

**UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION**

In re: MEMPHIS LOUIE, LLC,

Debtor.

Case No. 17-21092-JDL

Chapter 11

DISCLOSURE STATEMENT OF MEMPHIS LOUIE, INC.

GLANKLER BROWN, PLLC

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I.

INTRODUCTION

The Debtor, Memphis Louie, LLC. (the “*Debtor*”), provides this Disclosure Statement to all known creditors to disclose that information deemed by the Debtor to be material, important and necessary for his creditors to arrive at a reasonably informed decision in exercising their right to vote for acceptance of the Small Business Plan of Reorganization (the “*Plan*”). Neither the Debtor nor the Bankruptcy Court has authorized the communication of any information about the Plan other than the information contained in this Disclosure Statement and the related materials transmitted herewith or filed with the Bankruptcy Court. No solicitation of votes on the Plan from a Creditor in an Impaired Class may be made, unless, at the time of or before such solicitation, this Disclosure Statement, in the form approved by the Bankruptcy Court for dissemination, is transmitted to such Persons.

NO REPRESENTATIONS CONCERNING THE DEBTOR (PARTICULARLY AS TO ITS FUTURE BUSINESS OPERATIONS, VALUE OF PROPERTY, OR THE PLAN) ARE AUTHORIZED BY THE DEBTOR OTHER THAN AS SET FORTH IN THIS DISCLOSURE STATEMENT. ANY REPRESENTATIONS OR INDUCEMENTS MADE TO SECURE YOUR ACCEPTANCE WHICH ARE OTHER THAN AS CONTAINED IN THIS DISCLOSURE STATEMENT SHOULD NOT BE RELIED UPON BY YOU IN ARRIVING AT YOUR DECISIONS, AND SUCH ADDITIONAL REPRESENTATIONS AND INDUCEMENTS SHOULD BE REPORTED TO COUNSEL FOR THE DEBTOR WHO IN TURN SHALL DELIVER SUCH INFORMATION TO THE BANKRUPTCY COURT FOR SUCH ACTION AS MAY BE DEEMED APPROPRIATE. THE INFORMATION CONTAINED HEREIN HAS NOT BEEN SUBJECT TO A CERTIFIED AUDIT. THE RECORDS KEPT BY THE DEBTOR ARE DEPENDENT UPON INTERNAL ACCOUNTING PERFORMED BY THE DEBTOR. FOR THE FOREGOING REASON, THE DEBTOR IS UNABLE TO WARRANT OR REPRESENT THAT THE INFORMATION CONTAINED HEREIN IS WITHOUT ANY INACCURACY. IN ADDITION TO THIS DISCLOSURE STATEMENT, THE ATTACHED PLAN OF REORGANIZATION SHOULD ALSO BE REVIEWED FOR A BETTER UNDERSTANDING OF THE TREATMENT

OF ALL CLASSES OF CREDITORS. THE PLAN IS INCORPORATED HEREIN BY REFERENCE.

THIS DISCLOSURE STATEMENT HAS BEEN PREPARED BY THE DEBTOR IN GOOD FAITH AND IN COMPLIANCE WITH THE APPLICABLE PROVISIONS OF THE BANKRUPTCY CODE. NO REPRESENTATIONS BY ANY PERSON OR ENTITY CONCERNING THE DEBTOR, HIS OPERATIONS, FUTURE SALES, PROFITABILITY, VALUES OR OTHERWISE, OTHER THAN AS SET FORTH IN THIS DISCLOSURE STATEMENT, HAVE BEEN AUTHORIZED.

