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(Application for employment pending Court’s Approval)

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UNITED STATES BANKRUPTCY COURT

8

CENTRAL DISTRICT OF CALIFORNIA

9

SAN FERNANDO VALLEY DIVISION

10 In re

Case No: 1:11-bk-19800-AA

11 SUMMER VIEW SHERMAN OAKS, LLC

Chapter 11

12 Debtor and Debtor-in-Possession

**DEBTOR SUMMER VIEW SHERMAN
OAKS, LLC’S DISCLOSURE
STATEMENT AND PLAN OF
REORGANIZATION FOR DEBTOR**

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Disclosure Statement Hearing:

16

Date: January 11, 2012

17

Time: 10:00 a.m.

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Courtroom: 303

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21041 Burbank Blvd.

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Woodland Hills, CA 91367

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Plan Confirmation Hearing:

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Date: To be set

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Time: To be set

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Courtroom: _____

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I. INTRODUCTION

On August 15, 2011 (the "Petition Date"), Summer View Sherman Oaks, LLC ("Debtor" or "Proponent"), filed a bankruptcy petition under Chapter 11 of the Bankruptcy Code ("Code"). The document you are reading is both the Plan of Reorganization ("Plan") and the Disclosure Statement ("Disclosure Statement"). The Debtor has proposed the Plan to treat the claims of the Debtor's creditors and, if applicable, the interests of shareholders or partners and to reorganize the Debtor's business affairs. The Debtor proposes to provide distributions to general unsecured claims from the proceeds of the sale of the Debtor's assets or from income generated from operation of the Debtor, as that term is defined below, whichever is earlier. A disclosure statement describes the assumptions that underlie the Plan and how the Plan will be executed. The Bankruptcy Court ("Court") has approved the form of this document as an adequate disclosure statement, containing enough information to enable parties affected by the Plan to make an informed judgment about the Plan. The Court has not yet confirmed the Plan, which means the terms of the Plan are not now binding on anyone.

The Proponent has reserved 2012 in Courtroom 303 for a hearing to determine whether the Court will confirm the Plan.

Any interested party desiring further information should contact:

Karasik Law Group, LLP, 555 W. 5th Street, Suite 3100, Los Angeles, CA 90013 Tel: (213) 623-9200 Fax: (213) 623-9323 Attention: Terry D. Shaylin.

II. GENERAL DISCLAIMER AND VOTING PROCEDURE

PLEASE READ THIS DOCUMENT, INCLUDING THE ATTACHED EXHIBITS, CAREFULLY. IT EXPLAINS WHO MAY OBJECT TO CONFIRMATION OF THE PLAN.

IT EXPLAINS WHO IS ENTITLED TO VOTE TO ACCEPT OR REJECT THE PLAN.

IT

1 ALSO TELLS ALL CREDITORS AND ANY SHAREHOLDERS OR PARTNERS
2 WHAT TREATMENT THEY CAN EXPECT TO RECEIVE UNDER THE PLAN, SHOULD
3 THE PLAN BE CONFIRMED BY THE COURT.

4 THE SOURCES OF FINANCIAL DATA RELIED UPON IN FORMULATING THIS
5 DOCUMENT ARE SET FORTH IN THE DECLARATION APPENDED HERETO. ALL
6 REPRESENTATIONS ARE TRUE TO THE PROPONENT'S BEST KNOWLEDGE.

7 NO REPRESENTATIONS CONCERNING THE DEBTOR THAT ARE
8 INCONSISTENT WITH ANYTHING CONTAINED HEREIN ARE AUTHORIZED EXCEPT
9 TO THE EXTENT, IF AT ALL, THAT THE COURT ORDERS OTHERWISE.

10 After carefully reviewing this document and the attached exhibits, please vote on the
11 enclosed ballot and return it in the enclosed envelope.

12 The Proponent has reserved a hearing date for a hearing to determine whether the Court
13 will confirm the Plan. Please refer to Section I above for the specific hearing date. If, after
14 receiving the ballots, it appears that the Proponent has the requisite number of votes required by
15 the Code, the Proponent will file a motion for an order confirming the Plan.

16 The Motion shall at least be served on all impaired creditors and partners or shareholders
17 who reject the Plan and on the Office of the United States Trustee. Any opposition to the Motion
18 shall be filed and served on the Proponent and the Committee no later than eleven days prior to
19 the hearing date. Failure to oppose the confirmation of the Plan may be deemed consent to the
20 Plan's confirmation.

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22 **III. WHO MAY OBJECT TO CONFIRMATION OF THE PLAN**

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24 Any party in interest may object to confirmation of the Plan, but as explained below not
25 everyone is entitled to vote to accept or reject the Plan.

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1 **IV. WHO MAY VOTE TO ACCEPT OR REJECT THE PLAN**

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It requires both an allowed and impaired claim or interest in order to vote either to accept or reject the Plan. A claim is defined by the Code to include a right to payment from the Debtor. An interest represents an ownership stake in the Debtor.

In order to vote a creditor or interest-holder must first have an allowed claim or interest. With the exceptions explained below, a claim is allowed if proof of the claim or interest is properly filed before any bar date and no party in interest has objected, or if the court has entered an order allowing the claim or interest. Please refer to Section VI below for specific information regarding bar dates in this case.

Under certain circumstances a creditor may have an allowed claim even if a proof of claim was not filed and the bar date for filing a proof of claim has passed. A claim is deemed allowed if the claim is listed on the Debtor's schedules and is not scheduled as disputed, contingent, or unliquidated. **Exhibit "A"** contains a list of claims that are not scheduled as disputed, contingent, or unliquidated.

Similarly, an interest is deemed allowed if it is shown on the list of equity security holders filed by the Debtor with the court and is not scheduled as disputed.

In order to vote, an allowed claim or interest must also be impaired by the Plan.

Impaired creditors include those whose legal, equitable, and contractual rights are altered by the Plan, even if the alteration is beneficial to the creditor. A contract provision that entitles a creditor to accelerated payment upon default does not, however, necessarily render the claimant impaired, even if the Debtor defaulted and the Plan does not provide the creditor with accelerated payment. The creditor is deemed unimpaired so long as the Plan cures the default, reinstates the maturity of such claim as it existed before default, compensates for any damages incurred as a result of reasonable reliance upon the acceleration clause, and (except for a default arising from failure to operate a nonresidential lease subject to 11 U.S.C. § 365(b)(1)(A)) compensates for any actual pecuniary loss incurred as a result of any failure to perform a non-monetary obligation.

1 Impaired interest-holders include those whose legal, equitable, and contractual rights are
2 altered by the Plan, even if the alteration is beneficial to the interest holder.

3 There are also some types of claims that the Code requires be treated a certain way. For
4 that reason they are considered unimpaired and therefore holders of these claims cannot vote.

5 To summarize, there are two prerequisites to voting: a claim or interest must be both
6 allowed and impaired under the Plan.

7 If a creditor or interest-holder has an allowed and impaired claim or interest, then he or
8 she may vote either to accept or reject the Plan (unimpaired claimants or interest-holders are
9 deemed to have accepted the Plan). Impaired claims or interests are placed in classes and it is the
10 class that must accept the Plan. Members of unimpaired classes do not vote, although as stated
11 above, they may object to confirmation of the Plan. Even if all classes do not vote in favor of the
12 Plan, the Plan may nonetheless be confirmed if the dissenting classes are treated in a manner
13 prescribed by the Code. Please refer to Section VI below for information regarding impaired and
14 unimpaired classes in this case.

15 Section IX sets forth which claims are in which class. Secured claims are placed in
16 separate classes from unsecured claims. Fed. R. Bankr. P. 3018(d) provides: "A creditor whose
17 claim has been allowed in part as a secured claim and in part as an unsecured claim shall be
18 entitled to accept or reject a plan in both capacities."

19

20 **V. VOTES NECESSARY TO CONFIRM THE PLAN**

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22 The Court may confirm the Plan if at least one noninsider impaired class of claims has
23 accepted and certain statutory requirements are met as to both nonconsenting members within a
24 consenting class and as to dissenting classes. A class of claims has accepted the Plan when more
25 than one-half in number and at least two-thirds in amount of the allowed claims actually voting,
26 vote in favor of the Plan. A class of interests has accepted the Plan when at least two-thirds in
27 amount of the allowed interests of such class actually voting have accepted it. It is important to
28 remember that even if the requisite number of votes to confirm the Plan are obtained, the Plan

1 will not bind the parties unless and until the Court makes an independent determination that
2 confirmation is appropriate. That is the subject of any upcoming confirmation hearing.

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4 **VI. INFORMATION REGARDING VOTING IN THIS CASE**

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6 The bar date for filing a proof of claim in this case is November 1, 2011.

7 No bar date for filing objections to a proof of claim has been set.

8 In this case, and based on the descriptions provided above, the Proponent believes that
9 classes 1, 2, 5, and 7 are impaired and therefore entitled to vote. A party that disputes the
10 Proponent's characterization of its claim or interest as unimpaired may request a finding of
11 impairment from the Court in order to obtain the right to vote.

12 Ballots must be received by the Proponent, addressed to Karasik Law Group, LLP, 555
13 W. 5th Street, Suite 3100, Los Angeles, CA 90013, Attention: Terry D. Shaylin , by 5:00 p.m. on

14

15 **VII. DESCRIPTION OF DEBTOR'S PAST AND FUTURE BUSINESS AND EVENTS**
16 **PRECIPITATING BANKRUPTCY FILING**

17

18 The Debtor is a Delaware limited liability company which is qualified to do business in
19 California as Summer View Sherman Oaks Apartments, LLC.

