

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF PUERTO RICO**

In re:

Case No. 15-06762 BKT

JOSE G MALDONADO MALAVE

ZULMA I RECIO LOPEZ

Chapter 11

Debtor (s)

/

**DISCLOSURE STATEMENT
FOR PLAN OF REORGANIZATION DATED OCTOBER 31, 2016**

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This Disclosure Statement is being filed in connection with the Plan of Reorganization dated October 31, 2016 (the “Plan”) for the Individual Chapter 11 Debtor, JOSE G MALDONADO MALAVE and ZULMA I RECIO LOPEZ. A copy of the Plan is attached hereto as **Exhibit A**.

ARTICLE 1. SUMMARY OF PLAN

The Debtor submits the following summary of the Plan (the “Summary”) that sets forth the nature of the Plan and includes a clear description of the exact proposed treatment of each Class of Creditors; shows total amounts and timing of payments to be made under the Plan and all sources and amounts of funding thereof; as well as plainly identifies all Class of Creditors, the composition of each Class, the amount of Claims, and the property to be received by each Class, accordingly:

1.1. Debtors: JOSE G MALDONADO MALAVE and ZULMA I RECIO LOPEZ

12 General Purpose: This Plan consists of four (3) classes of creditors and Interests. The purpose of this Plan is to: (a) reorganize unsecured claims against the Debtor and (b) reorganize allowed secured commercial claim against the Debtor (c) cure arrears with secured residential mortgage.

The Debtors filed this petition in their individual capacity. Debtors currently receive rent from several properties owned by the debtors. The Debtor’s gross income is approximately \$7,000.00 per month. Debtor’s operating expense of \$3,500.00

The Debtor’s primary assets and liabilities are related to the Debtor’s Real Properties. The Debtor owns the following Real Properties:

- 1) Commercial property located at Hermanos Davila Ave, Betances I-15. This property has two commercial lots been rented. This has a market value of 245,000.00
- 2) Commercial property located at Hermanos Davila Ave, Betances J-2. This property has four commercial lots been rented. This has a market value of 100,000.00
- 3) Commercial property located at Hermanos Davila Ave, Betances J-3. This property has one commercial lots been rented. This has a market value of 100,000.00
- 4) Commercial property located at Bo Candelaria Arenas in Toa Baja. This property has one commercial tenant and is been rented. This Property has a market value of 90,000.00
- 5) Residential property located at Urb Flamingo Hills in Bayamon Puerto Rico. The same is debtor’s residence. The said property has a market value of \$120,000.00

13 Classification, Treatment of Creditors and Distributions to Claims and Interests: The Plan consists of one (1) class of administrative claims, which are not classified, six (3) classes of creditors, and one (1) class of equity holders. The Plan contemplates the following treatment and distributions:

1.3.1 Not Classified Administrative Claims: These Claims consists of Administrative Claims, including professional fees, against the Debtor.

1.3.1.1 Treatment and Distributions. Administrative Claims will be paid in

full (100%) on or before the Effective Date of the Plan, except that Quarterly Fees due to the U.S. Trustee, if any, will be paid on or before the Confirmation Order.

1.3.2 Allowed Residential Secured Claims (Class 1 Claims): Class consists of the pre-petition arrears of the residential property owned by debtors.

1.3.2.1 *Treatment and Distributions.* Allowed Class 1 Claims, if any, will receive a 100% distribution on their claims, at the first month following the Effective Date of the Plan.

1.3.3 Commercial Allowed Secured Claim (Class 2): Class 2 Claims consists of the Allowed Secured Claim, if any, secured 3 commercial properties with a lien of PR Asset Portfolio.

1.3.3.1 *Treatment and Distributions.* The Holder of an Allowed Secured Class 2 Claim, if any, will receive, in full and complete satisfaction of and on account of its Allowed Secured Class 2 Claim, the amount of \$500,000.00. The \$500,000.00 will be paid via monthly installments of \$3,000.00, and a lump sum of the remaining balance on or before the 24th month of the effective date of the plan. **THE UNSECURED PORTION OF THIS CLAIM SHALL RECEIVE DISTRIBUTION UNDER CLASS 3.**

1.3.4 Allowed General Unsecured Claims (Class 3): Class 3 Claims consist of: (a) the pre-petition unsecured claims against the Debtor, to the extent Allowed, if any.