THE INFORMATION CONTAINED IN THIS DISCLOSURE STATEMENT IS BELIEVED TO BE CORRECT AT THE TIME OF THE FILING OF THIS DISCLOSURE STATEMENT. ANY INFORMATION, REPRESENTATION, OR INDUCEMENT MADE TO SECURE OR OBTAIN ACCEPTANCES OR REJECTIONS OF THE PLAN WHICH ARE, OTHER THAN, OR ARE INCONSISTENT WITH, THE INFORMATION CONTAINED IN THIS DISCLOSURE STATEMENT OR OTHER MATERIALS AUTHORIZED TO BE TRANSMITTED BY THE BANKRUPTCY COURT SHOULD NOT BE RELIED UPON BY ANY PERSON IN ARRIVING AT A DECISION TO VOTE FOR OR AGAINST THE PLAN. ANY SUCH ADDITIONAL INFORMATION, REPRESENTATIONS, AND INDUCEMENTS SHOULD BE IMMEDIATELY REPORTED TO THE ATTENTION OF THE DEBTOR AND THE BANKRUPTCY COURT.

EXCEPT WITH RESPECT TO THE PROJECTIONS AND EXCEPT AS OTHERWISE SPECIFICALLY AND EXPRESSLY INDICATED HEREIN, THIS DISCLOSURE STATEMENT DOES NOT REFLECT ANY EVENTS THAT MAY OCCUR SUBSEQUENT TO THE DATE HEREOF AND THAT MAY HAVE A MATERIAL IMPACT ON THE INFORMATION CONTAINED IN THIS DISCLOSURE STATEMENT. THE DEBTOR DOES NOT INTEND TO UPDATE THE PROJECTIONS; NOR DOES THE DEBTOR ANTICIPATE THAT ANY AMENDMENTS OR SUPPLEMENTS TO THIS DISCLOSURE STATEMENT WILL BE DISTRIBUTED TO REFLECT SUCH OCCURRENCES, UNLESS OTHERWISE ORDERED BY THE BANKRUPTCY COURT. ACCORDINGLY, THE DELIVERY OF THIS DISCLOSURE STATEMENT SHALL NOT UNDER ANY CIRCUMSTANCE IMPLY THAT THE INFORMATION CONTAINED THEREIN IS CORRECT OR COMPLETE AS OF ANY TIME SUBSEQUENT TO THE DATE HEREOF.

THIS DISCLOSURE STATEMENT CONTAINS SUMMARIES OF CERTAIN PROVISIONS OF THE PLAN, CERTAIN STATUTORY PROVISIONS, CERTAIN RELATED DOCUMENTS, CERTAIN EVENTS,

AND CERTAIN FINANCIAL INFORMATION. WHILE THE DEBTOR BELIEVES THAT THE PLAN AND RELATED DOCUMENT SUMMARIES ARE FAIR AND ACCURATE, SUCH SUMMARIES ARE QUALIFIED TO THE EXTENT THAT THEY DO NOT SET FORTH THE ENTIRE TEXT OF SUCH DOCUMENTS OR STATUTORY PROVISIONS. EXCEPT AS OTHERWISE SPECIFICALLY NOTED, FACTUAL INFORMATION CONTAINED IN THIS DISCLOSURE STATEMENT HAS BEEN PROVIDED BY A REVIEW OF THE CERTAIN PARTS OF THE RECORD IN THE CASE AND BY CERTAIN PERSONS HAVING A FAMILIARITY WITH THE DEBTOR'S BUSINESS. THE FINANCIAL INFORMATION CONTAINED HEREIN HAS NOT BEEN SUBJECT TO AN AUDIT. NEITHER THE DEBTOR NOR COUNSEL FOR THE DEBTOR ARE ABLE TO WARRANT OR REPRESENT THAT THE INFORMATION CONTAINED HEREIN, INCLUDING THE FINANCIAL INFORMATION, IS WITHOUT ANY INACCURACY OR OMISSION.

As a Creditor or interest holder, your vote is important. The Plan can be confirmed by the Court if it is accepted by the holders of two-thirds (2/3) in amount and more than one-half (1/2) in number of claims in each impaired Class of claims or interests voting on the Plan. The Plan may also be confirmed over the objection of a creditor and despite a class' rejection of the plan in accordance with 11 U.S.C. § 1129(b). The purpose of this statement is to provide the holders of claims against or interests in the Debtor with adequate information about the Debtor and the Plan to make an informed judgment when voting on the Plan.

II.

