

**UNITED STATES BANKRUPTCY COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

IN RE:

CROFCHICK INC., d/b/a Owen Street Bakery Debtor-In-Possession	:	Case No.: 5:15-bk-03723 Small Business Case under Chapter 11
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**CROFCHICK INC.
FIRST AMENDED DISCLOSURE STATEMENT DATED OCTOBER 15, 2016**

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I. INTRODUCTION

This is the amended disclosure statement (the “Disclosure Statement”) in the small business chapter 11 case of Crofchick Inc. d/b/a Owen Street bakery (“Debtor”). This Disclosure Statement contains information about the Debtor and describes the First Amended Plan of Reorganization (the “Plan”) filed by the Debtor on October 15, 2016. A full copy of the Plan accompanies 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 7-13 of this Disclosure Statement. General unsecured creditors, if any, are classified in Class 4 and will receive a distribution of 30 % of their Allowed Claims.

A. Purpose of This Document

This Disclosure Statement describes:

- The Debtor and significant events during the bankruptcy case,
- 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),
- Who can vote on or object to the Plan,
- What factors the Bankruptcy Court (the “Court”) will consider when deciding whether to confirm the Plan,
- 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
- The effect of confirmation of the Plan.

Be sure to read the Plan as well as this 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 at 9:30 a.m. in Courtroom 2, at the Max Rosenn U.S. Courthouse, 197 South Main Street, Wilkes-Barre, PA 18701 on the date set forth on the Order of the Bankruptcy Court that accompanies this Disclosure Statement.

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 David J. Harris, Esquire, 69 Public Square, Ste. 700, Wilkes-Barre, PA 18701. See section IV.A. below for a discussion of voting eligibility requirements.

Your ballot must be received by the date on Order of the Bankruptcy Court that accompanies this Disclosure Statement or it will not be counted.

3. *Deadline For Objecting to the Adequacy of Disclosure 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 the Debtor by the date on Order of the Bankruptcy Court that accompanies this Disclosure Statement.

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

If you want additional information about the Plan, you should contact David J. Harris, Esquire, 69 Public Square, Ste. 700, Wilkes-Barre, PA 18701.

C. Disclaimer

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 the date on Order of the Bankruptcy Court that accompanies this Disclosure Statement.

II. BACKGROUND

A. Description and History of the Debtor's Business

The Debtor is a Pennsylvania limited liability company. It was formed on December 31, 2003, and has served as a retail and wholesale bakery in Swoyersville, Pennsylvania.

B. Insiders of the Debtor

Robert Crofchick and Mary Anne Crofchick are the sole owners of the Debtor.

C. Management of the Debtor Before and During the Bankruptcy

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: the son of Robert Crofchick and Mary Anne Crofchick.

The Managers of the Debtor during the Debtor's chapter 11 case have been: Robert Crofchick and Mary Anne Crofchick.

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: Robert Crofchick and Mary Anne Crofchick. The responsibilities and compensation of these Post Confirmation Managers are described later in this Disclosure Statement.

D. Events Leading to Chapter 11 Filing

Crofchick Realty, LLC. and the Debtor were formed on December 31, 2003. The Debtor operates as a small bakery business that features a wide variety of baked goods, pasties, pizza and pierogies. Its primary sales are 95% retail and 5% wholesale accounts.

The reason for the bankruptcy is that one of the owners of the Debtor, Robert Crofchick, fell ill from 2008 to May of 2015, during which period of time, he was compelled to delegate all management responsibilities to others. Before 2008, vendor and lender obligations were made in a timely manner. Mr. Crofchick's health has significantly improved and he has retaken control the business operations.

The Debtor filed this case to obtain a stay of collection action by its primary lender, PNC Bank, N.A.

E. Significant Events During the Bankruptcy Case

The significant events during the Debtor's bankruptcy case are as follows:

As stated earlier, Robert Crofchick has taken over the operations of the business. Mr. Crofchick intends to explore social media, wholesale accounts, catering accounts, fundraisers and possibly open up a storefront in the Mountain Top, Pennsylvania area. He has looked into space in a former bakery that has closed and has inquired on pricing for used equipment in order to bake on the premises, or will simply use it as a storefront.

Pending the outcome of a plan confirmation, payments are being made to secured and priority unsecured creditors pursuant to the terms of a Cash Collateral Memorandum Order in this bankruptcy case dated September 3, 2015.

F. Projected Recovery of Avoidable Transfers

The Debtor does not intend to pursue preference, fraudulent conveyance, or other avoidance actions, as there are none.