1.3.5.1 *Treatment and Distributions.* The Class 4 Claims will be Satisfied via 60 monthly payments starting the Effective Date of the Plan. Total distribution on Class 3 Claims is estimated at a present value of **\$85,339.00 which is a 7.00%** distribution on these claims.

14 **Term:** The Plan contemplates that all distributions under the Plan will be Completed within **5 years** from the Effective Date of the Plan.

15 **Plan Funding:** As set forth in more detail in the Five Year Cash Flow attached as **Exhibit B**, the Plan will be funded by and through: (a) the Debtor's cash reserves as of the Effective Date of the Plan and (b) the future cash flows generated by Debtors rent income, and the refinance or sale of the commercial properties owned by debtors.

16 **Effective Date:** The Effective Date of the Plan will be the 10th day following the day this Honorable Court enters an Order of Confirmation, unless the Confirmation Order is stayed pending appeal, in which case the Effective Date shall be the first day, other than a Saturday, Sunday or legal holiday enumerated in Bankruptcy Rule 9006(a), after such stay is dissolved, vacated or expires.

17 **Voting:** Those creditors entitled to vote on the Plan should complete the enclosed ballot and return it to: JPC LAW OFFICE, Po Box 363565, San Juan Puerto Rico, 00936-3565. Only those ballots returned in a timely manner and in accordance with the

accompanying notice and instructions will be counted in determining whether a particular Class of creditors has accepted or rejected the Plan. Acceptance of the Plan by a Class of Claims requires accepting votes by (1) more than half of the voting creditors of such class, and (2) holders of claims totaling at least two thirds of the total amount of claims held by voting creditors of such class. Acceptance of the Plan by a class of Interest requires acceptance by at least two-thirds (2/3) in amount of the allowed Interests of such class that have voted to accept or reject the Plan.

18 **Hearing:** The Confirmation Hearing shall be held before the Honorable Brian K. Tester at the United States Bankruptcy Court, District of Puerto Rico, José V. Toledo Federal Building & US Courthouse 300 Recinto Sur Street, Courtroom #2, San Juan, Puerto Rico 00901 (the “Confirmation Hearing”). Three (3) days prior to the Confirmation Hearing is fixed as the last day for filing and serving written objections to the disclosure statement and confirmation of the plan, unless otherwise determined by an Order of the Court.

19 **Additional Information:** Request for information regarding the Plan or the Disclosure Statement should be directed to counsel for Debtor as follows:

JPC LAW OFFICE

Jose M Prieto Carballo, Esq.

Po Box 363565,

San Juan PR 00936-3565

Tel: (787) 607-2066

Fax: (787) 200-8837

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1.10 **Liquidation Value:** A Liquidation Analysis is attached hereto as **Exhibit C**. It shows that, in a hypothetical liquidation of the Debtor’s assets under Chapter 7, creditors with enforceable claims against Debtor would be entitled to receive approximately \$66,025.00 or a 5% distribution.

1.11 **Disposable Income:** A Disposable Income Analysis is attached hereto as **Exhibit D**. It shows that Debtor’s monthly disposable income, projected over 60 months pursuant to 11 U.S.C. § 1129(a)(15), would result in a distribution to unsecured creditors. Under the Plan, however, creditors with General Allowed Unsecured Claims are projected to receive a distribution in the amount of \$85,339.00 which is 7% on their Allowed Claims.

1.12 **Tax Consequences:** The confirmation and execution of the Plan may have tax consequences to holders of Claims. The Debtor does not offer any opinion as to any federal, state, local or other tax consequences to holders of Claims as a result of the Confirmation of the Plan. All holders of Claims are urged to consult their own tax advisors with respect to the federal, state, local and foreign tax consequences of the Plan. **THIS DISCLOSURE STATEMENT IS NOT INTENDED, AND SHOULD NOT BE CONSTRUED, AS LEGAL OR TAX ADVICE TO ANY CREDITOR.**

1.13 **Disbursing Agent.** Sr. Jose Maldonado shall be the disbursing agent for Plan payments.

1.14 **Executory Contracts.** The Debtor rejects any executory contract or lease not specifically assumed in the attached **Exhibit A** to the Plan. Any counter-party to the executory contracts listed therein, may, within 30 days after the Confirmation Date, file a proof of claim for damages for any amount of damages allegedly resulting from the rejection of the contract. Any rejection damages arising pursuant to a notice of rejection of a contract or lease shall constitute a Class 7 Claims to the extent they become Allowed Claims.