20 The single asset of the Debtor is a 169 unit apartment building located in at 15353
21 Weddington Ave, Sherman Oaks, CA 91411. The Debtor derives its revenue and income from
22 the rent and other fees of the Property. During the entire time that Debtor has owned the Property,
23 the Property has been managed by professional management companies.

24 The Debtor acquired the Property in 2005 for approximately \$25,500,000 million. The
25 Debtor was formed as a single asset LLC.

26 The sole member of the Debtor is the Efim Sobol Family Trust Dated November 18, 1995
27 (the "Efim Sobol Trust"). At the time of acquisition of the Property, Dr. Efim Sobol was the
28 trustee of the trust. In February 2007, Dr. Efim Sobol suddenly passed away. His mother, Sonia

1 Sobol, a Nazi concentration camp survivor, was left to deal with her son's estate. Ms. Sobol is
2 currently 88 years old.

3 The Efim Sobol Trust was subject to a lengthy probate proceeding. In February 2008, Ms.
4 Sobol's husband, Efim's father, Alexy Sobol, suddenly passed away. Ms. Sobol was left to deal
5 with the estate of both her son and her husband. Only in November 2010 Ms. Sobol was finally
6 confirmed as the sole trustee and beneficiary of the Efim Sobol Trust.

7 The Property was acquired by the Debtor through assumption of the Wachovia Bank loan
8 of the seller of the Property (the "Loan"). At the time of the assumption the principal amount was
9 \$16,000,000.00. The interest rate of the loan is 5.9%. The maturity date of the loan is July 11,
10 2014 ("Maturity Date"). At the time of the assumption through July 11, 2007, the borrower was
11 obligated to pay interest only in the approximate amount of \$75,500. Starting from August 11,
12 2007, in addition to the interest payments, the borrower had to make monthly payments toward
13 principal in the approximate amount of \$15,500. The Loan has a pre-paid penalties yield to
14 maintenance provision providing that pre-payment of the loan prior to three months preceding the
15 Maturity Date of July 11, 2014 would results in pre-paid penalties calculated in accordance with
16 the formula provided in the loan documents. As of August 15, 2011, the lender calculated pre-
17 paid penalties in the amount of \$2,362,164.85.

18 At the time the Debtor purchased the Property, the Property was under the management of
19 Stratus Real Estate, Inc. ("Stratus"). The president of Stratus at that time was Steven Heimler.
20 Prior to Debtor's acquisition of the Property, the Property undertook major renovation under
21 Stratus management. The Property remained under the management of Stratus after the Debtor
22 purchased it. The Deed of Trust, which is part of the Loan, has a provision that the management
23 company of the Property cannot be changed without the approval of the lender. From the date
24 Debtor purchased the Property to present date, all revenues generated by the Property has been
25 deposited and kept in trust accounts under the direct control and custody of the companies that
26 have managed the Property. From these accounts, management companies have paid all Property
27 related expenses, including all debt servicing payments, operating expenses, property taxes, and
28 property insurance premiums.

1 For the period that the Property was managed by Stratus, the Property generated revenues
2 sufficient to pay all property related expenses, including loan payments, property insurance,
3 property taxes, and operating and maintenance expenses, pursuant to the terms of the note. At
4 that time, the occupancy rate on the Property was consistently around 95-98%.

5 In April 2007, Stratus was acquired by Riverstone Management Company (“Riverstone”).
6 Stratus’s team, including Heimler, left Riverstone after a merger, and was replaced by Riverstone
7 personnel. Over time, after Riverstone’s acquisition of Stratus and its assumption of management
8 duties of Debtor’s Property under the Stratus agreement with Debtor, the quality of management
9 decreased. In November–December 2008, the occupancy rate went below 90% for the first time
10 since 2005 and started fluctuating at around 90%. The rental income generated by the Property
11 started slowly decreasing and declined from 2,396,017 in 2007 to \$2,189,651 in 2009. Operating
12 expenses meanwhile increased from \$863,012 in 2007 to \$1,080,530 without any substantial
13 capital improvement being done. In addition to that, the cost of servicing loan increased by
14 \$186,000 per year from August 11, 2007. After Efim Sobol’s death, Ms. Sobol’s ability to deal
15 with Riverstone was very limited. The Efim Sobol Trust was subject to a lengthy probate court
16 proceedings. Without confirmation of Ms. Sobol’s status by the probate Court allowing her to
17 administer the estate of her son, she was not able to manage affairs of her son’s Property. Ms.
18 Sobol wanted to replace Riverstone and was waiting for confirmation of the status as the Trustee
19 of the Efim Sobol Trust. In December 2009, upon Ms. Sobol’s request, the lender approved the
20 employment of the replacement of Riverstone with Mashcole Property Management.

21 When Ms. Sobol replaced Riverstone with Mashcole, her objective was that Mashcole
22 would promptly take care of the Property, increase occupancy rate, take expenses under control
23 and bring the Property back to the stable financial condition with the occupancy rate about 94%
24 as the Property was under Stratus management.

25 Unfortunately, Mashcole did not fit the job. It turned out to be neither competent, nor
26 diligent, nor reliable. Mashcole immediately increased administrative expenses, started making
27 payments to its affiliated construction companies and vendors, and failed to competently manage
28 the Property. Under Mashcole’s management the occupancy rate dropped to 84-89%. The

1 revenue in 2010 declined to \$2,032,675, while annual operating expenses remained at the level of
2 \$1,054,073 while apparent necessary maintenance was deferred.

3 As cumulative result of Riverstone poor management and Mashcole mismanagement all
4 funds accumulated by Stratus at the time when the Property consistently operated with positive
5 cash flow were depleted. In addition to that, Mashcole claimed that Riverstone left the Property
6 with \$200,000 worth of unpaid vendors invoices. Mashcole asked Ms. Sobol to provide
7 additional funds to pay the vendors, which she did.

8 In December 2010, Mashcole did not pay principal and interest to the lender. The last
9 time Mashcole paid the lender was in January 2011, but at the time, according to the lender's
10 accounting, there was already one month in arrearages.

11 In February, 2011, Mashcole notified Ms. Sobol that there were not sufficient funds in the
12 trust account for the Property to make loan service payments to the lender. Ms. Sobol became
13 extremely concerned that the expenses being paid by Mashcole were overly high and seemed
14 inflated. Subsequent events showed that she was right. On February 25, 2011, the lender gave the
15 Debtor a notice of default.

16 In February-March 2011, Ms. Sobol began looking for a new management company to
17 immediately replace Mashcole in order to prevent any further possible mismanagement and/or
18 misuse of Debtor's revenue generated from the Property. She contacted Steven Heimler, who, as
19 the president of Stratus, successfully managed the Property from 2004-2007. After Stratus was
20 acquired by Riverstone, Mr. Heimler formed another management company, Cirrus Assets
21 Management, Inc. ("Cirrus"). Cirrus is located in Calabasas, California, and has at least nine
22 apartment buildings located in San Fernando Valley under its management including a 475-unit
23 building in Northridge, a 236-unit building in North Hollywood, and a 140-unit apartment
24 building in Chatsworth. Mr. Heimler advised Ms. Sobol that Cirrus would immediately be able
25 to take over the management of the Property and that because he and his team were personally
26 familiar with the Property, the transition should be very quick and smooth and he would be able
27 to quickly bring the Property back into good condition, as it was under Stratus's management.

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1 At that time, U.S. Bank through the chain of acquisition and assignment became the
2 holder of the promissory note and beneficiary of the Deed of Trust. On March 22, 2011, the
3 Debtor submitted to the lender a letter requesting approval to terminate Mashcole's management
4 of the Property and to hire Cirrus as the management company for the Property. This request was
5 immediately denied by U.S. Bank on the grounds that since the Debtor was in default pursuant to
6 the loan documents, the appointment of a management company was at the discretion of U.S.
7 Bank; U.S Bank exercised its right by rejecting Cirrus's appointment. U.S. Bank further advised
8 the Debtor that it would seek to have a Receiver appointed for the Property. U.S. Bank did not
9 obtain a court order to appoint a Receiver until April 28, 2011. On August 28, 2011, the Los
10 Angeles Superior Court in its Order appointed Clyde Holland of Holland Residential, Inc as the
11 Receiver over the Property. The Receiver then immediately hired its own management company
12 Holland Residential to manage the Property. Both Clyde Holland and Holland Residential are
13 located and operate their business from the City of Vancouver, State of Washington.

14 Holland Residential took over the management of the Property on May 4, 2011, left the
15 Property under the management of Mashcole for another six days and another rent cycle, and thus
16 allowed Mashcole to collect May 2011 rent contrary to the terms of the Order. Even after Holland
17 Residential took over the management of the Property, Mashcole continued transferring Debtor's
18 money to itself and its affiliated vendors. After April 28, 2011, Mashcole continued to write
19 checks from the Summer View bank account until May 12, 2011, and made twenty withdrawals
20 from the bank account in the total amount of \$52,043.52, including the last \$18,649 payment to
21 Mashcole on May 9, 2011. Only on May 12, 2011, Mashcole turned over \$185,250.75, which
22 was what left of Debtor's funds, to the Receiver.

23 After Holland Residential took over the management of the Property, it was discovered by
24 Holland Residential that several tenants paid May 2011 rent in cash to the Mashcole on-site
25 manager. That rent has never been reported by Mashcole. Subsequently, Debtor discovered that
26 from December 2010 to May 2011, Mashcole disbursed from the Summer View bank account
27 \$550,345.04, before the turning over \$185,250.75 to Holland Residential on May 12, 2011. Some
28 of Mashcole's expenses during the last five months it managed the Property appear to be

1 extraordinary and at odds with the previous history of operation expenses of the Property,
2 including \$82,676.82 paid to Good Luck Construction company over the period of time from
3 January to May 2011, while there was no major capital improvement, reconstruction or
4 renovation on the Property and \$145,613.79 total paid to Mashcole itself.