FINANCIAL INFORMATION CONCERNING THE DEBTOR

A. DEBTOR'S BUSINESS HISTORY

The Debtor, Memphis Louie, LLC is a Tennessee limited liability company which owns and operates Bar Louie restaurant franchise at 2125 Madison Avenue, Memphis, Tennessee (the "Property"). The Debtor's sole member is Eville Louie, LLC, an Indiana limited liability company. The sole member of Eville Louie, LLC is Beverly Oswald. The Debtor's officers are:

Beverly Oswald

Chief Manager

Michael Friedrich Operations Manager

Michael Friedrich is the husband of Beverly Oswald.

B. DEBTOR'S ASSETS AND LIABILITIES

The Debtor's principal assets consist of its leasehold interest in the Property, its Bar Louie franchise agreement and equipment and furniture used in the operation of the business.

1. **Assets.** The specific non-exempt assets owned by the Debtor and their corresponding values as of February 3, 2017 are as follows:

a.	Bank Accounts and Cash	\$ 2280.00
b.	Accounts Receivable ¹	\$ 145,425.58
c.	Franchise agreement (at cost)	\$ 50,000.00
d.	Office equipment/ Furnishings	\$ 229,151.33
e.	Inventory	\$ 43,000.00
f.	Breach of Contract claim against Landlord and Loeb Properties, Inc.	undetermined
g.	Leasehold Improvements (at cost)	<u>\$ 700,000.00</u>

Total - \$1,169,856.91

2. **Liabilities.** The Debtor's scheduled liabilities and estimated administrative expenses are categorized and prioritized as (a) administrative expense claims; (b) pre-petition secured claims; (c) pre-petition unsecured priority claims, and (d) pre-petition unsecured nonpriority claims and the Debtor has ascribed the following amounts to these categories of liabilities:

a.	Administrative Expense Claims- Legal fees -	\$ 35,000.00
b.	Administrative Trustee and Legal Fees Estimated	\$25,850.00
c.	Pre-petition Secured Claims - Funding Circle	\$ 190,000.00
<i>Total Secured</i>		<i>\$ 190,000.00</i>
d.	Pre-petition Unsecured Priority Claims	
	Tenn. Dept. of Revenue	\$21,983.72
	Internal Revenue Service	\$ 12,150.11

¹ Landlord Note Receivable and Landlord A/R are listed at book value.

	City of Memphis	\$7,817.54
	Shelby County Trustee	\$ 8,468.49
.f.	Pre-petition Unsecured Nonpriority Claims	
	Non –priority claims excluding Landlord	\$346,659.42
	Landlord Claims (disputed)	\$363,790.99 -
	Total	\$ 985,870.27

C. DEBTOR'S OPERATIONS

The Debtor owns a Bar Louie restaurant franchise and operates a restaurant at 2125 Madison Avenue in the Overton Square entertainment district in Memphis, Tennessee. The Debtor entered into a lease with Overton Square South, LLC (“Lessor”) dated June 29, 2012. In order to facilitate the build out of the Debtor’s space and patio, the Lessor provided loans to the Debtor evidenced by promissory notes dated February 28, 2013 in the principal amount of \$189,327.00, June 11, 2013 in the principal amount of \$101,827.00 and August 7, 2013 in the amount of \$60,000 (collectively the “Lessor Notes”). The initial term of the Lease is eleven (11) years which commenced on or about April 1, 2013. The Lease grants the Debtor the option to renew the Lease for two (2) five (5) year terms.

At the time the Debtor’s Chapter 11 case was filed, the Debtor was current in its payment of its base rent due under the Lease. Pursuant to the terms of the Debtor’s lease, the Debtor may pay additional rent to the Lessor calculated on a formula based on a percentage of the Debtor’s gross annual sales for the prior year (the “Percentage Rent”). Percentage Rent is calculated in arrears by the Lessor during the first quarter of each year based on prior year’s sales and then billed to the Debtor and paid over the course of the remaining calendar year each year.

In connection with the start of the business, the Debtor also obtained financing from private lenders in an aggregate amount of \$ 393,125. At the time of filing, the aggregate balance of the private lender loans was \$89,385.34.

