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**UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF NEW JERSEY**

In re: JPE Home  
Care LLC; dba At  
Home Certified  
Senior  
HealthCare

Chapter 11

Case : 16-12609 mdc

**DISCLOSURE STATEMENT PURSUANT TO SECTION 1125 OF THE  
BANKRUPTCY CODE DESCRIBING THE CHAPTER 11 PLAN PROPOSED  
BY JPE Home Care LLC; dba At Home Certified Senior HealthCare**

PLEASE READ THIS DISCLOSURE STATEMENT CAREFULLY. THIS DISCLOSURE STATEMENT CONTAINS INFORMATION THAT MAY BEAR UPON YOUR DECISION TO ACCEPT OR REJECT THIS PLAN OF REORGANIZATION. THE PLAN PROPONENT BELIEVES THAT THIS PLAN OF REORGANIZATION IS IN THE BEST INTEREST OF THE CREDITORS AND THAT THE PLAN IS FAIR AND EQUITABLE. THE PROPONENT URGES THAT THE PLAN BE APPROVED.

Dated: October 28, 2016

JPE Home Care LLC; dba At Home  
Certified Senior HealthCare  
Debtor

Bv: /s/ Jennifer P. Ellsworth,  
Managing Member

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I.

## INTRODUCTION

JPE Home Care LLC; dba At Home Certified Senior HealthCare is the Debtor in a Chapter 11 bankruptcy case. On April 13, 2016, the Debtor commenced a bankruptcy case by filing a Chapter 11 bankruptcy petition under the United States Bankruptcy Code ("Code"), 11 U.S.C. §101, et seq. Chapter 11 of the Code allows the Debtor, and under some circumstances, creditors and other parties in interest, to propose a Plan of Reorganization ("Plan"). The Plan may provide for the Debtor to reorganize by continuing to operate, to liquidate by selling assets of the estate, or a combination of both. The Debtor is the party proposing the Plan sent to you in the same envelope as this document.

THE DOCUMENT YOU ARE READING IS THE DISCLOSURE STATEMENT FOR THE PLAN WHICH IS ANNEXED HERETO.

This is a Reorganization Plan. In other words, the Plan Proponent seeks to accomplish payments under the Plan by continuing to operate the non-medical in home companion and personal care services Business. The secured creditor Uninvest Bank and Trust Company shall receive the cramdown value of the Business collateral amount of \$96000.00 which amount shall be paid out over sixty (60) months. All general unsecured claims shall be paid 25% of their allowed claim amount in quarterly installments over a period of time not to exceed sixty (60) months.

### **A. Purpose of This Document**

This Disclosure Statement summarizes what is in the Plan, and tells you certain

information relating to the Plan and the process the Court follows in determining whether or not to confirm the Plan.

**READ THIS DISCLOSURE STATEMENT CAREFULLY IF YOU WANT TO KNOW ABOUT:**

- (1) WHO CAN VOTE OR OBJECT,
- (2) THE PROPOSED TREATMENT OF YOUR CLAIM (I.E, WHAT YOUR CLAIM WILL RECEIVE IF THE PLAN IS CONFIRMED), AND HOW THIS TREATMENT COMPARES TO WHAT YOU WOULD RECEIVE IN LIQUIDATION,
- (3) THE HISTORY OF THE DEBTOR AND SIGNIFICANT EVENTS DURING THE BANKRUPTCY,
- (4) WHAT THE COURT WILL CONSIDER WHEN DECIDING WHETHER TO CONFIRM THE PLAN,
- (5) THE EFFECT OF CONFIRMATION, AND
- (6) THE FEASIBILITY OF THE PLAN.

This Disclosure Statement cannot tell you everything about your rights. You should consider consulting your own lawyer to obtain more specific advice on how this Plan will affect you and what is the best course of action for you. Be sure to read the Plan as well as the Disclosure Statement. If there are any inconsistencies between the Plan and the Disclosure Statement, the Plan provisions will govern. Code Section 1125 requires a Disclosure Statement to contain "adequate information" concerning the Plan. The term "adequate information" is defined in Code Section 1125(a) as "information of a kind, and in sufficient detail," about a Debtor and its operations "that would enable a hypothetical reasonable investor typical of holders of claims or interests" of the Debtors to make an informed judgment about accepting or rejecting the Plan. The Bankruptcy Court" has determined that the information contained in this Disclosure Statement is

adequate, and it has approved this document in accordance with Code Section 1124.