5 In addition to that, the Receiver reported that approximately \$28,000 worth of security
6 deposits held by Mashcole was missed.

7 As a result, 2011 became the worst year in the history of operation of the Property from
8 the prospective of occupancy, management, and income and cash flow. The Receiver added to
9 the expensed incurred by the Debtor Receiver's fee and legal fee incurred by Receiver's
10 attorneys. On July 28, 2011, the Lender gave the Debtor Notice of the Trustee's Sale. The
11 Trustee's sale was set for August 16, 2011. The Debtor determined that the commencement of
12 this case was necessary and proper. On August 15, 2011, at approximately 7:04 p.m. Debtor filed
13 Chapter 11 petition.

14 After filing Chapter 11 Petition, U.S. Bank wanted to keep the Property under the
15 management of Receiver's management company Holland Residential and to keep the Receiver
16 as a custodian for the Estate. The Debtor wanted to follow its initial plan of appointing Cirrus as
17 a management company of the apartment building, since Cirrus's team successfully managed in
18 the Property for many years at a 96% and higher occupancy rate and was closely familiar with the
19 Property and managing rent controlled buildings. The Debtor also wanted to terminate the
20 receivership and efficiently reorganize the estate.

21 The Debtor and U.S. Bank filed competitive motions pertaining to disposition of the
22 receivership and management of the Property. The motions were heard on October 5, 2011. Until
23 the hearing of the receivership motions, the Property remained under the receivership and
24 management of Holland Residential.

25 On October 5, 2011, the Court granted Debtor's motions to compel the Receiver to Turn
26 Over the Property and Motion to Appoint Cirrus as a management company of the Debtor's
27 apartment building. The orders terminating the receivership and appointing Cirrus was entered
28

1 on October 17, 2011. On October 19, 2011, Cirrus took over the management of the Property
2 from Holland Residential.

3 On October 25, 2011, the Receiver turned over cash from operating and security deposits
4 accounts to the Debtor's respective DIP accounts for operating expenses and security deposits.

5 Cirrus promptly inspected and assessed condition of the property and determined what
6 work needs to be done within the following three months to bring all units in the rentable
7 condition, what safety issues has to be immediately addressed; what needs to be done to make the
8 property attractive to prospective tenants and what steps should be immediately taken to preserve
9 the Property. Based on the assessment, Cirrus together with the Debtor prepared a proposed
10 budget for October/November 2011-February 2012. The Debtor and U.S. Bank entered into a
11 cash collateral stipulation based on the proposed budget. The Debtor and U.S. Bank stipulated to
12 the monthly adequate proportion payment to the lender in the amount \$78,584 starting November
13 15, 2011.

14 Pursuant to the terms of the loan, Efim Sobol Family Trust is the guarantor of the
15 Debtor's obligations under the loan. On October 28, 2011, U.S. Bank filed a breach of warranty
16 lawsuit against Efim Sobol Trust in Los Angeles superior Court. (Case Number BC472138).
17 U.S. Bank seeks \$18,323,199.85 in damages against Efim Sobol Trust for breach of guarantee.

18 Through this case, the Debtor intends to reorganize its financial affairs and provide a
19 distribution to all creditors.

20 What follows is a **brief** description of the Debtor's business and future business plans.
21 Further details relating to the Debtor's financial condition and post-confirmation operation of the
22 Debtor are found in sections X, XI, XII, XVI, and XV.

23 Debtor is in the business of renting real estate.

24 The Property of the Debtor is located at 15454 Weddington St., Sherman Oaks,
25 CA 91411, the Property was built in 1964.

26 Rentable square footage of the building is 99,948, with the total lot size of 3.81
27 acres. The Property consists of four three story buildings, "A", "B", "C" and "D".

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1 The total amount of units is 169, including two studio and 167 one bedroom units,
2 the building was built in 1964.

3 Property amenities include covered parking, secured and gated entrance, fitness
4 center, two swimming pools, basketball and tennis court, barbecues.

5 Current occupancy rate is 84%.

6 The Debtor intends to continue to lease its real estate while concurrently contemplating
7 and preparing for the sale of the Property as a part of reorganization plan. The goal is to sell the
8 Property prior to July 2012-September 2012 (the Maturity Date is July 11, 2014). The Debtor
9 intends to start making payments to the creditors on the Effective date and pay off the Loan and
10 all the creditors from the proceeds of sale. The Debtor is in the process of filing its application to
11 employ and to enter into an exclusive listing agreement with Marcus and Millichap as the real
12 estate broker for the Debtor. The proposed listing price is \$21,000,000, with the proposed
13 broker's commission at 2%. Once employment is approved, Marcus and Millichap will
14 effectively market the Property nationwide with the plan to generate interest in the Property and
15 obtain the best offer from a qualified buyer. Any sale contemplated prior to April 2014 should be
16 consummated as a part of the reorganization plan by finding a qualified buyer for assumption of
17 the Loan, unless the Lender agrees to waive its right to pre-paid penalties, or the Court orders it.
18 Marcus and Millichap anticipate to find a qualify buyer for the Property within four months after
19 approval of their employment and to close escrow by September 1, 2012.

20 During reorganization and prior to the sale of the Property, the Debtor continues to work
21 on: 1) capital improvements; 2) increasing the occupancy rate; and 3) increasing revenues
22 generated by the Property for greater profitability. The Debtor along with Cirrus will continue to
23 use best efforts to improve the Property's operating efficiency and to preserve and increase the
24 the value of the Property.

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VIII. CRITICAL PLAN PROVISIONS

Critical plan provisions are:

- a. Continuing operation the Property, capital improvements of the Property, income and occupancy rate;
- b. Listing the Property for sale immediately after the application to employ a real estate broker and enter into a listing agreement is granted with the target of closing escrow by September 2012. The sale should be completed through the assumption of the existing loan;
- c. Contingency plan of operating the Property until the Maturity Date (July 11, 2014) in the event that the sale does not go through as planned;
- d. Contingency plan to sell the Property to conventional sale prior to the Maturity Date without incurring yield to maintenance pre-paid penalties; and
- e. Contingency provision that the Efim Sobol Trust, the member of the Debtor, will provide the Debtor with an unsecured line of credit to cover any cash shortfall during the time of operation of the Property in the amount of up to \$500,000.

General unsecured creditors can expect to have their claims paid as follows: Commencing with the effective date, general unsecured creditors will be receive \$24,339.32 (100% of their claims) in 8 equal quarterly payments.

Listed below are the sources of money earmarked to pay creditors and interest-holders:

- a. Proceeds from the sale of the Property;
- b. Debtor’s cash on hand as of the Effective Date of the Plan;
- c. Payment reserve held by the Lender; and
- d. Post-confirmation income.

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IX. DESCRIPTION AND TREATMENT OF CLAIMS

a. Overview of Plan Payments

Below is a summary of who gets paid what and when and from what source. The identity of members within a particular class is explained beginning on the next page. The second column lists two amounts. First, the amount of each payment, or if only one is to be made, then that amount; second, the total amount that will be paid. The Proponent is usually not required by law to pay an unsecured creditor or interest holder everything it would otherwise be entitled to, had a bankruptcy case not commenced. The “Payment Due Date” column states the frequency with which payments will be made and the starting and ending dates. Look at the starting date to figure out who will be paid before and after you and in what amount. The “Source of Payment” column describes the expected source of payment. Further details regarding the source of payment are found in sections X and XI.

The timing of payments to many creditors is determined by the “Effective Date.” Administrative claims, unless otherwise stated, must be paid by the Effective Date. In this case, the Effective Date of the Plan (the “Effective Date”) will be March 1, 2012, assuming that the Bankruptcy Court has entered an order confirming the Plan (the “Plan Confirmation Order”) at least 14 days prior to March 1, 2012 and there is no stay in effect. If there is a stay in effect, the Effective Date shall be the first business day after the stay is no longer in effect with respect to the Plan Confirmation Order. The Debtor, following the Effective Date, will be referred to herein as the “Reorganized Debtor.”

ADMINISTRATIVE CLAIMS

Payment Recipient	Amount of each Payment and Total Amount to be paid	Payment Due Date	Source of Payment
Karasik Law Group, LLP (proposed bankruptcy counsel to the Debtor)	Total amount of approximately \$60,000* to be paid in full upon entry of order approving employment of KLG as Debtor’s bankruptcy counsel and upon entry of order allowing KLG’s fees and costs. *estimated unpaid fees and expenses in excess of \$20,000 pre-petition retainer and post petition \$20,000 payment toward fee and costs. Upon approval of employment, KLG may file an application for approval of interim compensation.	Payment shall be made upon the later of (1) Effective Date, and (2) 14 days after date of entry of order allowing the final fee application, provided that payments will be funded into KLG’s trust account not later than seven (7) days prior to the Plan confirmation hearing	(1) Reorganized Debtor’s cash on hand available on Payment Due Date, (2) Payment Reserve held by Lender on the Payment Due Date
Receiver Clyde Holland, Debtor’s pre- and post-petition receiver (including claim by Holland Residential)	\$1 ¹ Additional claim in estimated amount of \$80,607.51, subject to Court’s approval. Receiver indicated in his October 2011 report that he is planning to file a Motion for Reimbursement of Administrative Expenses, Subject to Court Approval; Receiver’s Counsel Duane Morris indicated that they will be filing a Motion for Approval of Attorney’s fee as a part of the Receiver’s administrative claim, but were not able to provide the estimated amount of their claim	Effective Date	Reorganized Debtor’s cash on hand available on Payment Due Date

¹ Receiver Clyde Holland filed a proof of claim on October 25, 2011 for \$1.00 of priority debt. The proof of claim had no information other than the amount (\$1) and the priority classification.