In addition to the Private Lender Notes and the Lessor Notes, the Debtor obtained secured financing from Funding Circle in the amount of \$250,000.00. The purpose of the Funding Circle loan was to provide working capital to Memphis Louie, LLC and Evansville Louie, LLC, an affiliate of the Debtor. The loan proceeds were approximately split between the Debtor and Evansville Louie, LLC. Evansville Louie, LLC was a joint maker of the Funding Circle loan. Prior to the petition, the Debtor serviced approximately ½ of the Funding Circle debt service while Evansville Louie, LLC serviced the other half.

The Debtor opened for business on April 6th, 2013. The Debtor was one of the first new businesses to open as part of a revitalized Overton Square. Since opening, the Debtor's business has generated positive cash flow and sufficient revenue to pay its debt service on its long term debt, with the exception of 2015. In 2015, the Debtor suffered an operating loss which it attributes to problems with its former manager of the restaurant. Since changing its onsite manager, the Debtor has recovered its loss of sales and generated a positive EBITDA. For calendar year 2016, the Debtor's sales ranked in the top10 for increased sales among 135 Bar Louie franchises around the nation. For the first three months of 2017, the Debtor has experienced an increase in its gross revenue of approximately 12% over the same period from last year.

As of March 31, 2017, the Debtor employs approximately 32 full and part time employee's in its business. The Debtor' annual gross revenues for each year have been as follow:

2013 \$2,164,990.62 (nine months)

2014 \$2,203,424.91

2015 \$1,796.693.02

2016 \$2,101,961.73

2017 \$ 643,708.95 (Jan, - April)

The Debtor projects average annual gross revenue of \$2,499,872.20 for the next five (5) years and total cumulative projected net income after plan payments of approximately \$ 350,321.52 over the next five (5) years. A summary of the Debtor's projected cash flow budget is set forth in ***Exhibit 1.***

D. FACTORS CONTRIBUTING TO FILING CHAPTER 11 CASE

This Chapter 11 case was filed on February 3, 2017. The primary factor necessitating the filing of this Chapter 11 case is a dispute with Overton Square South, LLC and its property manager, Loeb Properties, Inc. (the “Lessor”) relating to the Debtor’s property lease. Due to errors in cash management on the part of the Debtor, the Debtor did not make its January 2017 rent and note payments on time, although such payments were ultimately made by January 23, 2017. Notwithstanding the Debtor’s past history of making rent payments with very few late payments over the life of the lease, the Lessor filed eviction proceedings against the Debtor and sought to accelerate amounts due under the Lessor Notes and lease. This Chapter 11 case was filed in order to avoid termination of the Property lease and to restructure the Debtor’s debt. The Debtor believes that the actions of the Lessor and its property manager were taken in order to try to regain control over the Debtor’s leased space in order to lease the space to other tenants who are preferred by the Lessor.

III.

SUMMARY OF PLAN OF REORGANIZATION

The Debtor believes that the interests of creditors will be best served if the Plan is approved and payments to creditors are made in accordance with the Plan.

A. **Unclassified Claims.** Certain types of claims are automatically entitled to specific treatment under the Code. They are not considered impaired, and holders of such claims do not vote on the Plan. They may, however, object if, in their view, their treatment under the Plan does not comply with that required by the Code. As such, the Plan Proponent has *not* placed the following claims in any class:

1. **Administrative Expenses.** Administrative expenses are costs or expenses of administering the Debtor's chapter 11 case which are allowed under § 507(a) (2) of the Code. Administrative expenses also include the value of any goods sold to the Debtor in the ordinary course of business and received within 20 days before the date of the bankruptcy petition. The Code requires that all administrative expenses be paid on the effective date of the Plan, unless a particular claimant agrees to a different treatment.

Allowed Administrative claims shall be paid in cash, in full on the Effective Date of the Plan. Any administrative claims representing liability incurred in the ordinary course of business of the Debtor may be paid in cash in the ordinary course of business. Included in this class are the attorneys' fees incurred by the Debtor.

