

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

IN RE:

KENNETH J. ARTHURS AND  
BRENDA L. ARTHURS,  
Debtors.

Bankruptcy No. 15-70795-JAD  
Chapter 11

DISCLOSURE STATEMENT  
TO ACCOMPANY PLAN DATED SEPTEMBER 12, 2016

Chapter 11 Small Business (Check box only if debtor has elected to be considered a small business under 11 U.S.C. §1121(e))

Debtor furnishes this disclosure statement to creditors in the above-captioned matter pursuant to Bankruptcy Code §1125 to assist them in evaluating debtor's proposed Chapter 11 plan, a copy of which is attached hereto. Creditors may vote for or against the plan of reorganization. Creditors who wish to vote must complete their ballots and return them to the following address before the deadline noted in the order approving the disclosure statement and fixing time. The Court will schedule a hearing on the plan pursuant to 11 U.S.C. §1129.

Address for return of ballots:

Robert O Lampl  
960 Penn Avenue, Suite 1200  
Pittsburgh, PA 15222

I. Background

1. Name of Debtors:

Kenneth J. Arthurs and Brenda L. Arthurs.

2. Type of Debtor (individual, partnership, corporation):

Individuals

3. Debtor's Business or Employment

The Debtors operate a business known as NCK, Inc., which is a Debtor in a separate Chapter 11 Bankruptcy Case. NCK, Inc., operates a bar/restaurant in Indiana,

## 4. Date of Chapter 11 Petition

November 20, 2015

## 5. Events that Caused the Filing:

The Debtors and NCK, Inc., suffered a downturn in business prior to filing the instant case. Furthermore, the Debtors were in the process of purchasing a building which adjoined the location of the restaurant and were in the process of building out that structure to increase their business. As such, the Debtors incurred more debt as they attempted to conclude their buildup of the adjoining property. Unfortunately, the purchaser withdrew from the sale of the business which prevented the Debtors from being able to service the additional debt that they took on. As such, the instant case as well as the NCK, Inc., case were filed so that the Debtor can reorganize its financial affairs.

## 6. Anticipated Future of the Company &amp; Source of this Information and Opinion

The Debtors have reorganized their restaurant business to reduce expenses and to increase revenue, which will lead to greater profits. In large part, additional revenue will be available due to the fact that the Debtors have made repairs to their building which has created additional rental space, which the Debtors will rent to third parties. The Debtors and NCK, Inc., also have claims to pursue against various parties, including a financing company and their former counsel. These claims have been filed and are being pursued. To the extent that they are successful in pursuing these claims, additional funds will be available for distribution to creditors. The Debtors have provided this information and opinion based upon their knowledge of the business and the steps that they have taken to increase profits in the future.

## 7. Summarize all Significant Features of the Plan Including When and How Each Class of Creditor Will Be Paid and What, If Any, Liens Will Be Retained By Secured Creditors or Granted to Any Creditor Under the Plan

The Debtors will retain all liens of secured creditors until such time as the liens have been paid in full. The Debtors have filed numerous claim objections and may file additional claim objections in the future. Furthermore, Debtor Ken Arthurs has claims for legal malpractice against his prior counsel, and to the extent any proceeds are obtained from that litigation, the Debtor will use those proceeds to fund his obligations under the Plan.

## 8. Are All Monthly Operating Statements Current and on File With The Clerk of Court?

Yes \_\_\_\_\_ No X \_\_\_\_\_

If Not, Explain:

August 2016 report remains outstanding at the present time. The Debtors intend to file the Operating Report as soon as possible.

9. Does the plan provided for releases of nondebtor parties? Specify which parties and terms of release.:

No.

10. Identify all executory contracts that are to be assumed or assumed and assigned.

The Debtors have a residential lease with Shane Hutchinson. Mr. Hutchinson has filed for Chapter 11 Bankruptcy. The Debtors intend to assume the lease, however, the property is currently in foreclosure and a Relief From Stay Motion is pending. To the extent that the property is lost due to foreclosure, the Debtors will not assume the lease.