This Disclosure Statement is provided to each creditor whose claim has been scheduled by the Debtors or who have filed a proof of claim against the Debtor and to each interest holder of record as of the date of approval of this Disclosure Statement. Under the Bankruptcy Code, your acceptance of the Plan may not be solicited unless you receive a copy of this Disclosure Statement prior to or concurrently with such solicitation.

### **B. Confirmation Procedures**

#### **Persons Potentially Eligible to Vote on the Plan**

In determining acceptance of the Plan, votes will only be counted if submitted by a creditor whose claim is duly scheduled by the Debtor as undisputed, non-contingent and unliquidated, or who, prior to the hearing on confirmation of the Plan, have filed with the Court a proof of claim which has not been disallowed or suspended prior to computation of the votes on the Plan. All shareholders of record as of the date of approval of this Disclosure Statement may vote on the Plan. The Ballot Form that you received does not constitute a proof of claim. If you are uncertain whether your claim has been correctly scheduled, you should check the Debtors Schedules, which are on file at the office of the Clerk of the Bankruptcy Court located at: United States Bankruptcy Court, U.S. Court House, 900 Market Street, #400, Philadelphia PA 19107. The Clerk of the Bankruptcy Court will not provide this information by telephone.

**THE COURT HAS NOT YET CONFIRMED THE PLAN DESCRIBED IN THIS DISCLOSURE STATEMENT. IN OTHER WORDS, THE TERMS OF THE PLAN ARE NOT YET BINDING ON ANYONE. HOWEVER, IF THE COURT LATER CONFIRMS THE PLAN, THEN THE PLAN WILL BE**

**BINDING ON THE DEBTORS AND ON ALL CREDITORS AND INTEREST  
HOLDERS IN THIS CASE.**

**1. Time and Place of the Confirmation Hearing**

The hearing at which the Court will determine whether to confirm the Plan will take place on \_\_\_\_\_, \_\_\_\_\_ at \_\_\_\_\_, in the Courtroom of the Honorable Judge Magdeline D. Coleman, Robert C. Nix, Federal Courthouse, 900 Market Street, Suite 202, Philadelphia, PA 19107.

**2. Deadline For Voting For or Against the Plan**

There are Impaired Classes. The deadline for voting on the Plan shall be five days prior to the scheduled hearing on said Disclosure Statement.

**3. Deadline For Objecting to the Confirmation of the Plan**

Objections to the confirmation of the Plan must be filed with the Court and served upon Paul Gregory Lang Esquire, 3618 Hulmeville Rd, Bensalem, PA 19020 no later than seven days prior to the scheduled hearing date for Confirmation of said Plan.

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

**Regarding the Plan.**

Any interested party desiring further information about the Plan should contact Paul Gregory Lang Esquire, 3618 Hulmeville Rd, Bensalem, PA 19020

**C. Disclaimer**

The financial data relied upon in formulating the Plan is based on information provided by the Debtor. The Information contained in this Disclosure Statement is provided by Counsel for the Debtor. The Plan Proponent represents that everything stated

in the Disclosure Statement is true to the Proponent's best knowledge.

**PLEASE NOTE THAT THE APPROVAL OF THIS DISCLOSURE STATEMENT BY THE BANKRUPTCY COURT DOES NOT CONSTITUTE A RULING ON THE MERITS, FEASIBILITY OR DESIRABILITY OF THE PLAN.**

## **II.**

### **BACKGROUND**

#### **A. Description and History of the Debtor's Business**

The Debtor is an Small Business Chapter 11 Case.

#### **B. Principals/Affiliates of Debtor's Business**

Jennifer P. Ellsworth, Debtor

#### **C. Management of the Debtor Before and During the Bankruptcy**

No Changes.