2. **Priority Tax Claims.** Priority tax claims are unsecured income, employment, property other taxes described by § 507(a) (8) of the Code. Unless the holder of such a § 507(a)(8) priority tax claim agrees otherwise, it must receive the present value of such claim, in regular installments paid over a period not exceeding 5 years from the order of relief. The Tennessee Department of Revenue holds a priority tax claim in the amount of \$21,983.72.

B. Classification and Impairment of Claims and Interests. Pursuant to 11 U.S.C. §§ 1122(a) and 1123(a) (1) the Plan divides claims against and interests in the Debtor into the following classes:

Class 1: Pre-petition Secured Claim of Funding Circle. Class 1 consists of the unpaid balance due to FC Marketplace, LLC d/b/a Funding Circle under that certain Business Loan and Security Agreement dated October 21, 2015, in the current principal amount of \$190,000 and secured by a first priority security interest in accounts, equipment, good, inventory and fixtures, documents, instruments. Chattel paper, letters of credit, investment property,

patents, commercial tort claims, deposit accounts and general intangibles which is perfected by UCC financing statements recorded with the Tennessee Secretary of State. Class 1 is impaired.

Class 2: Pre-petition Unsecured Claims of Private Lenders. Class 2 consists of the unsecured pre-petition claims for promissory note balances owed to 29 private lenders in an aggregate amount of \$ 89,385.34. Class 2 is impaired.

Class 3: Secured Claims of Taxing Authorities. Class 3 consists of the secured tax claims for ad valorem taxes on personal property filed by the City of Memphis in the amount of \$7,817.54 and the Shelby County Trustee in the amount of \$ 8,468.49. Class 3 is impaired.

Class 4: Unsecured Promissory Note Claims of Overton Square South, LLC. Class 4 consists of the disputed claims Overton Square South, LLC, as it may be allowed by the Court, based on three (3) unsecured Promissory Notes in the approximate aggregate amount of \$267,577.79 as of the petition date. Class 4 is unimpaired.

Class 5: Pre-petition Cure Claim of Overton Square South, LLC. Class 5 consists of the disputed pre-petition cure claim of Overton Square South, LLC, as it may be determined and allowed by the Court, arising out of that certain non-residential real estate lease between the Debtor and Overton Square South, LLC dated June 29, 2012, as amended by that certain First Lease Amendment dated October 15, 2012, that certain Second Amendment to Master Lease dated April 5, 2013 and that certain Third Amendment To Master Lease dated April 15, 2013. Class 5 is unimpaired.

Class 6: Unsecured Claim of Beverly Oswald. Class 6 consists of the unsecured claim of Beverly Oswald for loans to the Debtor in the amount of \$ 257,304.08.

Class 7: Interests of Equity Holders. Class 7 consists of the interests of the member of the Debtor.

C. **Treatment and Impairment of Classes of Claims and Interests.**

Unclassified Claims:

Administrative Expense Claims. Allowed Administrative claims shall be paid in cash, in full on the Effective Date of the Plan or upon such other terms as may be agreed upon by the holder of the claim and the Debtor. Any administrative claims representing liability incurred in the ordinary course of business of the Debtor may be paid in cash in the ordinary course of business in accordance with ordinary trade terms between the Debtor and creditor. Included in this class are the attorneys' fees and management fees incurred by the Debtor. Any United States Trustee Quarterly Fees under 28 U.S.C. § 1930(a)(6) due and owing or assessable prior to confirmation shall be paid in full on the Effective Date of the Plan and any further such fees shall be paid in accordance with 28 U.S.C. § 1930(a)(6). After confirmation, the Debtor shall file with the Court and serve on the United States Trustee a financial report for each quarter, or portion thereof, for which the case remains open in a format prescribed by the United States Trustee and provided to the Debtor by the United States Trustee.

Priority Tax Claims. The Tennessee Department of Revenue holds a priority tax claim in the amount of \$21,983.72 which will be paid over 60 months from the date of filing with statutory interest.