11. Has a bar date been set? Yes X No \_\_\_\_\_  
(If not, a motion to set the bar date has been filed simultaneously with the filing of this disclosure statement.)

12. Has an election under 11 U.S.C. §1121(e) been filed with the Court to be treated as a small business?

Yes \_\_\_\_\_ No X

13. Specify property that will be transferred subject to 11 U.S.C. §1146(c).

None

II. Creditors

A. Secured Claims

SECURED CLAIMS

Creditor	Total Amount Owed	Arrearages	Type of Collateral Priority of Lien (1, 2, 3)	Disputed (D) Liquidated (L) Unliquidated (U)	Will Liens Be Retained Under the Plan? (Y) or (N)
PA Department of Revenue	13,360.17	0		Disputed	Y
American Honda Finance	27,815.36	0	First Lien on 2014 Honda Pilot	-	Y
Santander Consumer USA, Inc.	\$20,288.30	\$5,693.49	First Lien on Honda Ridgeline	-	Y
White Township	\$19,403.31	\$19,403.31	First Lien on 2 properties located in Indiana, PA.	D	Y
Internal Revenue Service	\$9,340.25	\$9,340.25	Second Lien on Real Property of Debtors	D	Y
Broadcast Music, Inc	\$24,583.50	\$0	Third Lien on Real Property of Debtors Located in Indiana, PA	-	Y
<b>TOTAL</b>	<b>\$114,790.89</b>	<b>\$34,437.05</b>			

B. Priority Claims

PRIORITY CLAIMS

Creditor	Total Amount Owed	Type of Collateral	(D) (L) (U) *
PA Department of Revenue	19,958.36	-	Disputed
Internal Revenue Service	\$9,288.84	-	Disputed
<b>TOTAL</b>	<b>\$29,247.20</b>		

\* Disputed (D), Liquidated (L), or Unliquidated (U)

C. Unsecured Claims

1.	Amount Debtor Scheduled (Disputed and Undisputed)	\$ 3,968.00
2.	Amount of Unscheduled Unsecured Claims <sup>1</sup>	\$ 115,710.65
3.	Total Claims Scheduled or Filed	\$ 119,678.65
4.	Amount Debtor Disputes	\$ 72,045.27
5.	Estimated Allowable Unsecured Claims	\$ 47,633.38

D. Other Classes of Creditors

1.	Amount Debtor Scheduled (Disputed and Undisputed)	\$ n/a
2.	Amount of Unscheduled Claims <sup>1</sup>	\$ n/a
3.	Total Claims Scheduled or Filed	\$ n/a
4.	Amount Debtor Disputes	\$ n/a
5.	Estimated Allowable Claims	\$ n/a

E. Other Classes of Interest Holders

1.	Amount Debtor Scheduled (Disputed and Undisputed)	\$ n/a
2.	Amount of Unscheduled Claims <sup>1</sup>	\$ n/a
3.	Total Claims Scheduled or Filed	\$ n/a
4.	Amount Debtor Disputes	\$ n/a
5.	Estimated Allowable Claims	\$ n/a

<sup>1</sup> Includes (a.) unsecured claims filed by unscheduled creditors; (b.) that portion of any unsecured claim filed by a scheduled creditor that exceeds the amount debtor scheduled; and (c.) any unsecured portion of any secured debt not previously scheduled.