#### **D. Events Leading to Chapter 11 Filing:**

The Business prior to filing had Judgments rendered against it which jeopardized the continued operation of the business. The Business is and continues to be a feasible business which income net monthly provides a positive case flow which will enable the company to reorganize under this Chapter. The Debtor filed this Bankruptcy Petition to protect the Business from Liquidation by the Judgment Creditors and to allow her the ability to restructure his secured and unsecured debt.

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

##### **1. Bankruptcy Proceedings**



The following is a chronological list of significant events which have occurred during this case:

1. Chapter 11 Bankruptcy case was filed for JPE Home Care, LLC;Dba At Home Certified Senior Healthcare on April 13, 2016.
2. On April 14, 2016 a Motion regarding Chapter 11 First Day Motions to pay pre-petition wages and an Application for Retention of Professional Paul G. Lang, Esquire was filed with an Order Granting signed on April 20, 2016.
3. On April 26, 2016 a Motion to Use Cash Collateral and Providing adequate protection was held and granted on an Interim basis Five times to date.
4. On May 18, 2016 an Agreed Scheduling Order was Order and a deadline for the Chapter 11 Plan and Disclosure Statement were set.
5. On July 6, 2016 A First Interim Fee Application was filed and order granting September 9, 2016 All Monthly Operating reports have now been filed with the court..
6. On August 10, 2016 A Motion to Assume Lease or Executory Contract filed and granted.

## **2. Other Legal Proceedings**

In addition to the proceedings discussed above, the Debtors are currently involved in the following non-bankruptcy legal proceedings: N/A

## **3. Actual and Projected Recovery of Preferential or Fraudulent Transfers**

Debtors do not believe that there were any preferential or fraudulent transfers.

## **4.Procedures Implemented to Resolve Financial Problems**

In an effort to remedy the problems that led to the bankruptcy filing, Debtors have implemented the following procedures: Debtors Monthly Operating Reports reflect that she business income, sufficient to fund a Chapter 11 Plan and pay the secured creditor the cramdown value of the debt owed in the in accordance with the plan.

**5. Current and Historical Financial Conditions.**

The feasibility of the Plan of Reorganization is based on the Business income and the continued operations of this Non- Medical in home companion and personal care service.

**III. SUMMARY OF THE PLAN OF REORGANIZATION**

**A. What Creditors and Interest Holders Will Receive Under the Proposed Plan**

The Plan classifies claims and interests in various classes. The Plan states whether each class of claims or interests is impaired or unimpaired. The Plan provides the treatment each class will receive.

**B. Unclassified Claims**

Certain types of claims are not placed into voting classes. They are not considered impaired and they do not vote on the Plan because they are automatically entitled to specific treatment provided for them in the Bankruptcy Code. As such, the Proponent has not placed the following claims in a class:

**1. Administrative Expenses and Fees**

Administrative expenses are claims for fees, costs or expenses of administering the Debtor's Chapter 11 case which are allowed under Code Section 507(a)(1), including all professional compensation requests pursuant to Sections 330 and 331 of the Code. The Code requires that all administrative expenses including fees payable to the Bankruptcy Court and the Office of the United States Trustee which were incurred during the

pendency of the case must be paid on the Effective Date of the Plan, unless a particular claimant agrees to a different treatment.

The following chart lists all of the Debtors unpaid administrative fees and expenses ("Compensation"), an estimate of future professional fees and other administrative claims and fees and their treatment under the Plans:

<b>NAME ESTIMATED</b>	<b>AMOUNT</b>	<b>TREATMENT</b>	<b>TYPE OF CLAIM</b>
<b>1. Paul Gregory Lang, Esq.</b>	<b>\$8,000.00</b>	<b>Upon Entry of Order</b>	<b>Administrative Claim Approving fees</b>
<b>2. Clerk's Office Fees</b>	<b>\$0.00</b>	<b>Paid in full on Effective date</b>	
<b>3. Office of the United States Trustee Fees</b>	<b>\$ Unknown</b>	<b>Paid in full on Effective date</b>	
<b>TOTAL ESTIMATED:</b>	<b>\$ Unknown</b>		

**Court Approval of Professional Compensation Required:**

Pursuant to the Bankruptcy Code, the Court must rule on all professional compensation and expenses listed in this chart before the compensation and expenses will be allowed. The professional in question must file and serve a properly noticed fee application for compensation and reimbursement of expenses and the Court must rule on the application. Only the amount of compensation and reimbursement of expenses allowed by the Court will be owed and required to be paid under this Plan as an administrative claim.