ARTICLE 2 THE PURPOSE OF THE DISCLOSURE STATEMENT AND THE PLAN CONFIRMATION PROCESS

The purpose of this Disclosure Statement is to provide each creditor with a description of the Plan as an aid in making an informed decision to accept or reject the Plan. Each impaired creditor is entitled to vote to accept or reject the Plan. **THE DISCLOSURE STATEMENT PROVIDES A BRIEF SUMMARY OF THE PLAN AND OTHER INFORMATION WITH RESPECT THERETO AND IS NOT INTENDED TO TAKE THE PLACE OF THE PLAN. EACH CREDITOR IS URGED TO STUDY THE PLAN IN FULL AND TO CONSULT WITH COUNSEL WITH RESPECT TO THE PLAN AND ITS EFFECT ON HIS/HER RIGHTS.**

The court will set a date for a hearing on the confirmation of the Plan. Creditors may vote on the Plan by filling out and mailing the accompanying Ballot for accepting or rejecting the Plan to Po Box 363565, San Juan PR 00936-3565. In order for the Plan to be accepted, claimants holding at least two thirds in amount and more than one half in numbers of the allowed claims in Classes 1 through 3 who vote, must vote in favor of the Plan. The Plan may be confirmed with the acceptance of one Class of Claimants as described hereinafter.

NO REPRESENTATIONS CONCERNING THE DEBTOR ARE AUTHORIZED OTHER THAN AS SET FORTH IN THIS STATEMENT. ANY REPRESENTATIONS OR INDUCEMENTS MADE TO SECURE YOUR ACCEPTANCE, WHICH ARE OTHER THAN AS CONTAINED IN THIS STATEMENT, SHOULD NOT BE RELIED UPON BY YOU IN ARRIVING AT YOUR DECISION, AND SUCH ADDITIONAL REPRESENTATIONS AND INDUCEMENTS SHOULD BE REPORTED TO THE OFFICE OF THE UNITED STATES TRUSTEE WHICH, IN TURN, SHALL DELIVER SUCH INFORMATION TO THE BANKRUPTCY COURT FOR SUCH ACTIONS AS MAY BE DEEMED APPROPRIATE. THE INFORMATION CONTAINED HEREIN HAS NOT BEEN SUBJECT TO A CERTIFIED AUDIT. THE DEBTOR DOES NOT WARRANT OR REPRESENT THE INFORMATION CONTAINED HEREIN IS WITHOUT ANY INACCURACY ALTHOUGH CONSIDERABLE EFFORT HAS BEEN MADE TO BE ACCURATE.

The Debtor has proposed its Plan of Reorganization in good faith and in compliance with the applicable provisions of the Bankruptcy Code. In a reorganizing Plan, if the Plan has been accepted by one impaired class, but all impaired classes have not accepted the Plan, the Court would normally determine whether to cram the plan down on the dissenting class or classes. The Court can only do this if the Plan does not discriminate unfairly as to each class of claims, and if the Plan is fair and equitable as to each class of claims. Whether a Plan is fair and equitable as to a class of claims is determined by the standards set out in § 1129(b) (2) of the Bankruptcy Code. In the Plan submitted by the Debtor, there are 1 impaired classes. Therefore, the “cram down” provisions of the

bankruptcy code could be applied against a rejection class or classes of creditors. Regardless of the results of voting under any class of claims, the Debtor will ask the Court to confirm the Plan of Reorganization and find that the Plan does not discriminate unfairly and is fair and equitable with respect to the rejection creditors described in such cases.

ARTICLE 3. FINANCIAL INFORMATION RESPECTING DEBTOR 31

Description of the Debtor and His Business

The Debtor is an individual who filed this Case in her individual capacity. The Debtor has commercial spaces that are been rented. Debtors rent income is estimated in approximately \$4,500.00 monthly and the debtor personal expenses are estimated in \$2,200.00 monthly.

3.2 Debtor assets and Liabilities:

The Debtor's primary assets and liabilities are related to the Debtor's Real Properties. *See, Exhibit E,* Summary of Schedules, Schedules A, B, D, E, F, I and J.