PRIORITY TAX CLAIMS

Payment Recipient	Amount of each Payment and Total Amount to be paid	Payment Due Date	Source of Payment
Los Angeles Housing Department Claim Amount: \$ 13,736 (RSO Fee) 5,367 (Late Fee) 8,369 (Delinquent Fee) Unimpaired	\$ 9,164.87 ² (RSO Fee) 5,367 (Late Fee) 8,369 (Delinquent Fee)	ASAP, before the Effective Date Effective Date unless Debtor's request for waiver is granted	Reorganized Debtor's cash on hand available on Payment Due Date,
City of Los Angeles, Office of Finance (Business Tax) Claim Amount: \$5,027 Unimpaired	\$5,027	Effective Date	Reorganized Debtor's cash on hand available on Payment Due Date,
Los Angeles Property Tax Bill	\$177,805.48	Prior to December 1, 2011 (in order to avoid penalties from the cash collateral)	Reorganized Debtor's cash on hand available on Payment Due Date.

² Debtor has asked the Los Angeles Housing Department to waive the Late Fee and the Delinquent Fee. The Department occasionally waives such fees and promised to consider doing so in this case, but only after the base fee has been paid. For this reason Debtor needs to pay the base fee immediately. If the Department decides to waive the Fees, the Debtor will not pay this claim.

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SECURED CLAIMS

Payment Recipient	Amount of each Payment and Total Amount to be paid	Payment Due Date	Source of Payment
Class 1 – Allowed Secured Claim of U.S. Bank Claim Amount: \$18,118,041 Oversecured Impaired	Debtor will make monthly payments of \$78,584 ³ until the property is sold without triggering a prepayment penalty or through the assumption of the existing loan. According to loan documents, the loan must be paid off on July 11, 2014 with a balloon payment. By the maturity of the loan, the property should be sold with proceeds going to pay off the mortgage loan amount in full without \$2,263,164.85 prepayment penalties included in the claim. If the property is sold before April 2014, the buyer has to assume the mortgage loan subject to lender’s approval to avoid prepayment penalties. ⁴ Treatment of impounded property taxes, property insurance, and capital improvement accounts	Monthly Payments: 11 th of every calendar month that begins after the Effective Date. The last payment is on June 11, 2014. The sale should be completed and escrow closed before July 11, 2014	Reorganized Debtor’s (1) cash on hand; (2) postconfirmation income; (3) payment reserve held by the Lender. (4) proceeds from the sale (5) assumption of the existing obligation by the buyer

³ This includes interest payments of \$75,548.30 and principal payments of \$3,381.73. The principal balance on the US Bank’s proof of claim is \$15,339,756.46. The note rate is 5.91%. The annual interest payment is \$906,580 (= \$15,339,756.46 * 5.91%). The monthly interest payment is 1/12th of that or \$75,548.30.

⁴ The lender will not refuse to allow assumption by a qualified buyer unreasonably. Assumption will not trigger a prepayment penalty.

1 Payment Recipient	2 Amount of each Payment and Total Amount to be paid	3 Payment Due Date	4 Source of Payment
	5 established with the lender is explained in Section IX(c).		
6 Class 2 – 7 Allowed Secured Claim of 8 E Rojas Landscape Inc, 9 secured with a mechanic’s lien 10 Claim Amount: 11 \$12,078 12 Impaired	13 \$12,078 paid in 12 quarterly 14 payments of \$1,007. 15 (Without Interest) 16 Claimant shall retain its lien 17 on the Debtor’s property. 18 The treatment proposed 19 herein shall be in full and 20 complete satisfaction of all 21 Class 1 claims.	22 Twelve quarterly 23 payments 24 commencing on the 25 Effective Date, or 26 from the proceeds of 27 the sale if the 28 Property is sold before the creditor is paid in full through the quarterly payments	29 Reorganized 30 Debtor’s 31 (1) cash on hand; 32 (2) postconfirmation 33 income; 34 (3) payment reserve 35 held by the Lender; 36 (4) Proceeds of the 37 sale.

Mechanic’s Liens:

The title report shows the following pre-petition mechanic’s liens recorded against the Property:

\$3,367.50 lien recorded by PMR Flooring Corporation on September 1, 2010;

\$24,528.00 lien recorded by E. Rojas Landscape on November 29, 2010;

\$52,680 lien recorded by GAC Corp/Ocean Front on December 4, 2009

Debtor’s counsel contacted all lienholders and determined that PMR Flooring Corp and GAC Corp claims had been satisfied pre-petition. Both lienholders will take steps necessary to release their liens.

E. Rojas confirmed that he received \$12,450 payment toward his secured claim pre-petition, and that the balance of his secured claim is \$12,078.

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PRIORITY CLAIMS

Payment Recipient	Amount of each Payment and Total Amount to be paid	Payment Due Date	Treatment
Class 3 – Priority claims for tenant security deposits (deposits by individuals) that are not currently due. Claim Amount: \$76,314.03	Pay when due	Pay when due	\$56,375.80 held in specially designated for security deposits bank account of the Debtor, cash from operations of the debtor, reserve held by lender, proceeds of the sale
Class 4 – Priority claims for tenant security deposits (deposits by individuals) that became due prepetition. ⁵ Claim Amount: \$590	One payment of \$ 590	For humanitarian reasons, the payment will be made, with mortgage lender’s consent, before the effective date.	Paid in full at the earliest opportunity from \$56,375.80 held in specially designated for security deposits bank account of the Debtor

GENERAL UNSECURED CLAIMS

Payment Recipient	Amount of each Payment and Total Amount to be paid	Payment Due Date	Treatment
Class 5 – Allowed Unsecured Claims, excluding Insiders Claim Amount: \$24,340.76 Impaired	Paid in 8 quarterly payments of \$3,042.59 (Without Interest)	Eight quarterly payments commencing on the Effective Date, or from the proceeds of the sale, if sale occurred	Reorganized Debtor’s (1) cash on hand; (2) postconfirmation income; (3) payment reserve held by the Lender; (4) proceeds of the sale

⁵ There are three such tenants who have moved out before the filing date of August 15, 2011 and have made requests for security deposits.

		before paid in full
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EQUITY

Payment Recipient	Amount of each Payment and Total Amount to be paid	Payment Due Date	Treatment
Class 6 – 100% Interest Holder Yefim Efim Sobol Family Trust Dated November 18, 1995 (the “Trust”) Impaired	The balance of the proceeds of sale after payments to all creditors	Upon closing of escrow	The balance of the proceeds of sale after payment to all creditors

All claims listed in **Exhibit “A”** attached hereto are undisputed. On the Effective Date (and on the payment dates as the case may be, including the date of closing of escrow upon sale of the Property), the Disbursing Agent will deposit into segregated account (the “Disbursement Account”) an amount of cash equal to 100% of the estimated distribution to be paid on the disputed portion of any claim. Cash together with interest accruing thereon will be held in trust for the benefit of holders of disputed claims. No claimant or interest holder is an affiliate of the Debtor.

Below is a detailed description and treatment of administrative expenses, claims and interests

a. Administrative Expenses

i. These include the "actual, necessary costs and expenses of preserving the estate" as determined by the Court after notice to creditors of a request for payment and after a hearing thereon. These also include the fees and expenses incurred by professionals employed in this case at the expense of the estate which have been approved by the Court on a final basis.

1 ii. The Code requires that allowed administrative expenses be paid on the effective
2 date unless the party holding the administrative expense agrees otherwise. The claimants have not
3 agreed otherwise.

4
5 Administrative Expense #1. Claimant: Karasik Law Group L.L.P., bankruptcy counsel
6 to the Debtor (pending court approval of employment) \$60,000 (estimated unpaid fees and
7 expenses in excess of pre-petition retainer and post petition payment made by the Debtor's
8 insider paid in the aggregate amount of \$40,000), subject to court approval.

9 Administrative Expense #2. Claimant: Clyde Holland, state court appointed receiver
10 (including the claims of Holland Residential and Duane Morris LLP). Receivership was
11 terminated by the Bankruptcy Court on October 17, 2011. \$1, the amount of claim stated in the
12 proof of claim filed by Clyde Holland. Receiver indicated in his October 2011 report that he is
13 planning to file a Motion for Reimbursement of Administrative Expenses, subject to Court
14 Approval in the amount of \$80,607.51. Receiver's Counsel Duane Morris indicated that they will
15 be filing a Motion for Approval of Attorney's Fees as a part of the Receiver's administrative
16 claim, but were not able to provide the estimated amount of their claim

17 **TOTAL ADMINISTRATIVE CLAIMS: \$60,001 (estimated)**

18 Receiver's motion for reimbursement of administrative expenses anticipated.

19 **b. Unsecured Tax Claims**

20 i. These include certain types of property, sales, income, and other taxes.

21 ii. The Code requires that the holders of such claims receive on account of such claim
22 regular installment payments in cash (i) of a total value, as of the Effective Date of the Plan,
23 equal to the allowed amount of such claim;

24 Over a period ending not later than 5 years after the date of the order for relief under
25 section 301, 302 or 303 of the Bankruptcy Code; and (iii) in a manner not less favorable than the
26 most favored nonpriority unsecured claim provided for by the Plan (other than cash payments
27 made to a class of creditors under section 1122(b) of the Bankruptcy Code). The amount of the
28 allowed claim includes the amount of tax owed plus interest of eight percent (5%). The present

1 value is calculated as of the Effective Date.

2 **Claimant: Los Angeles Housing Department**

3 • \$ 9,165 Rent Stabilization Fee will be paid at the earliest possible date to induce
4 the Los Angeles Housing Department to waive the penalty fee (\$5,367) and delinquent fee
5 (\$8,369) and to maintain rental registration. The Los Angeles Housing Department has indicated
6 that once the Rent Stabilization Fee is paid, it may consider waiving the penalty and delinquent
7 fees. The Debtor has applied for waiver of the penalty and delinquent fees.