Each professional person who asserts a further administrative claim that accrues before the confirmation date shall file with the Bankruptcy Court, and serve on all parties

required to receive notice, an application for compensation and reimbursement of expenses no later than thirty (30) days after the Effective Date of the Plan. Failure to file such an application timely shall result in the professional person's claim being forever barred and discharged. Each and every other person asserting an administrative claim shall be entitled to file a motion for allowance of the asserted administrative claim within ninety days of the Effective Date of the Plan, or such administrative claim shall be deemed forever barred and discharged. No motion or application is required to fix the fees payable to the Clerk's Office or Office of the United States Trustee. Such fees are determined by statute. As indicated above, the Debtor will need to pay administrative claims and fees on the Effective Date of the Plan unless a claimant has agreed to be paid later or the Court has not yet ruled on the claim.

## **2. Priority Tax Claims**

Priority tax claims are certain unsecured income, employment and other taxes described by Code Section 507(a)(8). The Code requires that each holder of such a Section 507(a)(8) priority tax claim receive the present value of such claim in deferred cash payments, over a period not exceeding six years from the date of the assessment of such tax.

The following chart lists all of the Debtor's Section 507(a)(8) priority tax claims and their treatment under the Plan:

The Internal Revenue Service has a priority claim for taxes in the amount of \$300.00 which amount shall be paid monthly at a rate of \$5.00 monthly for a period not to exceed sixty (60) months.

## **C. Classified Claims and Interests**

## **1. Classes of Secured Claims**

Secured claims are claims secured by liens on property of the estate. The following chart lists all classes of creditors containing the holders of the Debtor's secured pre-petition and post-petition claims and their treatment under this Plan are as follows:

Univest Bank & Trust Company has two secured Proof of Claims, totaling \$287, 232.58, on Business collateral which market value of said property at the time of filing is \$96,000.00. The Debtor proposes in its reorganization to pay monthly to Univest Bank & Trust Company the sum of \$96,000.00 in monthly payments of \$1600.00 per month until value is paid in full. The Cramdown balance owed shall be treated as unsecured and shall share in a percentage with all other unsecured claims.

## **2. Classes of Priority Unsecured Claims**

Certain priority claims that are referred to in Code Sections 507(a)(3), (4), (5), (6), and (7) are required to be placed in classes. These types of claims are entitled to priority treatment as follows: the Code requires that each holder of such a claim receive cash on the Effective Date equal to the allowed amount of such claim. However, a class of unsecured priority claim holders may vote to accept deferred cash payments of a value, as of the Effective Date, equal to the allowed amount of such claims. The following chart sets forth the priority unsecured claims and their treatment under this Plan:

The Internal Revenue Service has a priority claim for taxes in the amount of \$300.00 which amount shall be paid monthly at a rate of \$5.00 monthly for a period not to exceed sixty (60) months.

**3. Class of General Unsecured Claims**

General unsecured claims are uncollateralized claims not entitled to priority under Code Section 507(a). The following chart identifies this Plan's treatment of the class containing all of Debtor's general unsecured claims:

General Unsecured creditors who filed Valid Proof of Claims shall be paid 25% of their claims in monthly payments pro rata over a period not to exceed five (5) Years. See

chart below: Creditor Balance Monthly Payment

1. IRS	\$600.00	\$ 2.50
2. Uninvest	\$ 191,232.58	\$ 796.81
3. American Exp.	\$ 6624.48	\$ 27.61
4. American Exp	\$2517.69	\$ 10.49

**4. Class(es) of Interest Holders**

Interest holders are the parties who hold ownership interest (i.e., equity interest) in the Debtors. If the Debtors are a corporation, entities holding preferred or common stock in the Debtors are interest holders. If the Debtors are a partnership, the interest holders include both general and limited partners. If the Debtors are an individual, the Debtors are the interest holder.