G. 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.

H. Current and Historical Financial Conditions

The identity and fair market value of the estate's assets are listed in Exhibit B.

A summary of the Debtor's periodic operating reports filed since the commencement of the Debtor's bankruptcy case is set forth in Exhibit C.

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	All post-petition taxes	Paid in full on the effective date of the Plan, or as they become due
The Value of Goods Received in the Ordinary Course of Business Within 20 Days Before the Petition Date	None	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 [in the aggregate for both the Debtor's case and the case of its affiliate, Crofchik, Realty, LLC]	\$20,000.00	Paid in full on the effective date of the Plan, or according to separate written agreement, or according to court order
Clerk's Office Fees	None	Paid in full on the effective date of the Plan
Other administrative expenses	None	Paid in full on the effective date of the Plan or according to separate written agreement
Office of the U.S. Trustee Fees	\$250.00	Paid in full on the effective date of the Plan
TOTAL	\$20,250.00	

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 following chart lists the Debtor's estimated § 507(a)(8) priority tax claims and their proposed treatment under the Plan:

Description (name and type of tax)	Estimated Amount Owed	Date of Assessment	Treatment
Internal Revenue Service	\$1,404.23		\$23.40 per month for a period of 60 consecutive months from the date of the bankruptcy filing plus 3% simple interest on the outstanding principal balance to be paid with the 60 th payment— OR- 1/60 th of the Allowed Priority Unsecured Claim of the PA Department of Revenue per month plus the greater of 3% simple interest or statutory interest on the outstanding principal balance for a period of 60 months from the date of filing, <u>whichever is greater or as is agreed upon by the parties.</u>
PA Department of Revenue	\$7,349.51		\$122.49 per month for a period of 60 consecutive months from the date of the bankruptcy filing plus 3% simple interest on the outstanding principal balance to be paid with the 60 th payment— OR- 1/60 th of the Allowed Priority Unsecured Claim of the PA Department of Revenue per month plus the greater of 3% simple interest or statutory interest on the outstanding principal balance for a period of 60 months from the date of filing, <u>whichever is greater or as is agreed upon by the parties.</u>

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. *Classes 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.

The following chart lists all classes containing Debtor's secured prepetition claims and their proposed treatment under the Plan:

Class #	Description	Insider? (Yes or No)	Impairment	Treatment
1.	<p><i>Secured claim of:</i> PNC Bank, N.A.</p> <p><i>Collateral:</i> Improved real estate at Owen Street, Swoyersville, PA and fixtures and equipment.</p> <p><i>Allowed Secured Amount :</i> Per Proof of Claim if not disputed.</p> <p><i>Priority of lien :</i> Second position on real estate behind real estate taxes.</p> <p>Total claim = \$159,991.91</p>	No.	Unimpaired	<p>Monthly Payment = SEE EXHIBIT G</p> <p>Pmts Begin = On the Effective Date of the plan**</p> <p>Pmts End = After all principal, interest and costs have been paid in full.</p> <p>Interest rate % = Per Note</p> <p>Treatment of Lien = Retain</p> <p>*By the Debtor or by Crofchick Realty, LLC or by both.</p> <p>**Payments of \$2,700.00 have been made since September, 2015 and will continue until the Effective Date.</p>

2.	<p><i>Secured claim of:</i></p> <p>Internal Revenue Service</p> <p><i>Collateral:</i></p> <p>All assets of the debtor</p> <p><i>Allowed Secured Amount:</i></p> <p><i>Priority of lien:</i></p> <p>Second and third position liens</p> <p>Total claim: \$36,250.72</p>	No.	Unimpaired	<p>Monthly Pmt = \$604.18</p> <p>Pmts Begin = As of the petition date or as agreed upon</p> <p>Pmts End = After all principal, interest and costs have been paid in full.</p> <p>Interest rate % = 3%</p>
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2. *Classes 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.

The following chart lists all classes containing claims under §§ 507(a)(1), (4), (5), (6), and (a)(7) of the Code and their proposed treatment under the Plan:

Class #	Description	Impairment	Treatment
3.	None other than priority unsecured claims of Internal Revenue Service and PA Department of Revenue	Unimpaired	See earlier in this Disclosure Statement

3. *Class 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 following chart identifies the Plan's proposed treatment of Class through, which contain general unsecured claims against the Debtor:

Class #	Description	Impairment	Treatment
4.	General Unsecured Class (Valley Pest Control -- \$655.25 – Disputed) Lentz Milling Co.-- \$5,386.25) Portion of Tax Claims -- Uncertain	Impaired	30% of their Allowed Claims in equal monthly installments over a period of 60 months commencing no greater than 30 days following the effective date of the plan.