8 • \$13,736 – Rent Stabilization Penalty Fee (\$5,367) and Delinquent Fees (\$8,369)
9 will be paid on the Effective Date, unless the Los Angeles Housing Department waives these fees
10 before the Effective Date.

11 **Claimant: City of Los Angeles, Office of Finance**

12 • \$ 5,027.43 Business Tax will be paid on the Effective Date.

13 **Claimant: Los Angeles County Tax Collector**

14 • \$ 177,805.48 Los Angeles Property Tax will be paid prior to December 1, 2011
15 from the cash collateral to avoid accruing penalties and delinquent fees.

16 c. **CLASS ONE**

17 **Secured Claim of U.S. Bank (claim is oversecured)**

18 Total amount of allowed secured claim:	US Bank filed a claim for \$ 18,118,041, which includes \$2,362,164 liquidated pre-paid penalties.
20 Total amount of payments (over time) to satisfy the secured claim:	21 Debtor will make monthly payments of \$78,584 ⁶ until the property is sold without triggering a prepayment penalty. The proceeds will be used to pay off the mortgage debt. 22 23 According to loan documents, the loan must be

24 _____
25 ⁶ This includes interest payments of \$75,548.30 and principal payments of \$3,381.73. The
26 principal balance on the US Bank's proof of claim is \$15,339,756.46. The note rate is 5.91%.
27 The annual interest payment is \$906,580 (= \$15,339,756.46 * 5.91%). The monthly interest
28 payment is 1/12th of that or \$75,548.30.

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	<p>paid off on July 11, 2014 with a balloon payment. By the maturity of the loan, the property should be sold with proceeds going to pay off the mortgage loan in full or the loan should be assumed by the buyer of the loan without pre-paid penalties.</p>
<p>Treatment of impounded accounts – Replacement reserve</p>	<p>Pursuant to Section 9 (c) of the Loan Assumption and Substitution Agreement the debtor shall pay to the lender a deposit to a replacement reserve in the amount equal to \$4,225 per month. Replacement reserve is a repair reserve for payment for certain non-recurring types of costs for interior and exterior work to the property. <u>Treatment in the Plan</u> No payments will be made to the replacement reserve. Instead, The Debtor included in the proposed operating budget \$20,025 turn over costs and \$467,369 capital improvement expenses, including exterior and interior work. In addition, per request of Steve Heimler of Cirrus, the Debtor will establish a separate contingency fund in the annual amount of \$40,000. The Debtor will open a separate bank account for the contingency fund. The fund will be used for plumbing, roofs, water penetration issues, utility interruptions, water heaters replacements, tree damage, and other non-recurring costs.</p>
<p>Treatment of impounded accounts – Impound for Taxes</p>	<p>Pursuant to the term of the loan, the Debtor shall pay the lender a sum equal to one-twelfth estimated by lender to be sufficient to pay all taxes, levies and other similar charges levied against the property for. <u>Treatment in the Plan</u> Prior to the effective date, the debtor will establish a separate account for taxes and will make monthly deposits of a sum equal to 1/12 of the amount stated in the tax bill. On or before the due date the Debtor will pay property taxes from Debtor’s designated tax account and provide the lender with the proof of payment.</p>
<p>Treatment of impounded accounts – Reserve for Insurance</p>	<p>The lender maintains an impounded account for property insurance for the Debtor. <u>Treatment in the Plan</u> Prior to the effective date, the debtor will</p>

1		establish a separate account for property insurance and will make monthly deposits of a sum equal to 1/12 of the amount of the annual premium for insurance coverage required by the lender. On or before the due date the Debtor will pay property insurance premium from Debtor's designated insurance account and provide the lender with the proof of insurance.
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6	Interest rate:	5.91 % per annum
7	Impaired	Yes
8	First payment date:	11 th day of the first calendar month commencing after the effective date
9		
10	Amount of each installment	\$78,584 per month
11	Frequency of payments	Monthly
12	Total yearly payments:	\$ 906,580, unless the Property is sold through the assumption of the loan before the end of the year
13		
14	Final payment date:	July 11, 2014, or at the closing of escrow after the sale of the Property through the assumption of the loan or through the conventional sale by the maturity date
15		
16	Lien is not modified in any way by the Plan	No lien modification
17	Description of Collateral:	Debtor's real property – apartment building
18	Additional Comments:	Such treatment shall be in full and complete satisfaction of all claims of this class.
19		
20		

d. CLASS TWO

Allowed Secured Claim of E Rojas Landscape Inc (claim is oversecured)

23	Total amount of allowed claim:	\$ 12,078
24	Total amount of payments (over time) to satisfy the secured claim:	\$ 12,078
25	Interest rate (to compensate creditor because claim is paid over time):	0%
26	Impaired	Yes
27	First payment date:	Effective Date
28		

1	Amount of each installment:	\$ 1,509.75
2	Frequency of payments:	Quarterly
3	Total yearly payments:	\$ 6,039
4	Final payment date:	March 1, 2014 (assuming the Effective Date is March 1, 2012) or the day of closing of escrow of the sale of the Property, whichever comes earlier.
5		
6	Lien is not modified in any way by the Plan	No lien modification as to lien rights.
7	Description of Collateral:	Debtor's real property – apartment building
8	Additional Comments:	The Debtor shall have the right to prepay this claim prior to maturity without penalty or fee. Such treatment shall be in full and complete satisfaction the claims.
9		

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11 **e. CLASS THREE**

12 Allowed Priority Claims of Tenants for security deposits that are not currently due.

13

14	Total amount of allowed claim:	\$ 75,724
15	Total amount of payments (over time) to satisfy the claim:	\$ 75,724 will be placed in specially designated for security deposits bank account of the Debtor, and paid to Tenants who are moving out when due.
16		
17	Interest rate (to compensate creditor because claim is paid over time):	0%
18		
19	Impaired	No
20	First payment date:	Placed in a specially designated account: at the earliest possible date
21		Paid to Tenants: when due
22	Amount of each installment:	Not applicable
23	Frequency of payments:	Not applicable
24	Total yearly payments:	Not applicable
25	Final payment date:	Unknown

26 **f. CLASS FOUR**

27 Allowed Priority Claims of Tenants for security deposits that became due prepetition.

28

1	Total amount of allowed claim:	\$ 590
2	Total amount of payments (over time) to satisfy the claim:	\$ 590
3	Interest rate (to compensate creditor because claim is paid over time):	0%
4	Impaired	No
5	First payment date:	At the earliest possible date
6	Amount of each installment:	\$ 590
7	Frequency of payments:	Not applicable
8	Total yearly payments:	Not applicable
9	Final payment date:	Not applicable
10	Additional Comments:	Such treatment shall be in full and complete satisfaction of all claims in this class

11 **g. CLASS FIVE**

12 All General Unsecured Claims

13 See **Exhibit "A"** for list of claimants and amount owed each

14		
15	Total amount of allowed claim:	\$ 24,339.32
16	Total amount of payments (over time) to satisfy the claim:	\$ 24,339.32
17	Interest rate:	None
18	Impaired	Yes
19	First payment date:	On the Effective Date
20	Amount of each installment:	\$ 3,042.42
21	Frequency of payments:	Quarterly, or at the time of closing of escrow
22	Total yearly payments:	\$ 12,169.66
23	Final payment date:	March 1, 2014 (assuming the Effective Date is March 1, 2012) Or upon the sale of the Property, whichever is earlier
24	Additional Comments:	The Debtor shall have the right to prepay this claim prior to maturity without penalty or fee. Such treatment shall be in full and complete satisfaction the claims.

26 **h. CLASS SIX**

27 Equity Interests

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1 The equity holder shall retain its existing equity interest. Equity holder shall receive under
2 the Plan only the proceeds from the sale of the Property upon satisfaction of all claims.

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5 **X. SOURCE OF MONEY TO PAY CLAIMS AND INTEREST-HOLDERS**

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7 The Plan cannot be confirmed unless the Court finds that it is "feasible," which means that
8 the Proponent has timely submitted evidence establishing that the Debtor will have sufficient
9 funds available to satisfy all expenses, including the scheduled creditor payments discussed
10 above. What follows is a statement of projected cash flow for the duration of the Plan. The focus
11 is on projected cash receipts and cash disbursements. All non-cash items such as depreciation,
12 amortization, gains and losses are omitted. A positive number reflects a source of cash; a
13 (negative number) reflects a use of cash. A detailed statement of cash flow projections for the
14 duration of Plan payments is attached as **Exhibit "B"** Section XV(c). It states the assumptions
15 and details surrounding the statement of projected cash flow.

16 On the Effective Date, the Plan pays the amount of \$ 156,643, which is comprised of the
17 following:

18	Administrative claims *	\$ 60,001
	Priority Tax Claims	\$ 13,736
19	Class 1	\$ 78,584
20	Class 2	\$ 1,007
	Class 3	\$
21	Class 4	\$
	Class 5	\$ 3,315
22	Class 6	\$
	TOTAL	\$ 156,643

23

24 * Debtor has not yet received Receiver's Administrative claim other than the stated \$1 on Clyde
25 Holland's proof of claim.

26 The Effective Date is projected to occur on March 1, 2011. As shown by the projected
27 cash flow, the Reorganized Debtor will have the following cash on hand under each of the
28 options attached hereto as **Exhibit "B"**:

- 1 1. (Version 1) The Reorganized Debtor will have cash on hand of approximately
2 \$513,695 on March 1, 2012 (assumption that the Reserve in the amount \$216,738.50
3 will remain the property of the estate);
- 4 2. (Version 2) The Reorganized Debtor will have cash on hand of approximately
5 \$1,387,045 (assumption that the Reserve in the amount \$1,090,088.92 and will remain
6 in the property of the estate);
- 7 3. (Version 3) The Reorganized Debtor will have cash on hand of approximately
8 \$296,956 (assumption that the there will be no reserve).