III. Assets

ASSETS

Assets	Value	Basis for Value Priority of Lien	Name of Lien Holder (if any) (Fair Market Value/ Book Value)	Amount of Debtor's Equity (Value Minus Liens)
728 North 5 <sup>th</sup> Ave.	\$30,000.00	Proof of Claims	White Township-\$19,403.31 PA Department of Revenue-\$13,360.17 Internal Revenue Service-9,340.25 Broadcast Media -\$24,583.50	(36,687.23)
720 North 5 <sup>th</sup> Ave.	\$5,000.00	Proof of Claims	White Township-\$19,403.31 Broadcast Media -\$24,583.50	(61,687.23)
560 Philadelphia Street	\$150,000.00	Proof of Claims	PA Department of Revenue-\$13,360.17 Internal Revenue Service-9,340.25 Broadcast Media -\$24,583.50	\$102,716.08
Household Furniture	\$4,000.00	n/a	n/a	\$4,000.00
Clothing	\$1,200	n/a	n/a	\$1,200
Jewelry	\$1,500	n/a	n/a	\$1,500
NCK, Inc.	0	n/a	n/a	0
2014 Honda Pilot	\$20,000	Proof of Claims	Honda Finance Corp.-\$27,815.35	\$(7,815.35)
2011 Honda Ridgeline	\$20,000	Proof of Claims	Santander Bank	\$(288.30)
Malpractice claim against Christopher Welch	Unknown	Civil Action		

\$231,700.00	
<b>TOTAL</b>	

\$2,937.97	
<b>TOTAL</b>	

1. Are any assets which appear on Schedule A or B of the bankruptcy petition not listed above?

If so, identify asset and explain why asset is not in estate: No

2. Are any assets listed above claimed as exempt? If so attach a copy of Schedule C and any amendments.

**Yes. See attached Schedule C**

IV. SUMMARY OF PLAN

1. Effective Date of Plan: December 15, 2016
2. Will cramdown be sought? X Yes        No  
**If Yes, state bar date:** \_\_\_\_\_
3. Treatment of Secured **Non-Tax** Claims

SECURED NON-TAX CLAIMS

Name of Creditor	Class	Amount Owed	Summary of Proposed Treatment
American Honda Finance	1	27,815.36	No payments to be made. Debtor Brenda Arthurs was a cosigner on the car loan, the other obligor has been and will continue to make all payments due.
Santander Consumer USA, Inc.	2	\$20,288.30	Arrears to be cured in accordance with order of court. Debtors to make regular monthly payments until obligation is satisfied.
Broadcast Music	4	\$24,583.50	To be paid via regular monthly payments
<b>TOTAL</b>		\$72,687.16	

4. Treatment of Secured Tax Claims

SECURED TAX CLAIMS

Name of Creditor	Class	Amount Owed	Summary of Proposed Treatment
PA Department of Revenue	3	13,360.17	Debtors have objected to this claim. If claim is allowed, the Debtors will pay in through 60 regular monthly payments commencing 30 days after the entry of the order allowing the claim.
White Township	3	\$19,403.31	Same treatment as above.

Document	Page 10 of 19
Internal Revenue Service	3
	\$9,340.25
	Same treatment as above
<b>TOTAL</b>	<b>\$42,103.73</b>

5. Treatment of Administrative **Non-Tax** Claims<sup>2</sup>

ADMINISTRATIVE NON-TAX CLAIMS

Name of Creditor*	Amount Owed	Type of Debt**	Summary of Proposed Treatment and Date of First Payment
Santander Consumer USA,	\$5,693.49	Car loan	To be paid in accordance with Relief From Stay Order
Counsel for Debtor	No approved fee	Professional	To be paid in full on December 15, 2016, if possible. Counsel to seek court approval of fees. If not paid in full, to be paid within 12 months of date of confirmation of the Plan.
Accountant for Debtor	No approved fee	Professional	To be paid in full on December 15, 2016, if possible. Counsel to seek court approval of fees. If not paid in full, to be paid within 12 months of date of confirmation of the Plan.
United States Trustee	\$0	Quarterly Fees	Any fees accrued before confirmation will be paid at the time of payment to counsel for the Debtor and the Accountant for the Debtor.