The following chart identifies the Plan's treatment of the class of interest holders:

CLASS	DESCRIPTION	IMPAIRED (Y/N)	TREATMENT
1	Interest Holder: Jennifer P. Ellsworth	Y	100% Interest holder
2	Uninvest Bank & Trust	Y	\$96000.00 Market value

**D. Means of Effectuating the Plan**

**1. Funding for the Plan**

The Plan will be funded by the continued operations of this Non- Medical in home companion and personal care service.

**2. Post-confirmation Management**

N/A

**3. Disbursing Agent**

The Debtors, Managing Member, Jennifer Ellsworth, shall act as the disbursing agents for the purpose of making all distributions provided for under the Plan.

**E. Other Provisions of the Plan**

**1. Executory Contracts and Unexpired Leases**

The Plan provides that all Executory Contracts and Unexpired Leases shall be deemed assumed. **Rental Lease for the Building which said lease is assumed by the debtor. Regular monthly payments to said creditor shall be paid in the normal course per the contract and the contract rate of interest.** All proofs of claim with respect to claims arising from said rejection must be filed with the Bankruptcy Court within the earlier of (i) the date set forth for filing claims in any order of the Bankruptcy Court approving such rejection or (ii) thirty (30) days after the Confirmation Date. Any such claims, proofs of which are not filed timely, will be barred forever from assertion.

**2. Changes in Rates Subject to Regulatory Commission Approval**

N.A.

**3. Retention of Jurisdiction**

The Court will retain jurisdiction as provided in the Plan.

#### **4. Procedures for Resolving Contested Claims.**

The Debtors and/or the Disbursing Agent shall have 60 days subsequent to confirmation to object to the allowance of claims. The Proponent has reviewed the claims that have been filed. The Proponents do not anticipate at this time contesting any claims. However if the need arises where an Objection to Claim is necessary and the Court deems the claim withdrawn then the Debtors will have sixty (60) days after the entry of the Order Confirming the Plan to object to said claim.

#### **5. Effective Date**

The Plan will become effective on the Effective Date which is thirty (30) days from the date of the Order of Confirmation.

#### **6. Modification**

The Plan Proponent may alter, amend or modify the Plan at any time prior to the Confirmation Date and thereafter as provided in Section 1127(b) of the Bankruptcy Code.

#### **F. Tax Consequences of Plan**

CREDITORS AND INTEREST HOLDERS CONCERNED WITH HOW THE PLAN MAY AFFECT THEIR TAX LIABILITY SHOULD CONSULT WITH THEIR OWN ACCOUNTANTS, ATTORNEYS, AND/OR ADVISORS. The following disclosure of possible tax consequences is intended solely for the purpose of alerting readers to possible tax issues this Plan may present to the Debtors. The Proponents CANNOT and DO NOT represent that the tax consequences contained below are the only tax consequences of the Plan because the Tax Code embodies many complicated rules which make it difficult to state completely and accurately all the tax implications of any action. The following are the tax consequences that the Plan will have on the



Debtors tax liability:

NONE

**G. Risk Factors**

The following discussion is intended to be a non-exclusive summary of certain risks attendant upon the consummation of the Plan. You are encouraged to supplement this summary with your own analysis and evaluation of the Plan and Disclosure Statement, in their entirety, and in consultation with your own advisors. Based on the analysis of the risks summarized below, the Plan Proponent believes that the Plan is viable and will meet all requirements of confirmation:

**IV. CONFIRMATION REQUIREMENTS AND PROCEDURES**

PERSONS OR ENTITIES CONCERNED WITH CONFIRMATION OF THIS PLAN SHOULD CONSULT WITH THEIR OWN ATTORNEYS BECAUSE THE LAW ON CONFIRMING A PLAN OF REORGANIZATION IS VERY COMPLEX.