9 Therefore, under all three options the Debtor is expected to have sufficient cash on hand
10 on the Effective Date to make the payments required to be made on the Effective Date.
11 Subsequent quarterly payments until March 1, 2014 or in full upon the sale of the Property,
12 whichever is earlier.

13

14 **XI. FINANCIAL RECORDS TO ASSIST IN DETERMINING WHETHER**
15 **PROPOSED PAYMENT PLAN IS FEASIBLE**

16

17 As discussed above, cash flow projections Version “1,” Version “2,” and Version “3” for
18 the Plan repayment period until July 11, 2014, the Maturity Date of the Loan, are attached hereto
19 as **Exhibit “B”**. **Exhibit “B”** also contains a detailed projected capital improvement budget for
20 the years 2013. Attached as **Exhibit “C”** are:

21

a. Balance sheets for the period of time from January 1, 2011 to October 22, 2011;

22

b. Income and expense statements for the period of time from January 1, 2011 to
23 October 22, 2011;

24

c. A summary of the Property occupancy rate from January 2006 to October 2011;
25 and

26

d. Twelve months income statements for the Property for years 2009 and 2010
27 prepared by the management companies.

28

1 The Summary of Occupancy Rate was prepared by the Debtor based on the monthly rent
2 rolls from 2005 to October 2011 provided by Stratus, Riverstone, Mashcole and Holland
3 Residential. The 2009 twelve months income statement were prepared by Riverstone Property
4 Management, and the 2010 twelve month statement were prepared by Mashcole Property
5 Management. The May-October 2011 financial data used in the balance sheets was prepared by
6 Holland Residential. The summary of the Property occupancy rate was prepared by the Debtor
7 based on the monthly rent rolls from 2005 to October 2011 provided by Stratus, Riverstone,
8 Mashcole and Holland Residential.

9 Projected income, occupancy rate, operating expenses, and capital improvement expenses
10 of the cash flow and projected capital improvement budget were prepared and provided to the
11 Debtor by Cirrus's president Steve Heimler and Cirrus Regional Manager Gregory Karp, who is
12 in charge for day-to-day operations of the Property.

13 Mr. Heimler and Mr. Karp made their projections of the occupancy rate, revenue and
14 expenses, and capital improvement required based on Cirrus's team and Mr Heimler's personal
15 experience of operating the Property from 2004 to 2007 at an average 96% occupancy rate, based
16 on the review of monthly financial reports of Riverstone, Mashcole and Holland provided by the
17 Debtor, personal inspections of the Property and careful assessment of the present condition and
18 operations of the Property, and Mr. Heimler's years of experience in operating rent controlled
19 properties like Summer View in the San Fernando Valley.

20 For capital improvement budget Mr. Karp obtained competitive bids from experienced,
21 competent and reliable vendors.

22 Proposed listing price and anticipated sale price are based on the appraisal of the Property,
23 BPO opinion of Mr. Lee, and opinion of a proposed listing broker Tony Azzi of Marcus and
24 Millichap.

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XII. ASSETS AND LIABILITIES OF THE ESTATE

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a. Assets

1 **The Property**

2 The latest available appraisal report of the Property of the Debtor, which encompasses
3 substantially all of the Debtor's assets, is attached hereto as **Exhibit "D1"**. The appraisal report
4 dated November 2011 values the assets at \$20,000,000. In evaluating its option of sale of the
5 Property, the Debtor contacted with several brokers specializing in the sale of the apartment
6 buildings of the debtor's and financial consultants, including the firm that the Debtor is applying
7 to employ as a real estate broker subject to the Court's approval, Marcus and Millichap, and Lee
8 and Associates. Robert Leveen of Lee and Associates provided the Debtor with a broker's
9 Opinion of Value upon Debtor's request, attached hereto as **Exhibit "D2"**. Mr. Leveen provided
10 the Opinion of the price between \$20,000,000 and \$21,000,000. Marcus and Millichap, the
11 realtor commercial real estate brokerage firm that was a sale agent for the same building in 2004,
12 provided the Debtor with its analysis of the listing price of \$21,000.

13 **Payment Reserve**

14 At the time when the Debtor purchased the Property through assumption of the existing
15 loan, the Lender requested the Debtor to establish with the Lender a reserve in the amount equal
16 to eighteen monthly installment of principal and interest and all required deposits and impounds
17 in the amount \$1,442,040.44 (80,114 x 18). Loan Assumption and Substitution Agreement
18 provided that if: (1) No default has occurs; and (2) certain litigation involving Efim Sobol has
19 been resolved to the satisfaction of the Lender, the beneficiary shall advance an amount equal to
20 six monthly installment of reserve.

21 The Loan Assumption and Substitution Agreement further provided that if (1) no default
22 has occurred; (2) the debt service coverage ratio for the property equals or exceeds 1.20:1.00,
23 based in part upon net cash flow, for the then most-recently ended twelve month period, (3)
24 certain litigation involving Efim Sobol has resolved to the satisfaction of beneficiary, and 4) at
25 least 90% of all apartment units located on the Property are leased and occupied for then most
26 recently ended twelve month period, the Lender shall advance the then remaining Payment
27 Reserve to the Debtor.

28

1 Even though all litigation involving Efim Sobol had been successfully resolved, the
2 property operated at 90% and higher occupancy rate for at least three and a half years and the
3 debt service coverage ratio for the property equaled or exceeded 1.2:1.00, the Lender has not
4 released the Reserve to the Debtor.

5 According to the proof of claim filed by the Lender on the date of filing the petition the
6 reserve held by the Lender was \$1,090,088.92. The Debtor included \$1,090,088.92 to the list of
7 its assets. The Lender claims that it applied \$873,350 of the reserve to past due interest and
8 principal on August 15, 2011, just a few hours before the Debtor filed its petition and that the
9 amount of the Reserve help by Lender is \$216,738.50. Debtor filed Motion to Enforce Automatic
10 Stay in connection with the Reserve. Lender filed its opposition. The Motion to Enforce
11 Automatic Stay is scheduled to be heard on November 16, 2011. Pending disposition of the issue
12 of Reserve, Debtor prepared its cash flow projections based on three different assumptions: the
13 assumption that the \$1,090.088.92 is a part of the cash available for reorganization; the
14 assumption that \$216,738.50 part of the reserve is a part of the cash available for reorganization
15 and the assumption that there is no reserve funds available for reorganization.

16 The Debtor also has cash in the operating DIP account in the amount \$775,316.03 as of
17 the date of filing of this Disclosure Statement, and \$56,375.8 of tenants' security deposits in the
18 Debtor's security deposits account, as reflected in liability.

19 **b. Liabilities**

20 **Exhibit "A"** shows all claims asserted against the estate, claims whose treatment is
21 explained in detail by section IX.

22 **c. Summary**

23 The fair market value of all assets equals approximately \$20,000,000 excluding reserve
24 and \$21,590,000 including reserve. Total liabilities equal approximately \$15,755,876 excluding
25 liquidating pre-paid penalties claimed by the lender and \$18,118,040.75 with liquidating pre-paid
26 penalties claimed by the lender.

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XIII. TREATMENT OF NONCONSENTING CLASSES

As stated above, even if all classes do not consent to the proposed treatment of their claims under the Plan, the Plan may nonetheless be confirmed if the dissenting classes are treated in a manner prescribed by the Code. The process by which dissenting classes are forced to abide by the terms of a plan is commonly referred to as "cramdown." The Code allows dissenting classes to be crammed down if the Plan does not "discriminate unfairly" and is "fair and equitable." The Code does not define discrimination, but it does provide a minimum definition of "fair and equitable." The term can mean that secured claimants retain their liens and receive cash payments whose present value equals the value of their security interest. For example, if a creditor lends the Debtor \$100,000 and obtains a security interest in property that is worth only \$80,000, the "fair and equitable" requirement means that the claimant is entitled to cash payments whose present value equals \$80,000 and not \$100,000. The term means that unsecured claimants whose claims are not fully satisfied at least know that no claim or interest that is junior to theirs will receive anything under the Plan, except where the Debtor is an individual, has elected to retain property included in the Estate under 11 U.S.C. § 1115 and has satisfied 11 U.S.C. § 1129(b)(2)(B)(ii). "Fair and equitable" means that each holder of an interest must receive the value of such interest or else no junior interest is entitled to receive anything. Therefore, if a class of general unsecured claims votes against the Plan, the Plan cannot be confirmed where the Debtor or a class of interest holders (e.g. shareholders or partners) will receive or retain any property under the Plan, unless the Plan provides that the class of general unsecured claims shall be paid in full with interest. If a class of interest holders votes against the Plan, the Plan cannot be confirmed where the Debtor will receive or retain any property under the Plan, unless the Plan provides that the class of interest holders shall be paid in full with interest. These are complex statutory provisions and the preceding paragraphs do not purport to state or explain all of them.

1 **XIV. TREATMENT OF NONCONSENTING MEMBERS OF CONSENTING CLASS**
2 **(CHAPTER 7 LIQUIDATION ANALYSIS)**
3

4 The Plan must provide that a nonconsenting impaired claimant or interest holder of a
5 consenting class receive at least as much as would be available had the Debtor filed a Chapter 7
6 petition instead.

7 In a Chapter 7 case the general rule is that the Debtor's assets are sold by a trustee.

8 Unsecured creditors generally share in the proceeds of sale only after secured creditors
9 and administrative claimants are paid. Certain unsecured creditors get paid before other
10 unsecured creditors do. Unsecured creditors with the same priority share in proportion to the
11 amount of their allowed claim in relationship to the total amount of allowed claims.