6. Treatment of Administrative Tax Claims

ADMINISTRATIVE TAX CLAIMS

Name of Creditor*	Amount Owed	Type of Debt**	Summary of Proposed Treatment and Date of First Payment
None			

\* Identify and Use Separate Line for Each Professional and Estimated Amount of Payment

\*\* Type of Debt (P=Professional, TD=Trade, TX=Taxes)

<sup>2</sup> Include all §503(b) administrative claims.

7. Treatment of Priority Non-Tax Claims

PRIORITY NON-TAX CLAIMS

Name of Creditor	Class	Amount Owed	Date of Assessment	Summary of Proposed Treatment
None				

8. Treatment of Priority Tax Claims<sup>3</sup>

PRIORITY TAX CLAIMS

Name of Creditor	Class	Amount Owed	Date of Assessment	Summary of Proposed Treatment
PA Dept. of Revenue	8	\$19,958.36	unknown	Debtors objected to Claim. To the extent claim is allowed, Debtor will pay off the claim within 60 months of the date of the order allowing the claim, by making equal monthly installment payments.
Internal Revenue Service	8	\$9,288.84	Various dates between 2006-2015	Same as above.

<sup>3</sup> Include dates when any §507(a)(7) taxes were assessed.

9. Treatment of General Unsecured Non-Tax Claims

GENERAL UNSECURED NON-TAX CLAIMS

Creditor	Class	Total Amount Owed	Percent of Dividend
Collection Service Center, Inc.	9	\$2,476.00	No less than 33%
Credit Collectoin Services	9	\$94.00	No less than 33%
Credit Management Co.	9	\$764.00	No less than 33%
Credit One Bank	9	\$273.00	No less than 33%
Indiana Reginal Medical Center	9	\$361.00	No less than 33%
Can Capital Merchant Services	9	\$41,239.91	No less than 33%
Peoples Natural Gas	9	\$6,131.17	No less than 33%
Penelec	9	\$29,698.86(disputed)	No less than 33%
<b>TOTAL</b>		<b>\$ 81,037.94</b>	

10. Treatment of General Unsecured Tax Claims

GENERAL UNSECURED TAX CLAIMS

Creditor	Class	Total Amount Owed	Percent of Dividend
Commonwealth of PA UCTS	9	31,181.67	No less than 33%
PA Department of Revenue	9	3621.44	No less than 33%
Internal Revenue Service	9	253.30	No less than 33%
<b>TOTAL</b>		<b>\$ 35,056.41</b>	

11. Will periodic payments be made to unsecured creditors?

Yes X No \_\_\_\_\_ First payment to begin: December 15, 2016

If so:

Amount of each payment (aggregate to all unsecured claimants): \$855.00

Estimated date of first payment: December 15, 2016

Time period between payments: One Month

Estimated date of last payment: December 15, 2021

Contingencies, if any: Payments to some creditors will not be made until conclusion of the claim objections filed by the Debtor. If any claims are determined to be valid, the Debtors will commence making payments to that creditor and the monthly payment amount to this class will increase accordingly. Furthermore, the distribution to unsecured creditors may increase depending upon the result of the Indiana County law suit.

State source of funds for planned payments, including funds necessary for capital replacement, repairs, or improvements:

Earnings from the operation of the restaurant business operated by the Debtors.

Other significant features of the plan:

Debtors have objected to numerous claims and may object to additional claims. Furthermore, the Debtors will pursue claims that Ken Arthurs may have against his counsel, Christopher Welsh, in Indiana County, Pennsylvania. The outcome of that litigation may affect the distribution of creditors in that case.

Include any other information necessary to explain this plan:

V. Comparison of Plan with Chapter 7 Liquidation

If debtor's proposed plan is not confirmed, the potential alternatives would include proposal of a different plan, dismissal of the case or conversion of the case to Chapter 7. If this case is converted to Chapter 7, a trustee will be appointed to liquidate the debtor's non-exempt assets. In this event, all secured claims and priority claims, including all expenses of administration, must be paid in full before any distribution is made to unsecured claimants.

