Lease or Contract Is _____. Any claim based on the rejection of a contract or lease will be barred if the proof of claim is not timely filed, unless the Court orders otherwise.

G. Tax Consequences of the Plan

There may be significant tax ramifications affecting claimants as a result of their treatment under the Plan. The Debtor has not performed an analysis or review of such ramifications. All creditors are urged to consult with their own tax advisors as to the tax consequences of the Plan to them under Federal and applicable state and local laws.

IV. CONFIRMATION REQUIREMENTS AND PROCEDURES

To be confirmable, the Plan must meet the requirements listed in §§ 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 votes of insiders; the Plan must distribute to each creditor and 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 § 1129, and they are not the only requirements for confirmation.

A. Who May Vote or Object

Any party in interest may object to the 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 creditor or equity interest holder has a claim or equity interest that is both (1) allowed or allowed for voting purposes and (2) impaired.

In this case, the Plan Proponent believes that class 3 is impaired and that holders of claims in this class are therefore entitled to vote to accept or reject the Plan. The Plan Proponent believes that classes

1, 2, and 4 are unimpaired and that holders of claims in each of these classes, therefore, do not have the right to vote to accept or reject the Plan.

1. *What Is an Allowed Claim or an Allowed Equity Interest?*

Only a creditor or equity interest holder with an allowed claim or an allowed equity interest has the right to vote on the Plan. Generally, a claim or equity interest is allowed if either (1) the Debtor has scheduled the claim on the Debtor's schedules, unless the claim has been scheduled as disputed, contingent, or unliquidated, or (2) the creditor has filed a proof of claim or equity interest, unless an objection has been filed to such proof of claim or equity interest. When a claim or equity interest is not allowed, the creditor or equity interest holder holding the claim or equity interest cannot vote unless the Court, after notice and hearing, either overrules the objection or allows the claim or equity interest for voting purposes pursuant to Rule 3018(a) of the Federal Rules of Bankruptcy Procedure.

The deadline for filing a proof of claim in this case was July 31, 2017.

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 § 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 five 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 claims" or "allowed equity interests" (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 §§ 507(a)(2), (a)(3), and (a)(8) of the Code; and
- holders of claims or equity interests in classes that do not receive or retain any value under the Plan;
- 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 has been allowed in part as a secured claim and in part as an unsecured claim, or who otherwise hold claims in multiple classes, is entitled to accept or reject a 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 creditors 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 Acram down@ on non-accepting classes, as discussed later in Section 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.

A class of equity interests accepts the Plan if the holders of at least two-thirds (2/3) in amount of the allowed equity interests in the class, who vote, cast their votes to accept the Plan.

2. *Treatment of Nonaccepting Classes*

Even if one or more impaired classes reject the Plan, the Court may nonetheless confirm the Plan if the nonaccepting classes are treated in the manner prescribed by § 1129(b) of the Code. A plan that binds nonaccepting classes is commonly referred to as a "cramdown" plan. The Code allows the Plan to bind nonaccepting classes of claims or equity interests if it meets all the requirements for consensual confirmation except the voting requirements of § 1129(a)(8) of the Code, does not "discriminate unfairly," and is "fair and equitable" toward each impaired class that has not voted to accept the Plan.

You should consult your own attorney if a "cramdown" confirmation will affect your claim or equity interest, as the variations on this general rule are numerous and complex. The Debtor believes that because there are no unimpaired classes of claims under the Plan, this is not a "cramdown" case.

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 at least as much under the Plan as such claim and equity interest holders would receive in a chapter 7 liquidation. Here, because all creditors will be paid the full amount of their allowed claims, the Debtor submits that no liquidation analysis is necessary.

D. Feasibility

The Court must find that confirmation of the Plan is not likely to be followed by the liquidation, or the need for further financial reorganization, of the Debtor or any successor to the Debtor, unless such liquidation or reorganization is proposed in the Plan.

1. *Ability to Initially Fund Plan*

The Debtor believes that it will have enough cash on hand on the effective date of the Plan to pay all the claims and expenses that are entitled to be paid on that date. Exhibit "B" shows the Debtor with over $225,000 in cash on hand, while the initial distributions under the Plan amount to approximately $150,000.

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 life of the Plan to make the required Plan payments.

The Debtor has provided projected financial information. Those projections are listed in Exhibit C hereto.

The Debtor's financial projections show that the Debtor will have an aggregate annual average cash flow, after paying operating expenses and post-confirmation taxes, of approximately $63,000. The final Plan payment is expected to be paid when the Debtor's vehicle loans are fully paid.

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

V. EFFECT OF CONFIRMATION OF PLAN

A. NO DISCHARGE OF DEBTOR

No Discharge. In accordance with § 1141(d)(3) of the Code, the Debtor will not receive any discharge of debt in this bankruptcy case.

B. Modification of Plan

The Debtor 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 at any time 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 Rule 3022 of the Federal Rules of Bankruptcy Procedure, the Debtor, or such other party as the Court shall designate in the Plan Confirmation Order, shall file a motion with the Court to obtain a final decree to close the case. Alternatively, the Court may enter such a final decree on its own motion.

Respectfully submitted,

HUDSON VALLEY DRYWALL, INC.
The Plan Proponent

By: /s/ Joseph T. Kelly, Jr.
Its: Vice President

Goetz Fitzpatrick LLP
Attorneys for the Plan Proponent

By: /s/Gary M. Kushner
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