

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

In re:	Case No.: 16-3451(JAD)
C. SWANK ENTERPRISES, LLC	Chapter 11
Debtor	
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DE LAGE LANDEN FINANCIAL SERVICES, INC.	Hearing Date: September 5, 2017
Movant,	
v.	
C. SWANK ENTERPRISES, LLC	
Respondent.	

**OBJECTION TO DISCLOSURE STATEMENT**

De Lage Landen Financial Services, Inc. (hereinafter “DLL”), by and through its undersigned attorneys, hereby objects to confirmation of the Debtor’s Disclosure Statement and Chapter 11 Plan as follows:

1. DLL is a secured creditor pursuant to a Loan and Security Agreement (the “Agreement”) entered into between DLL and Debtor C Swank Enterprises, LLC (“Debtor”). See a true and correct copy of the Agreement attached hereto as Exhibit “A” and incorporated herein by reference.

2. In connection with the Agreement, the total amount due to DLL from Debtor, including interest through the petition date, is \$89,823.47. See Certification of Kenneth Jones attached hereto as Exhibit “B” and incorporated herein by reference.

3. The amount due was calculated as follows:

Past Due/Billed Payments	\$28,447.04
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Remaining Payments Discounted at 3%	\$42,090.14
Property Tax	\$ 1,321.60
Attorneys' Fees	\$17,964.69
<b>TOTAL DUE</b>	<b>\$89,823.47</b>

See Exhibit "B".

4. The principal portion of this amount represents the twenty (20) monthly payments remaining due to DLL under the Agreement. See Exhibit "B".

5. Furthermore, Debtor has not made a payment under the Agreement since July 2016. See Exhibit "B".

6. Notwithstanding, pursuant to the Disclosure Statement and Plan, Debtor proposes to pay DLL's claim over of a period of seven (7) years, more than four times the length of time remaining on the Agreement. See Disclosure Statement at paragraph I(7)(H).

7. In the Disclosure Statement and Plan, Debtor notes that DLL did not file a proof of claim but that Debtor estimates the claim amount to be \$67,545.78<sup>1</sup>. The actual claim amount is \$89,823.47, as set forth above.

8. In addition, the Disclosure Statement and Plan request that creditors be barred and enjoined from pursuing Carol Swank and other individuals in connection with personal guaranties, including the guaranty signed by Carol Swank in connection with the Agreement with DLL, which is currently being litigated in the Court of Common Pleas of Chester County.

9. In light of the fact that Carol Swank has not filed bankruptcy and cannot be considered a co-debtor in connection with the instant matter, there is no basis for precluding

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<sup>1</sup> Prior to the retention of counsel, DLL inadvertently failed to file a proof of claim establishing the amount and extent of its claim, but DLL was in contact with Debtor and the Trustee during that time regarding its claim.

creditors from proceeding against Ms. Swank in state court, nor is there any jurisdiction to stay any actions currently pending in state court.

10. Moreover, there is no basis in law or fact for a co-debtor stay to be imposed as to Carol Swank in connection with this matter.

11. As such, DLL respectfully objects to the Disclosure Statement and Chapter 11 Plan, and submits that confirmation is inappropriate.

**WHEREFORE**, Creditor/Objecting Party De Lage Landen Financial Services, Inc. respectfully requests that this Honorable Court sustain its Objection and deny confirmation of the Disclosure Statement and Chapter 11 Plan, and such other and further relief as this court deems appropriate.

Respectfully Submitted,

*/s/ Nicola G. Suglia*

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Dated: August 23, 2017