The Debtor owns the following Real Properties:

- 1) Commercial property located at Hermanos Davila Ave, Betances I-15. This property has two commercial lots been rented. This has a market value of 245,000.00
- 2) Commercial property located at Hermanos Davila Ave, Betances J-2. This property has four commercial lots been rented. This has a market value of 100,000.00
- 3) Commercial property located at Hermanos Davila Ave, Betances J-3. This property has one commercial lots been rented. This has a market value of 100,000.00
- 4) Commercial property located at Bo Candelaria Arenas in Toa Baja. This property has one commercial tenant and is been rented. This Property has a market value of 90,000.00
- 5) Residential property located at Urb Flamingo Hills in Bayamon Puerto Rico. The same is debtor's residence. The said property has a market value of \$120,000.00

3.3. Factors Leading to Chapter 11:

Debtor had a decrease in income that caused the commercial lien holder to make collection efforts to foreclose the commercial properties. The debtor reorganize the tenants of the commercial spaces and now is generating rent income and is negotiating with PR asset Portfolio to reach an agreement to repay the debt and retain the premises.

34 Best Interest of Creditors Test

3.4.1 **Liquidation Analysis:** Debtor's assets are sufficient to be able to comply with the payment of 7% of the allowed claim by lien holders.

Attached hereto, as **Exhibit C**, is a Liquidation Value Analysis. This analysis of the Debtor's Assets and Liabilities reveals that the debtor's net worth **does not overcomes debtor's liabilities reason why the proposed plan proposes to pay 7%** of the allowed claim.

3.4.2 **Best Interest Test:** In this case, the Debtor believe that Creditors, particularly Creditors holding Allowed Claims in Classes 1 through 3, will fare much better under the Plan than they would if the Plan is not confirmed. Since the proposed plan will pay 7% of

their allowed claim.

3.5 Post-Petition Events

3.5.1 Post Petition Financial Condition and Post-Petition Monthly Operating Statements.

After the case was filed, in September 1 of 2015 the Debtor opened their DIP bank account. Additionally, the Debtor has filed all of their Monthly Operating Reports. The Operating Reports evidence income and expenses which are consistent with those scheduled at Schedule I and J and those projected herewith in the Five Year Cash Flow Projections. *See, also, **Exhibit B.***

The Debtors generates income from his business Profession. This business operation generates income to cover his personal expenses and to have funds to repay his creditors in order to satisfy their allowed claim. The Debtors' projected household expenses are captured in **Exhibit B-2,** attached hereto.

3.6 Cash Flow Projections.

Debtor's Cash Flow Projections are attached hereto as **Exhibit B.** Debtor estimates that the last distribution under the Plan will be on the 60th month following the Effective Date of the Plan. The Debtor's Cash-Flow Projections evidence Debtor's ability to fund Administrative Expenses, due upon Confirmation, and post-confirmation obligations under the Plan. The administrative expenses are estimated in approximately \$5,000.00. The administrative expenses consist of the Trustee Fees, any Tax Liability and any outstanding professional fees allowed by the court.

The Debtor's Projections evidence the Debtor's ability to meet Administrative expenses upon confirmation. Debtor has paid all administrative expenses that have become due. The only administrative expense pending it will be the attorney fees outstanding. Debtor estimates that at the time of an Order of Confirmation, Debtor will have in excess of **\$25,000.00** in his Debtor in Possession Account. These projections are based on the Debtors pre-petition and post-petition income as well as the Debtor's current cash-balance in their DIP Account.

The Debtor's projected cash-flows also demonstrate a sustained ability to continue to regular operation of the business and to cover their personal expenses and co comply with the plan payments. The Plan proposes payments and distributions on all Allowed Claims. *See, **Exhibit B.*** Five Year Cash Flow Projections. This includes an allowance for household expenses which are estimated at approximately **\$2,500.00** per month; which is consistent with the Debtor's pre-petition expenses as well as post-petition expenses as evidenced in the Monthly Operating Reports which have been filed.

ARTICLE 4. CLASSES OF CLAIMS

4.1 Unclassified Claims. Unclassified Claims consist of Administrative Claims. In accordance with the scheme of distribution of creditors established by the Bankruptcy Code, Debtor's Chapter 11 Reorganization Plan provides for payment of Administrative Claims which generally consist of professional fees and unpaid expenses of the Debtor which arouse subsequent to the filing date of this case. These claims shall be paid either subsequent to an order of the court where so required or in the Debtor's ordinary course of business. With respect to professional fees, \$5,000.00 has already been paid and any remaining balance will be paid upon an Order of this

Honorable Court. Any U.S. Trustee Fees owed will be paid prior to the Confirmation Order. Each holder of any other administrative expense claim allowed under § 503 of the Code will also be paid in full on the Effective Date of his Plan.