12 A creditor would recover from the assets of the bankruptcy estate less under Chapter 7
13 than under Chapter 11 for at least three reasons. First, the recovery by unsecured creditors in a
14 liquidation would be less than the recovery proposed under the Plan because the trustee would in
15 all probability be unable to realize the full value of all of the Debtor's assets, including the
16 inventory. Upon liquidation, a trustee would face the difficulties of processing, marketing and
17 obtaining value for the Debtor's assets on a distressed sale basis. Thus, in a liquidation, the value
18 of the Debtor's assets would, in all likelihood, decrease considerably from the current market
19 values.

20 Second, in a chapter 7 case, a trustee is appointed and is entitled to compensation from the
21 bankruptcy estate in an amount no more than 25% of the first \$5,000 of all moneys disbursed,
22 10% on any amounts over \$5,000 and up to \$50,000, 5% on all amounts over \$50,000 and up to
23 \$1,000,000, and such reasonable compensation no more than 3% of moneys over \$1,000,000.
24 Therefore, the distribution to creditors will be diluted further by the trustee's compensation.

25 Third, the current economic market would further depress the value of the Debtor in a
26 liquidation. To the extent that foreclosure sales do occur, they are for depressed amounts,
27 substantially less than appraised values. While the Debtor believes that the foregoing factors
28 would result in a liquidation value which is less than the appraised value, for purposes of this

1 liquidation analysis, such a factor is irrelevant. If the Property sells for 100% of its current
2 valuation (i.e., \$20,500,000), after applying cost of sale of 3% (\$600,000), the net proceeds to the
3 estate total \$19,400,000. Liquidating sale will entitle U.S. Bank to the pre-paid penalties, which
4 will result in paying the entire proceeds to one creditor, U.S. Bank, and no other creditors would
5 receive any distribution. The Debtor is confident that all creditors will receive substantially more
6 under the Plan than they would receive in a liquidation, as set forth below.

	Chapter 7	Chapter 11
8 Value of Assets	\$19,400,000	\$20,000,000 (See Exhibit "D")
9 Additional Expected	\$80,000	\$80,000
10 Administrative Expenses		
11 Administrative Expenses	\$60,001 (est.)	\$60,001 (est.)
12 Class 1 Secured Claim	\$18,118,040.75	\$16,105,312.57
13 Class 2 Secured Claim	\$12,078	\$12,078
14 Priority Unsecured Claims	\$ 282,048.13	\$ 282,048.13
15 Chapter 7 Trustee Fee	\$623,250	N/A
16 Exemption(s)	N/A	N/A
17 TOTAL AVAILABLE FOR	\$224,582	\$3,460,560.90
18 DISTRIBUTION TO		
19 GENERAL UNSECURED		
20 CREDITORS		

XV. FUTURE DEBTOR

a. Management of Debtor

1. i. *Names of persons who will manage the Debtor's business affairs:* The
21 management of the Debtor will be performed by Cirrus Assets Management, Inc., the property
22 management company appointed by the Court's Orders of October 17, 2011 to manage the
23 apartment building of the Debtor. Cirrus took over the management of the Property on October
24 19, 2011.

ii. *Proposed compensation to persons listed above:* The compensation of the
25 management company will remain the same as stated in the Debtor's application to employ
26 management company - \$4,600 monthly management fee or 3% of gross revenue, whichever is
27 greater.
28

1 2. **Qualifications:** Cirrus Property Management team served as the Debtor's
2 management company in 2004-2007, when the Property was under the management of Stratus.
3 Under management of Cirrus team the Property successfully operated at 96-99% occupancy rate
4 with consistent positive cash flow and stable net operating income in 2004-2007. Cirrus has
5 great deal of experience of management multi family residence in Valley and great experience in
6 dealing with rent control properties, as Debtor's. Presently, Cirrus has fifteen apartment buildings
7 in Southern California under its management. Cirrus is specializing in management of rent
8 control buildings, like the Property. About 80% of the Cirrus apartment building portfolio
9 consists of the rent control buildings. Among the buildings which Cirrus presently manages in
10 Southern California are nine buildings located in the San Fernando Valley, the area where the
11 Property is located. Cirrus has extensive experience in managing, preserving and protecting
12 residential apartment buildings. Mr. Heimler, the president of Cirrus have managed and operated
13 numerous distressed assets including Class "B" and "C" apartment communities comprising
14 23,000 apartments at sale. One of the factors contributing to Cirrus's continuous success in
15 managing buildings is Cirrus's mission statement and vision statement placed by Cirrus in each
16 of the properties under Cirrus's management, which Cirrus's team follows by the letter. Cirrus's
17 vision statement is "To be the most trusted, respected and innovated company in the rental
18 housing industry". Cirrus's mission statement is "to enhance the life experience of clients and
19 customers through superior property performance achieved by dedicated and passionate
20 associates".

21 3. **Job description:** Cirrus Property Management will continue to manage the
22 Property of the Debtor the general operations of Debtor and takes all steps and actions necessary
23 to ensure and maintain the smooth and successful operation of the business. The goal is to
24 increase the occupancy rate to 90% by March 2011, remain above a 90% occupancy rate
25 thereafter while achieving a 95% occupancy rate in September 2012. Upon achieving the target
26 occupancy rate of 95% and a stable performance at an occupancy rate of 95% for several months,
27 Cirrus plans to gradually increase the effective rent rate by \$100-150 per unit.

28 **b. Disbursing Agent**

1 Cirrus Property Management will be responsible for collecting rent payments and security
2 deposits and depositing them into the Debtor's operating account and security deposit accounts.
3 Terry D. Shaylin, Esq., the Debtor's counsel, will be responsible for distribution to claimants and
4 transmitting funds to them.

5 The address of Terry D. Shaylin, Esq. is 555 W. 5th Street, Suite 3100, Los Angeles, CA
6 90017.

7 i. ***Proposed compensation to person listed above:*** With the exception of its attorney
8 fee for legal services provided to the Debtor per court's approval, Terry D. Shaylin, Esq. shall
9 serve as the disbursing agent under the Plan without compensation or bond.

10 ii. ***Qualifications:*** Given that the primary source of the payments required to be made
11 under this Plan is the Debtor's cash on hand as of the Effective Date and proceeds from the sale
12 of the Property from the escrow, the Debtor believes that Terry D. Shaylin, Esq., as counsel of the
13 Debtor, is the best qualified to serve as the disbursing agent. Terry D. Shaylin, Esq. is familiar
14 with the claims in this case and the terms of the Plan; thus, she is qualified to implement the
15 Plan's provisions and make the necessary disbursements.

16 iii. ***Affiliation of person to Debtor:*** Terry D. Shaylin is an attorney for the Debtor.
17 She is intimately familiar with the Debtor's operations and the provisions of the Plan.

18 iv. ***Job description:*** The disbursing agent shall make all distributions in accordance
19 with the provisions of the Plan. Terry D. Shaylin shall be the disbursing agent responsible for
20 transmitting the money intended for distribution to the Debtor's claimants from the Debtor's
21 operating and security deposits accounts. In the event that the Property is sold, the escrow holder
22 will be responsible for disbursement of the funds from the proceeds of sale in accordance with the
23 Plan as per the Court's order approving sale and written escrow instructions.

24 **c. Future Financial Outlook**

25 The Proponent believes that under Cirrus's management the Debtor's economic health
26 will rapidly improve from its pre-bankruptcy state and within several months, the debtor will be
27 able to return to above 90% occupancy rate. With necessary repair and capital improvements
28 reserved in the budget, all units will be ready for occupancy by January 1, 2012. Once the

1 occupancy rate achieves its target zone, Cirrus will gradually increase the rent and revenue.
2 Cirrus clearly defined middle term, short term and terms goals for stabilizing the Property and
3 bringing it to the 2006-07 occupancy rate and revenue. Cirrus is working on several aspects of
4 making the Property more attractive to the tenants. Cirrus is working on replacing old washers
5 and dryers –a very important factor for consideration for new tenants, on trimming trees which
6 will make the property safe, better looking and attractive, on repairing and replacing gym
7 equipment. In addition to that, Cirrus prepared to launch an aggressive marketing campaign, and
8 most importantly to provide current tenants with high quality of service, attention and care.

9 Another area of Cirrus focus is re-paving the parking lot, thus, resolving two issues –
10 improving safety and security, operations of the Property and improving Property look.

11 Replacement of the water pressure device will improve living conditions of all tenants,
12 thus will make the Property far more attractive for present and future tenants. Methodical and
13 systematic improvements of condition of the Property, continuous showing to the tenants that
14 management really care of their wellbeing and not only collecting rent, and diligent enforcement
15 of the terms of the lease with a zero tolerance policy to late payments and delinquent accounts
16 will return the Property to the good reputation it had under Stratus’s management in 2004-2007.
17 The Property is unique and has wonderful amenities such as tennis court, two pools, gym. The
18 Property has a great potential of attracting tenants. Cirrus will be able to realize that potential.

19 Section X under Versions 1, 2, and 3 provides a summary of the projected cash flow of
20 the Debtor for the duration of the Plan. The assumptions that underlie the projections are set
21 forth in **Exhibit “B”** attached hereto. As previously stated, the Plan payments will primarily
22 come from the continued operation of the Debtor's business and payment reserve, if allowed by
23 the Court, and from the proceeds from the sale of the Property. The Efim Sobol Trust will
24 establish an unsecured line of credit up to \$500,000, with the funds deposited into a separate
25 account for the Debtor to cover the shortfall in cash flow until the sale of the Property. The line of
26 credit will be unsecured and be repaid only after all unsecured claims are paid in full.