Classified Claims:

Class 1: Pre-petition Secured Claim of Funding Circle. Class 1 consists of the secured claim of FC Marketplace, LLC d/b/a Funding Circle ("Funding Circle") under that certain Commercial Promissory Note dated October 21, 2015 and Business Loan and Security Agreement dated October 21, 2015, in the current principal amount of approximately \$190,000 and secured by a first priority security interest in accounts, equipment, good, inventory and

fixtures, documents, instruments. Chattel paper, letters of credit, investment property, patents, commercial tort claims, deposit accounts and general intangibles which is perfected by UCC financing statements recorded with the Tennessee Secretary of State of the Debtor. The loan documents evidencing Funding Circle's loan shall be modified to reduce the interest rate on the outstanding balance to 10% and to re-amortize the remaining principal balance over the remaining term of the loan at that rate. Such modification shall be effective on the Effective Date and shall apply to all payments coming due during the month after the Effective Date and thereafter. All other terms of the Commercial Promissory Note and Business Loan and Security Agreement shall remain in full force and effect. As adequate protection, the Debtor has paid the ongoing note payments during the post-petition administrative period of this case. Class 1 is impaired.

Class 2: Pre-petition Unsecured Claims of Private Lenders. Class 2 consists of the unsecured pre-petition claims for promissory note balances owed to 29 private lenders in an aggregate amount of \$ 89,385.34. The loan documents relating to each private lender loan shall be modified to extend the term of the notes to December 31, 2019 from their present maturity date of February 28, 2018 and to re-amortize the loan balance on the Effective Date over the extended term. The first payments to the private lenders shall commence on or before 30 days following the Effective Date. Class 2 is impaired.

Class 3: Secured Claims of Taxing Authorities. Class 3 consists of the secured tax claims for ad valorem taxes on personal property filed by the City of Memphis in the amount of \$7,817.54 and the Shelby County Trustee in the amount of \$ 8,468.49. These secured claims shall be paid with their statutory interest in monthly installment payments commencing on or before 30 days following the Effective Date and shall be paid in full on or before sixty (60)

months following the Petition Date. Class 3 is impaired.

Class 4: Unsecured Promissory Note Claims of Overton Square South, LLC.

Class 4 consists of the disputed claims Overton Square South, LLC, as it may be allowed by the Court, based on three (3) unsecured Promissory Notes in the aggregate amount of \$267,577.79 as of the petition date. The balances of the Promissory Notes shall be deaccelerated and the maturity date of such notes shall be reinstated as such maturity existed on the date of default pursuant to 11 U.S.C. § 1124(2). Any delinquent pre-petition or post-petition installment note payment shall be paid in cash on or before thirty days following the Effective Date. The Debtor does not believe that there are any delinquent pre-petition or post-petition note payments. Class 4 is unimpaired.

Class 5: Pre-petition Cure Claim of Overton Square South, LLC. Class

5 consists of the disputed pre-petition cure claim of Overton Square South, LLC, (“OSS”) as it may be determined and allowed by the Court, arising out of that certain non-residential real estate lease between the Debtor and Overton Square South, LLC dated June 29, 2012, as amended by that certain First Lease Amendment dated October 15, 2012, that certain Second Amendment to Master Lease dated April 5, 2013 and that certain Third Amendment to Master Lease dated April 5, 2013 and as set forth in Proof of Claim Number 4 filed by OSS, exclusive of claims asserted therein based upon three promissory notes. The non-promissory notes claims consist of (a) a claim for accelerated deferred/abated rent due under the lease in the amount of \$73, 578.60; (b) percentage rent for 2016 in the amount of \$17,440.10; (c) attorneys’ fees of \$5000 and (d) General Sessions court costs and private process server costs of \$194.50 (collectively the “Cure Claims”. The claim for accelerated deferred/abated rent in the amount of \$73, 578.60 shall be deaccelerated pursuant to 11 U.S.C. § 1124(2) and the original maturity date

for payment of deferred/abated rent shall be reinstated and paid pursuant to the terms of the lease. Any allowed claim for percentage rent, attorneys' fees and court costs/private process service shall be paid as follows (a) any overpayments of percentage rent paid by the Debtor prior to the petition shall be setoff against amounts determined to be owed for 2016 and (b) the balance of percentage rent, attorneys' fees and court costs/process service shall be amortized in equal installments so that the outstanding 2016 percentage rent shall be satisfied by December 31, 2017 with payments commencing on or before thirty days following the Effective Date, or such other period of time as the Court may deem applicable under 11 U.S.C. § 365(b)(1) (A). Class 5 is unimpaired.