The Absolute Priority Rule. The Debtor's Plan, as presently drafted, violates the Absolute Priority Rule and the Debtor's Chapter 11 Plan as presented cannot be confirmed over the objections of unsecured creditors. The Absolute Priority Rule provides that a Chapter 11 plan is "fair and equitable" regarding a dissenting class of unsecured claims if the plan provides that each holder of a claim in such class is effectively paid in full, or failing that, that *no holder of any claim or interest that is junior to the dissenting class will retain any property under the plan*. This applies in the so-called "cram-down" scenarios in which a class of unsecured creditors has voted to reject a Chapter 11 plan.

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. In a partnership, equity interest holders include both general and limited partners. In a limited liability company ("LLC"), the equity interest holders are the members. Finally, with respect to an individual who is a debtor, the Debtor is the equity interest holder.

The following chart sets forth the Plan's proposed treatment of the class of equity interest holders:

Class #	Description	Impairment	Treatment
5 Robert Crofchick and Mary Anne Crofchick	Equity interest holders	Unimpaired	Retain

D. Means of Implementing the Plan

1. *Source of Payments*

Payments and distributions under the Plan will be funded by the following: from the Debtor's operating income, including, but not limited to, rental payments received from, or paid directly to creditors by, an affiliate of the Debtor, Crofchick, Realty, LLC.

Post-confirmation Management

The Post-Confirmation Managers of the Debtor, and their compensation, shall be as follows:

Name	Affiliations	Insider (yes or no)?	Position	Compensation
Robert Crofchick	Owner	Yes	Owner	From Net Profit, if any
Mary Anne Crofchick	Owner	Yes	Owner	From Net Profit, if any

E. Risk Factors

The proposed Plan has the following risks:

The viability of this Plan rest upon the net cash flow of the Debtor's business operations.

F. Executory Contracts and Unexpired Leases

The Plan, in Paragraph 6.1, 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. Paragraph 6.1 also lists how the Debtor will cure and compensate the other party to such contract or lease for any such defaults.

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 Paragraph 6.1 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.

G. Tax Consequences of Plan

Creditors and Equity Interest Holders Concerned with How the Plan May Affect Their Tax Liability Should Consult with Their Own Accountants, Attorneys, and/or Advisors.

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 classes 1 through 4 are impaired and that holders of claims in each of these classes are therefore entitled to vote to accept or reject the Plan. The Plan Proponent believes that class 5 is unimpaired and that holders of claims in each of this classe, 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 May 11, 2016

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 “cram 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 “cram down” 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

Adiscriminate 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.

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. A liquidation analysis is attached to this Disclosure Statement as Exhibit D.

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 Plan Proponent believes that the Debtor 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. Tables showing the amount of cash on hand on the effective date of the Plan, and the sources of that cash are attached to this disclosure statement as Exhibit E.

2. Ability to Make Future Plan Payments And Operate Without Further Reorganization

The Plan Proponent must also show that it will have enough cash over the life of the Plan to make the required Plan payments.

The Plan Proponent has provided projected financial information. Those projections are listed in Exhibit F.

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. DISCHARGE OF DEBTOR

Discharge. On the effective date of the Plan, the Debtor shall be discharged from any debt that arose before confirmation of the Plan, subject to the occurrence of the effective date, to the extent specified in § 1141(d)(1)(A) of the Code, except that the Debtor shall not be discharged of any debt (i) imposed by the Plan, (ii) of a kind specified in § 1141(d)(6)(A) if a timely complaint was filed in accordance with Rule 4007(c) of the Federal Rules of Bankruptcy Procedure, or (iii) of a kind specified in § 1141(d)(6)(B). After the effective date of the Plan your claims against the Debtor will be limited to the debts described in clauses (i) through (iii) of the preceding sentence.

B. Modification of Plan

The Plan Proponent 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 Plan Proponent 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 Plan Proponent, 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,

CROFCHICK INC.

October 15, 2016

By: /s/ Robert F. Crofchick
President of the Plan Proponent

/s/ David J. Harris, Esquire
Counsel to the Plan Proponent

/s/ Tullio DeLuca, Esquire
Counsel to the Plan Proponent

EXHIBITS

Exhibit A Copy of Proposed Plan of Reorganization