4.2 Class 1 (Class 1 Claims): Class consists of the pre-petition arrears of the residential property owned by debtors.

4.2.1 Description: Class consists of the pre-petition arrears of the residential property owned by debtors.

4.2.2 Treatment: Allowed Class 1 Claims, if any, will receive a 100% distribution on their claims, at the first month following the Effective Date of the Plan.

4.3 Class 2 Commercial Allowed Secured Claim (Class 2): Class 2 Claims consists of the Allowed Secured Claim, if any, secured 3 commercial properties with a lien of PR Asset Portfolio.

4.3.1 Description: Class 2 Claims consists of the Allowed Secured Claim, if any, secured 3 commercial properties with a lien of PR Asset Portfolio.

4.3.2 Treatment: The Holder of an Allowed Secured Class 2 Claim, if any, will receive, in full and complete satisfaction of the secured claim, the amount of \$500,000.00. The \$500,000.00 will be paid via monthly installments of \$3,000.00, and a lump sum of the remaining balance on or before the 24th month of the effective date of the plan. The deficiency of the said claim shall receive distribution under class 3.

4.4.1 Allowed General Un secured Claims (Class 3): Class 3 Claims consist of: (a) the pre-petition unsecured claims against the Debtor, to the extent Allowed, if any and the deficiency of the claim filed by PR ASSET PORTFOLIO.

4.4.1 Description: Class 3 Claims consist of: (a) the pre-petition unsecured claims against the Debtor, to the extent Allowed, if any and the deficiency of the claim filed by PR ASSET PORTFOLIO.

4.4.2 Treatment: The Allowed Class 3 Claims, if any, will receive a 7% distribution

on their claims, via monthly payments through month #60 following the Effective Date of the Plan

ARTICLE 5. MEANS OF IMPLEMENTING THE PLAN.

5.1 Funding the Plan.

5.1.1 Sources of Payment. The Plan establishes that the Plan will be funded from the Reorganized Debtor's cash flow generated by the Debtor. It generally consists of the by the self-employment income and possible sale of properties. The Debtor will contribute her cash flow to fund the Plan commencing on the Effective Date of the Plan and continue to contribute through the date that Holders of Allowed Class 1, 2 and 3, Claims receive the payments specified for in the Plan.

52 Distributions Under the Plan.

Funds will be distributed on a *pro rata* basis on the Class 1, Class 2 and Class 3.

53 Vesting of Assets.

The Plan provides that after the Effective Date of the Plan all of the Debtor's Real and Personal Property will vest in the Reorganized Debtor, free and clear of all liens, claims, interests and encumbrances, except as otherwise provided in the Plan or the Confirmation Order.

54 Risk Factors.

When deciding whether to vote for or against the Plan, Creditors should be aware of the following risk factors.

5.4.1 Income Risk.

Although the Debtors believes the Reorganized Debtor will be able to generate sufficient income subsequent to the Effective Date to make payments under the Plan, there is a risk that Debtors' employment income is interrupted or the projected rental income fails to materialize; thus, the Debtors will not achieve the income necessary to enable her to make payments to Creditors.

ARTICLE 6. OPERATION DURING THE CHAPTER 11

On the Petition Date, the Debtor filed a voluntary petition for relief under Chapter 11 of the United States Bankruptcy Code. Since that time, the Debtor has operated her financial affairs as a Debtor and Debtor in Possession.

The 341 Meeting of Creditors was held on October 14, 2015, at 10:00 AM. The last date and time by which anyone, including government units (as defined under Section 101(27) of the Bankruptcy Code), may file a Claim against Debtor was set for January 3, 2016 (the "Bar Date"). The Debtor's liabilities as set forth in her schedules of liabilities may increase or decrease depending on the amount of Claims which are eventually filed.

The Debtor has closed all pre-petition bank accounts. The real property that required

insurance coverage is currently insured. All Monthly Operating Reports, through the month ending May 30, 2016, have been filed. Quarterly Fees payable to the United States Trustee were paid.

ARTICLE 7. REMEDIES IN EVENT OF A DEFAULT IN PAYMENTS

In the event of a default in the payments scheduled in the disclosure statement and plan, creditors will be entitled to collect all past due payments only.

CONCLUSION

Debtor believes that the Plan provides for the maximum recovery for Claim holders. Accordingly, Debtor believes that approval of the Plan is in the best interest of the Debtors, their estate, and creditors; Debtor recommends that Claim holders that are Impaired vote to accept the Plan.

Respectfully Submitted,