The following discussion is intended solely for the purpose of alerting readers about basic confirmation issues, which they may wish to consider, as well as certain deadlines for filing claims.

The proponents CANNOT and DO NOT represent that the discussion contained below is a complete summary of the law on this topic. Many requirements must be met before the Court can confirm a Plan. Some of the requirements include that the Plan must be proposed in good faith, that creditors or interest holders have accepted the Plan, that the Plan pays creditors at least as much as creditors would receive in a Chapter 7 liquidation, and that the Plan is feasible. These requirements are not the only requirements for confirmation.

## **A. Who May Vote or Object**

### **1. Who May Object to Confirmation of the Plan**

Any party in interest may object to the confirmation of the Plan, but as explained below not everyone is entitled to vote to accept or reject the Plan.

### **2. Who May Vote to Accept/Reject the Plan**

A creditor or interest holder has a right to vote for or against the Plan if that creditor or interest holder has a claim that is both (1) allowed or allowed for voting purposes and (2) classified in an impaired class.

#### **a. What Is an Allowed Claim/Interest**

As noted above, a creditor or interest holder must first have an allowed claim or interest to have the right to vote. Generally, any proof of claim or interest will be allowed, unless a party in interest brings a motion objecting to the claim. When an objection to a claim or interest is filed, the creditor or interest holder holding the claim or interest cannot vote unless the Court, after notice and hearing, either overrules the objection or allows the claim or interest for voting purposes.

**THE BAR DATE FOR FILING A PROOF OF CLAIM IN THIS CASE WAS  
OCTOBER 10, 2016.**

A creditor or interest holder may have an allowed claim or interest even if a proof of claim or interest was not timely filed. A claim is deemed allowed if (1) it is scheduled on the Debtors schedules and such claim is not scheduled as disputed, contingent, or unliquidated, and (2) no party in interest has objected to the claim. An interest is deemed allowed if it is scheduled and no party in interest has objected to the interest.

#### **b. What Is an Impaired Claim/Interest**

As noted above, an allowed claim or interest only has the right to vote if it is in a

class that is impaired under the Plan. A class is impaired if the Plan alters the legal, equitable, or contractual rights of the members of that class. For example, a class comprised of general unsecured claims is impaired if the Plan fails to pay the members of that class 100% of their claim plus interest.

In this case, the Proponents believe that unsecured creditors as a class are impaired and that general unsecured claim holders are therefore entitled to vote to accept or reject the Plan. The Proponents believe that this class is impaired and that holder claims in this specified class therefore do have the right to vote to accept or reject the Plan. Parties who dispute the Proponents characterization of their claim or interest as being impaired or unimpaired may file an objection to the Plan contending that the Proponents has incorrectly characterized the class.

### **3. Who Is Not Entitled to Vote**

The following four types of claims are not entitled to vote: (1) claims that have been disallowed; (2) claims in unimpaired classes; (3) claims entitled to priority pursuant to Code Section 507(a)(1), (a)(2), and (a)(8)73; and (4) claims in classes that do not receive or retain any value under the Plan. Claims in unimpaired classes are not entitled to vote because such classes are deemed to have accepted the Plan. Claims entitled to priority pursuant to Code Section 507(a)(1), (a)(2), and (a)(7) are not entitled to vote because such claims are not placed in classes and they are required to receive certain treatment specified by the Code. Claims in classes that do not receive or retain any value under the Plan do not vote because such classes are deemed to have rejected the Plan. EVEN IF YOUR CLAIM IS OF THE TYPE DESCRIBED ABOVE, YOU MAY STILL HAVE A RIGHT TO OBJECT TO THE CONFIRMATION OF THE PLAN.

### **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 is entitled to accept or reject a Plan in both capacities by casting one ballot for the secured part of the claim and another ballot for the unsecured claim.

#### **5. Votes Necessary to Confirm the Plan**

If impaired classes exist, the Court cannot confirm the Plan unless (1) at least one impaired class 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.A.8.).