27 At the same time, the Reorganized Debtor will pursue the sale of the Property to the
28 qualified buyer through the assumption of existing loan or through a conventional sale with the

1 goal to close escrow by September 1, 2013. The Debtor is filing an application to employ a
2 nationwide broker Marcus and Millichap, a broker that has a great deal of experience of selling
3 apartment buildings in the area. The listing price will be set at \$21,000,000. Once the broker is
4 employed and the Court approves the listing agreement, the broker will aggressively market the
5 Property nationwide to insure that the Property will be able to generate offers from qualified
6 buyers with the target of closing escrow by September 1, 2012. Simultaneous improvement of the
7 Property's performance and capital improvements contemplated by Cirrus will make the Property
8 more attractive for prospective buyers. In a few months the Property will be turning from a
9 distress asset to a rehabilitated asset on the way to full recovery. Increased revenue and increased
10 occupancy rate will contribute to increase of the property fair market value.

11 In the event the Debtor is not able to sell the Property until July 11, 2014, the Property
12 will be sold by public auction, to be held on or before September 11, 2014.

13

14 **XVI. SALE OR TRANSFER OF PROPERTY; ASSUMPTION OF CONTRACTS AND**
15 **LEASES; OTHER PROVISIONS**

16

17 The Plan provides for the sale of the Property either through assumption of existing loan or
18 through a conventional sale.

19 With regard to contracts and leases, the Debtor shall file, by not later than 14 days prior to
20 the confirmation hearing, a list identifying the unexpired leases and executory contracts that it
21 intends to assume in connection with confirmation of the Plan (the "Assumption List").

22 As of the date of filing this document, the Debtor intends to assume the following
23 executory contracts and unexpired leases:

24 All leases for tenants in the apartment building.

25 On the Effective Date of the Plan, the Debtor shall assume all unexpired leases and
26 executory contracts that are identified on the Assumption List. All unexpired leases and
27 executory contracts that are not identified on the Assumption List, and that have not been
28 previously rejected by the Debtor, shall be deemed rejected as of the Effective Date.

1 The Court must make certain findings of fact before approving the aforementioned
2 provisions as part of the Plan. The Proponent will request that the Court make the appropriate
3 findings at the confirmation hearing, based upon evidence submitted in support of the
4 confirmation motion.

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XVII. BANKRUPTCY PROCEEDINGS

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9 Following the Petition Date the following orders have been entered by the Court:

10	Date	Docket No.	Description
11	08/29/2011	<u>17</u>	ORDER granting emergency motion for order authorizing extensin of time to file schedules, statement of affairs, and list of equity security holders
12	09/21/2011	<u>58</u>	Order Granting Motion To Extend Deadline to File Schedules or Provide Required Information to 9/30/2011
13	09/23/2011	<u>65</u>	Order Granting Stipulation for (1) Continuance of hearing date on secured creditor US Bank National Association Motion for 11 USC 543(a)(1) relief from turnover and debtor Summer View Sherman Oaks LLC's motion to compel the receiver to turn over the property of the debtor to 10/5/2011 @ 10:00 AM and (2) Continuance of the Status Conference to 10/5/2011 @ 10:30 AM
14			Order following Chapter 11 status conference
15	10/11/2011	110	Order to compel the State Court Appointed Receiver Clyde Holland of Holland Residential to turnover the property of the debtor pursuant to U.S.C. 543(a) and (b)
16	10/17/2011	<u>114</u>	Order Granting Application to Employ Cirrus Asset Management, Inc. as the management company for debtor's property
17	10/17/2011	<u>115</u>	Order Denying U.S. Bank National Association's Motion for 11 U.S.C. 543(d)(1) relief from turnover of property (and to the extent necessary for relief from automatic stay)
18	10/17/2011	<u>116</u>	
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XVIII. TAX CONSEQUENCES OF PLAN

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24 The tax consequences of the Plan are in many cases uncertain and many vary depending
25 on the individual circumstances of the holders of claims and interests. The tax consequences of
26 the Plan to a holder of a claim will depend, in part, on the type of consideration received for the
27 claim, whether the holder is a resident of the United States for tax purposes, and whether the
28 older reports income on the accrual or cash basis method. Holders of claims likely will recognize

1 gain or loss, as the case may be, equal to the difference between the amount realized under the
2 Plan in respect of their claims and their respective tax basis in their claims. The amount realized
3 for this purpose generally will equal the sum of cash and the fair market value of any other
4 consideration received under the Plan in respect of their claims. Any gain or loss recognized in
5 the exchange will be capital or ordinary depending on the status of the claim in the holder's
6 hands.

7 PERSONS CONCERNED WITH THE TAX CONSEQUENCES OF THIS PLAN
8 SHOULD CONSULT THEIR OWN ACCOUNTANTS, ATTORNEYS AND/OR ADVISORS.

9 THE PROPONENTS MAKE THE AFOREMENTIONED DISCLOSURE OF
10 POSSIBLE TAX CONSEQUENCES FOR THE SOLE PURPOSE OF ALERTING READERS
11 OF TAX ISSUES THEY MAY WISH TO CONSIDER. THE PROPONENTS CANNOT AND
12 DO NOT REPRESENT THAT THE TAX CONSEQUENCES MENTIONED ABOVE ARE
13 COMPLETELY ACCURATE BECAUSE THE TAX LAW EMBODIES MANY
14 COMPLICATED RULES, WHICH MAKE IT DIFFICULT TO ACCURATELY STATE
15 WHAT THE TAX IMPLICATIONS OF ANY ACTION MIGHT BE.

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17 **XIX. EFFECT OF CONFIRMATION OF PLAN**

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19 **a. General comments**

20 The provisions of a confirmed Plan bind the Debtor, any entity acquiring property under
21 the Plan, and any creditor, interest holder, or general partner of the Debtor, even those who do not
22 vote to accept the Plan.

23 The confirmation of the Plan vests all property of the estate in the Reorganized Debtor.

24 The automatic stay is lifted upon confirmation as to property of the estate. However, the
25 stay continues to prohibit collection or enforcement of pre-petition claims against the Debtor or
26 the Debtor's property until the date the Debtor receives a discharge, if any. If the Debtor does not
27 seek a discharge, the discharge is deemed denied, and the stay as to the Debtor and the Debtor's
28 property terminates upon entry of the order confirming the Plan.

1 **b. Discharge of liability for payment of debts; status of liens; equity security**
2 **holders**

3 Unless the Debtor is not entitled to receive a discharge pursuant to 11 U.S.C. 1141(d)(3),
4 the debtor may obtain a discharge only upon specific order of the Court. The confirmation of the
5 Plan does not discharge the Debtor from any debt of a kind specified in Sections 523(a)(2)(A)-
6 (B) of the Bankruptcy Code (West 2004 & Supp 2006) that is owed to a domestic governmental
7 unit, or owed to a person as the result of an action filed under subchapter III of chapter 37 or title
8 31 or any similar State statute or for a tax or customs duty with respect to which the debtor made
9 a fraudulent tax return or willfully attempted in any manner to evade or to defeat such tax or such
10 customs duty.

11 **c. Modification of the Plan**

12 The Proponent may modify the Plan pursuant to 11 U.S.C. § 1127.

13 **d. Post-Confirmation Causes of Action**

14 Debtor is in the process of investigation of its claim against Mashcole Property
15 Management for breach of contract, breach of fiduciary duty and conversion. Debtor is
16 continuing to collect evidence supporting its potential claims against Mashcole.

17 Debtor is in the process of investigation of its claim against Riverstone in connection with
18 missing security deposits.

19 Debtor is researching implications of U.S. Bank's claims against Debtor's sole member
20 the Efim Sobol Trust for breach of guarantee in Los Angeles Superior Court. Initiation of
21 adversarial proceeding against U.S. Bank in the Bankruptcy Court and cross-complaint in
22 intervention in the state court might be necessary to protect Debtor's rights.

23 Debtor is investigating cause of action for breach of fiduciary duty, negligence and breach of
24 covenant of good faith and fair dealing against U.S. Bank when U.S. Bank refused to terminate
25 Mashcole's employment and approve employment of Cirrus and forcefully keep the Property
26 under Mashcole's management for the following two rent cycles, thus facilitating further
27 mismanagement and misappropriation of Debtor's funds. While ordinary lending institutions do
28 not owe fiduciary duty and duty of care to the borrower, this case appears to be an exception

1 because the lender arbitrarily refused to appoint a prudent management company and forcefully
2 kept the Property in the hands of unscrupulous managers and caused significant damage to
3 Debtor. It appears that the Debtor has a valid cause of action for breach of covenant of good faith
4 and fair dealing against U.S. Bank, because the lender arbitrary exercised its discretionary power
5 to deny appointment of Cirrus.

6 Debtor is in the process of investigation of pre-petition transfer of \$82,676.82 of Debtor's funds
7 to Good Luck construction to Mashcole Property Management . Debtor is investigating the value
8 provided by Good Luck Construction to the Debtor for the payments received.

9 Debtor is in the process of investigation of claim for conversion against Mashcole on site
10 manager Ami Estrada, who allegedly received unreported cash from the tenants in May 2011.

11 e. **Final Decree**

12 Once the Plan has been consummated, a final decree may be entered upon motion of the
13 Proponent. The effect of the final decree is to close the bankruptcy case. After such closure, a
14 party seeking any type of relief relating to a Plan provision can seek such relief in a state court of
15 general jurisdiction.

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17

18 Dated: November 15, 2011

SUMMER VIEW SHERMAN OAKS, LLC

19

20

By: _____ /s/ Terry D. Shaylin _____

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Terry D. Shaylin, Esq. (proposed)
attorney for Debtor Summer View

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