Total value of Chapter 7 estate (See Section III)	\$231,700
1. Less secured claims (See Section II A)	\$114,790.89
2. Less administrative claims (See Section IV-5-6 and include approximate Chapter 7 expenses)	\$45,000.00
3. Less other priority claims (See Section II B)	\$29,247.20
 Total Amount Available for Distribution to Unsecured Creditors	 <b>\$42,661.91</b>
Divided by total allowable unsecured claims of (See Section II C)	\$116,094.35
Percentage of Dividend to Unsecured Creditors:	36.5%

Will the creditors fare better under the plan than they would in a Chapter 7 liquidation?

Yes X No \_\_\_\_\_

Explain: The foregoing liquidation analysis does not take into account the fact that the amount to be derived from the liquidation of the Debtors' Estate would be less in the forced liquidation setting of a Chapter 7 Case. Similarly, the analysis does not take into consideration the Debtors' exemptions, which exemptions will significantly impact and reduce the amount ultimately distributed to unsecured creditors.

VI. Feasibility

A. Attach Income Statement for Prior 12 Months. The Debtors have not attached documents with this information. The Debtors believe that the historic information will not accurately reflect future earnings for the reasons set forth in this disclosure statement.

B. Attach Cash Flow Statement for Prior 12 Months. The Debtors have not attached documents with this information. The Debtors believe that the historic information will not accurately reflect future earnings for the reasons set forth in this disclosure statement.

C. Attach Cash Flow Projections for Next 12 Months. See attached document.

Estimated amount to be paid on effective date of plan, including administrative expenses.

\$11,505.00

Show how this amount was calculated.

\$10,000	Administrative Class
\$0	Taxes
\$855.00	Unsecured Creditors
<u>\$650</u>	UST Fees
<u><u>\$ 11,505</u></u>	TOTAL

What assumptions are made to justify the increase in cash available for the funding of the plan?

The Debtors have reduced expenses by reducing the employees it retains as part of its restaurant operations. Furthermore, the Debtors have adjusted the operations of its business in order to increase profits and earnings to fund this Plan.

Will funds be available in the full amount for administrative expenses on the effective date of the plan? From what source? If not available, why not and when will payments be made?

It is not believed that sufficient funds will be on hand to pay the administrative claims in full. To the extent there are insufficient funds available, the Debtor will make regular monthly payments to the administrative claimants to ensure that the claims are satisfied in full within 12 months of the confirmation date.

**Cash on hand \$1,100.00(Current). Attach current bank statement.**

**Cash on hand \$1,500.00 (Estimated amount available on date of confirmation)**

**If this amount is less than the amount necessary at confirmation, how will debtor make up the shortfall?**

VII. Management Salaries

MANAGEMENT SALARIES

Position/Name of Person Holding Position	Salary at Time of Filing	Proposed Salary (Post-Confirmation)
Not Applicable		

VIII. Identify the Effect on Plan Payments and Specify Each of the Following:

1. What, if any, litigation is pending?

The Debtors have several claim objections pending. Furthermore, Ken Arthurs is in the process of pursuing claims against his prior counsel, Christopher Welsh, for legal malpractice.

2. What, if any, litigation is proposed or contemplated?

The Debtors are reviewing whether any additional claim objections are warranted.

IX. Additional Information and Comments

None.

X. Certification

The undersigned hereby certifies that the information herein is true and correct to the best of my knowledge and belief formed after reasonable inquiry.

If Debtor is a corporation, attach a copy of corporate resolution authorizing the filing of this Disclosure Statement and Plan.

If Debtor is a general partnership, attach a copy of the consent agreement of all general partners to the filing of the bankruptcy.

/s/ Kenneth Arthurs  
Signature of Debtor  
or Authorized Representative

September 12, 2016  
Date

/s/ Brenda Arthurs  
Signature of Debtor  
or Authorized Representative

September 12, 2016  
Date

/s/ Robert O Lampl  
Debtor's Counsel

September 12, 2016  
Date