#### **6. Votes Necessary for a Class to Accept the Plan**

A class of claims is considered to have accepted the Plan when more than one-half ( $1/2$ ) in number and at least two-thirds ( $2/3$ ) in dollar amount of the allowed claims that actually voted, voted in favor of the Plan. A class of interests is considered to have accepted the Plan when at least two thirds ( $2/3$ ) in amount of the allowed interest-holders of such class which actually voted, voted to accept the Plan.

#### **7. Treatment of Nonaccepting Classes**

As noted above, even if all impaired classes do not accept the proposed Plan, the Court may nonetheless confirm the Plan if the non- accepting classes are treated in the manner required by the Code. The process by which non accepting classes are forced to be bound by the terms of the Plan is commonly referred to as "cram down". The Code allows the Plan to be "crammed down" on non-accepting classes of claims or interests if it meets all consensual requirements except the voting requirements of Section 1129(a)(8) and if the Plan does not "discriminate unfairly" and is "fair and equitable" toward each

unpaired class that has not voted to accept the Plan as referred to in 11 U.S.C. § 1129(b) and applicable case law.

**8. Request for Confirmation Despite Non acceptance by Impaired** Class(es)

The party proposing this Plan asks the Court to confirm this Plan by cram down on the impaired class if any of this class does not vote to accept the Plan.

**B. Liquidation Analysis**

Another confirmation requirement is the "Best Interest Test", which requires a liquidation analysis. Under the Best Interest Test, if a claimant or interest holder is in an impaired class and that claimant or interest holder does not vote to accept the Plan, then that claimant or interest holder must receive or retain under the Plan property of a value not less than the amount that such holder would receive or retain if the Debtors were liquidated under Chapter 7 of the Bankruptcy Code. In a Chapter 7 case, the Debtor's nonexempt assets are usually sold by a Chapter 7 Trustee. Secured creditors are paid first from the proceeds of the sale of any properties on which the secured creditor has a lien. Administrative claims are paid next. Next, unsecured creditors are paid from any remaining proceeds, according to their rights to priority. Unsecured creditors with the same priority share in proportion to the amount of their allowed claims. Finally, interest holders receive the balance that remains after all creditors are paid, if any.

In order for the Court to be able to confirm this Plan, the Court must find that all creditors and interest holders who do not accept the Plan will receive at least as much under the Plan as such holders would receive under a Chapter 7 liquidation. The Plan Proponent maintains that this requirement is met here for the following reasons:

The value of the asset or real property exceeds the amount owed to lien holder and all estimated debts owed for administrative claims.

Below is a demonstration, in balance sheet format, that all creditors and interest holders will receive at least as much under the Plan as such creditor or interest holder would receive under a Chapter 7 liquidation:

**Assets**

Real Property \$ 0.00

secured debt: \$ 287,232.58

Any exemption \$

Costs of sale \$ Unknown

Net equity \$ 0.00

Personal Property Assets \$ 96000.00

Total assets \$0.00

**Liabilities**

Priority Claims: \$300.00

Chapter 7 administrative expenses \$ unknown

Chapter 11 administrative expenses \$ unknown

Other priority claims \$ unknown

Total priority claims \$ unknown

Amount available for unsecured claims

\$0.00

Total unsecured claims (estimated) \$200,974.75

Estimated dividend in Chapter 7 \$0.00

**C. Feasibility**

Another requirement for confirmation involves the feasibility of the Plan, which means that confirmation of the Plan is not likely to be followed by the liquidation or the need for further financial reorganization of the Debtors or any successor to the Debtors under the Plan, unless such liquidation or reorganization is proposed in the Plan.

There are at least two important aspects of a feasibility analysis. The first aspect considers whether the Debtors 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 such date. The Plan

Proponent maintains that this aspect of feasibility is satisfied as illustrated here: The Plan will be funded by the Debtors continued Employment Income, Rental Income and Social Security benefits.

To Pay: Administrative claims amount at present of which amount is unknown.

