

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

**IN RE:**

**KAMA MANAGEMENT INC.**

**Debtor**

**CASE NO. 16-08008**

**CHAPTER 11**

**MOTION BY DEBTOR TO EXTEND TIME TO CONFIRM PLAN OF  
REORGANIZATION PURSUANT TO SECTIONS 1129(e) AND 1121(e)(3)  
OF THE BANKRUPTCY CODE**

**TO THIS THE HONORABLE COURT:**

KAMA MANAGEMENT INC. (the "Debtor"), by its undersigned legal counsel, respectfully requests that the Court extend its time to obtain confirmation of its plan of reorganization (the "Motion"), and represents and states as follows:

**BACKGROUND AND APPLICABLE LAW**

1. On October 5, 2016, (the "Filing Date"), the Debtor, as a "small business debtor" within the meaning of section 101 (51 D) of the Bankruptcy Code (the "Code"), filed with this Court a voluntary petition under chapter 11 of the Bankruptcy Code. As a small business debtor, the Debtor is subject to the provisions of the Code that are applicable in a "small business case." See section 101(51C) of the Code.

2. The Debtor has continued in the possession of its assets and the operation of its business as a debtor-in-possession. No Creditors' Committee has been appointed in the case.

3. Section 1121(e)(2) of the Code requires that the Debtor file its "plan and a disclosure statement (if any) ... not later than 300 days after the date of the filing of the order for relief." On June 15, 2017, the Debtor filed its proposed plan of reorganization (Docket #72) (the

"Plan").

4. The Court entered an order to schedule the confirmation hearing for March 28, 2018 at 9:00 a.m.

5. Therefore, Debtor respectfully request a rescheduling of the confirmation hearing to file and Amended Plan as approved by secured creditor Condado LLC., and address the other objection raised by other creditors and time to confirm the amend plan.

6. The most important thing is that debtor's property although located in front of the beach did not suffer damage because of Hurricane Maria and its insurance policy is up to date.

7. Debtor's exclusivity period ends on March 28, 2018.

8. Therefore, Debtor respectfully requests that this Honorable Court extends the Debtor's time to confirm the Amended Plan.

#### **GROUND FOR RELIEF**

9. Sections 1129(e) and 1121(e) establish the time constraints and deadlines applicable to small business cases. Section 1129(e), describing the expedited nature of the confirmation process in small business cases, provides that "the court shall confirm a plan that complies with the applicable provisions of this title and that is filed in accordance with section 1121(e) not later than 45 days after the plan is filed unless the time for confirmation is extended in accordance with section 1121(e)(3)." 11 U.S.C. § 1129(e); see *In re Sanchez*, 429 B.R. 393, 398 (Bankr. D.P.R. 2010) (stating that "1129(e) is a clear example of Congress' attempt to keep small business cases on a short leash.").

10. Section 1121(e)(3), in turn, sets forth three requirements that must be satisfied to extend the forty-five day deadline within which a plan of reorganization must be confirmed: (A) the debtor, after providing notice to parties in interest (including the United States trustee),

demonstrates by a preponderance of the evidence that it is more likely than not that the court will confirm a plan within a reasonable period of time; (B) a new deadline is imposed at the time the extension is granted; and (C) the order extending time is signed before the existing deadline has expired. 11 U.S.C. § 1121(e)(3).

11. Absent an extension and if a small business debtor fails to achieve confirmation of its plan of reorganization within these deadlines, the case could be dismissed on the motion of a party in interest pursuant to § 1112(b)(4)(J). To satisfy the requirements of, and acquire an extension under, § 1121(e)(3), small business debtors must “submit some evidence from which the Court can find that confirmation within a reasonable amount of time is likely.” In re Darby Gen. Contracting, Inc., 410 B.R. 136, 144 (Bankr. E.D.N.Y. 2009); accord In re JMC Outfitters Co., No. 08–314390, 2009 WL 2046043, at \*2 (Bankr. W.D. Tex. May 25, 2009). While “a debtor seeking the Section 1121(e)(3) extension of time must put on evidence from which the Court can determine whether the Court will confirm a plan within a reasonable amount of time, the Court need not conduct a trial on confirmation.” In re AMAP Sales & Collision, Inc., 403 B.R. 244, 249 (Bankr. E.D.N.Y. 2009). Stated differently, the inquiry under § 1121(e)(3)(A) “is not so much whether the evidence shows the plan will likely be confirmed, but rather whether the evidence shows that it is unlikely that the debtor will ever get a plan confirmed within a reasonable time.” JMC Outfitters, 2009 WL 2046043, at \*2 (recognizing that “[a] better reading of the admittedly inartfully drafted statutory language seems to be that the court should focus on the issue of ‘within a reasonable period of time.’” (citing 11 U.S.C. § 1121(e)(3)(A)). In AMAP, the court noted that it “does not need to find that Debtor can confirm the filed Plan, only that it can confirm a Plan. 403 B.R. at 250.

### Discussion

12. Debtor's monthly operating reports demonstrate that debtor has been able to reorganize his business and pay his postpetition obligations. The record also shows that he has entered into a preliminary agreement with secured creditor and therefore, has averted filing his sister company in bankruptcy. Therefore, debtor will be able to confirm its plan within a reasonable time because of the Joint Stipulation filed yesterday.

13. The Plan will address some other objections by creditors but is confirmable because it will have the necessary base and votes to be confirmed.

14. Based on the record and pursuant to § 1121(e)(3)(A), the debtor has demonstrated by a preponderance of the evidence that it is more likely than not a plan of reorganization will be confirmed within a reasonable time. Furthermore, a new deadline should be imposed at the time the extension is granted and the order extending the time signed before the existing deadline expired, thus satisfying §§ 1121(e)(3)(B) & (C). See *In re New Hope Christian Church*, No. 13–03691–8–SWH (Bankr. E.D.N.C. Aug. 8, 2013).

15. Debtor hereby requests an extension of time of twenty one (21) days to filed the Amended Plan to include the new language and treatment to secured creditor, to address the other objections filed by creditors, to finish all the pending issues that will favorably conclude in the plan being confirmed and therefore, respectfully requests that this Honorable Court extends the Debtor's time to confirm the Amended Plan for ninety (90) days.

### NOTICE

In compliance with section 1121(e)(3) of the Code, the Debtor is providing (a) a copy of this Motion, together with the Notice of Hearing thereon (the "Notice"), to the United States Trustee, creditors, and all parties that have filed an appearance in the case and (b) a copy of the Notice only to all creditors.

**WHEREFORE**, the Debtor respectfully requests that this Honorable Court extends the Debtor's time to confirm the Amended Plan.

**RESPECTFULLY SUBMITTED.**

In San Juan, Puerto Rico, this 22nd day of March 2018.

***LOZADA LAW & ASSOCIATES***

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***s/ María Soledad Lozada Figueroa***

María Soledad Lozada Figueroa

USDC No. 222811

#### **CERTIFICATE OF SERVICE**

I hereby certify that, on 3/22/2018, I caused a copy of the Notice of Motion by Debtor to Extend Time to Confirm Plan of Reorganization Pursuant to Sections 1129(e) and 1121 (e)(3), to be served upon all known creditors, the United States Trustee and any party filing a notice of appearance in the case, by regular class mail, postage prepaid, addressed to their respective addresses set forth on the attached service list.

In San Juan, Puerto Rico, this 22nd day of March 2018.

***LOZADA LAW & ASSOCIATES***

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***s/ María Soledad Lozada Figueroa***

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