To Pay: Statutory costs & charges N/A

To Pay: Other Plan Payments due on Effective Date shall be determined at the confirmation of the Plan. Balance after paying these amounts should be \$0.00 except for the Cramdown market value of \$96,000.00 to Univest Bank & Trust stated in the Secured Claims section of this Disclosure Statement. The sources of the cash Debtors will have on hand by the Effective Date, as shown above are derived from the continued operation of Business

The second aspect considers whether the Proponents will have enough cash over the life of the Plan to make the required Plan payments. The Proponents believe that this second aspect of the feasibility requirement is met as reflected in the Debtors monthly operating reports.

The Plan Proponents contend that Debtors financial projections are feasible in light of the financial records maintained by the Debtors prior to and during the pendency of the bankruptcy case.

Debtors average monthly cash flow, since returning to work and after paying operating expenses and post-confirmation taxes, during the within bankruptcy case is \$\_\_\_\_\_.

Debtors have implemented procedures to reduce her monthly overhead costs and has projected her financial future for the next three years to increase on a yearly basis. During the next three years, 2017, 2018 and 2019 the Debtor anticipate that the need

for Non –medical care will increase rendering them more monthly Business income.

In summary, the Plan proposes to pay secured creditors each month, Debtors paying expenses and post confirmation taxes for the life of the Plan. The final Plan payment is expected to be paid no later than sixty (60) months from date of confirmation.

Accordingly, the Plan Proponents believe, on the basis of the foregoing, that the Plan is feasible.

## **V. EFFECT OF CONFIRMATION OF PLAN**

### **A. Discharge**

The Plan provides that upon confirmation of the Plan, the Debtors shall be discharged of liability for payment of debts incurred before confirmation of the Plan, to the extent specified in 11 U.S.C. §1141. However, any liability imposed by the Plan will not be discharged. If Confirmation of the Plan does not occur or if, after Confirmation occurs, the Debtors elect to terminate the Plan, the Plan shall be deemed null and void. In such event, nothing contained in the Plan shall be deemed to constitute a waiver or release of any claims against the Debtors or its estate or any other persons, or to prejudice in any manner the rights of the Debtors or its estate or any person in any further proceeding involving the Debtors or its estate. The provisions of the Plan shall be binding upon Debtors, all Creditors and all Equity Interest Holders, regardless of whether such Claims or Equity Interest holders are impaired or whether such parties accept the Plan, upon Confirmation thereof.

### **B. Revesting of Property in the Debtor**

Except as provided in the Plan, the confirmation of the Plan revests all of the property of the estate in the Debtors.

### **C. Modification of Plan**



The Proponents may modify the Plan at any time before confirmation. However, the Court may require a new disclosure statement and/or revoting on the Plan if proponents modify the Plan before confirmation. The Proponents may also seek to modify the Plan at any time after confirmation so long as (1) the Plan has not been substantially consummated and (2) the Court authorizes the proposed modification after notice and a hearing. Proponents further reserve the rights to modify the treatment of any Allowed Claims at any time after the Effective Date of the Plan upon the consent of the creditor whose Allowed Claim treatment is being modified, so long as no other creditors are materially adversely affected.

**D. Post-Confirmation Conversion/Dismissal**

A creditor or party in interest may bring a motion to convert or dismiss the case under Section 1112(b), after the Plan is confirmed, if there is a default in performance of the Plan or if cause exists under Section 1112(b). If the Court orders the case converted to Chapter 7 after the Plan is confirmed, then all property that had been property of the Chapter 11 estate, and that has not been disbursed pursuant to the Plan, will revert in the Chapter 7 estate, and the automatic stay will be reimposed upon the revested property only to the extent that relief from stay was not previously granted by the Court during this case.

Quarterly fees pursuant to 28 U.S.C. § 1930(a)(6) continue to be payable to the Office of The United States Trustee post-confirmation until such time as the case is converted, dismissed, or closed pursuant to a final decree.

Date: October 28, 2016

/s/ Jennifer P. Ellsworth,  
Jennifer P. Ellsworth  
Managing Member