Class 6: Unsecured Claim of Beverly Oswald. Class 6 consists of the unsecured claim of Beverly Oswald for loans to the Debtor in the amount of \$ 257,304.08. Class 7 shall be paid in quarterly installments over a period of 5 years after satisfaction of the Class 2 claims. Class 6 is impaired.

Class 7: Interests of Equity Holders. Upon the Effective Date, ownership of the reorganized debtor shall vest in Eville Louie, LLC in the same ownership percentages that existed prior to the filing of the Petition.

D. Means for Implementation of the Plan. The Debtor shall continue to operate its business of owning and operating the Property as a Bar Louie franchise restaurant and bar. The Debtor shall make payments to each class of creditors under the Plan out of its existing cash, tax escrow funds, and future revenues. Notwithstanding the foregoing, the Debtor reserves the right to sell the assets of the business and to assign its rights under the Lease and Franchise Agreement with BL Restaurant Franchises, LLC and lease with Overton Square South, LLC pursuant to 11

U.S.C. § 363 and § 365, subject to court approval prior to entry of a final decree, with the net proceeds of sale being used to satisfy the Debtor's obligations under the confirmed plan.

Beverly Oswald shall continue to serve as Manager of the Debtor and Michael Friedrich shall continue to serve as Vice President and Operations Manager of the Debtor. The day to day management of the Debtor's business shall be managed by Chase Oswald. Chase Oswald is the son of Beverly Oswald. Chase Oswald shall be paid a management fee of \$12,000 per year.

On the Effective Date, all property of the Estate shall revert in the Debtor free and clear of all claims, liens, encumbrances, and interests of creditors or Interest holders, except as provided in the Plan, the Confirmation Order or other applicable order of the Court.

Confirmation of the Plan shall constitute entry of a Discharge pursuant to 11 U.S.C. § 1141. The discharge shall (1) void any judgment at any time obtained, to the extent that such judgment is a determination of the personal liability of the debtor with respect to any debt discharged under 11 U.S.C. § 1141 and (2) operate as an injunction to permanently enjoin creditors from the commencement or continuation of any action, the employment of process, or an act, to collect, recover or offset any such debt as a personal liability of the Debtor.

Upon confirmation of the Plan, all creditors of the Debtor shall be temporarily enjoined from commencing or continuing any litigation against Beverly Oswald, Michael Friedrich, Andrew J. DeSalvo, III (collectively, the "Guarantors") to enforce or collect any claims for which such creditor has allowed claims against the Debtor for reimbursement of such creditor's claim which are being satisfied by the Plan payments to such creditors (the "Enjoined Claims"). The injunction shall only extend to the Enjoined Claims and shall not extend to any other claim which such creditor may have against the Guarantors. The

injunction shall survive entry of a final decree and shall continue until the earlier of (i) dismissal of the Debtor's case or conversion of the case to a case under Chapter 7 of the Bankruptcy Code or (ii) a post-confirmation default with respect to a plan payment on an allowed claim to such creditor which is not cured within thirty (30) days after written notice of such default by such creditor to the Debtor.

E. Provisions for the Assumption or Rejection of Executory Contracts and Unexpired Leases.

1. Assumed Executory Contracts and Unexpired Leases. To the extent the Debtor has not previously assumed any such contracts or leases by motion filed prior to the Effective Date, the Debtor assumes the following executory contracts and/or unexpired leases upon the Effective Date of the Plan:

- (i) Lease dated June 29, 2012, between Overton Square South, LLC and the Debtor, as amended;
- (ii) Franchise Agreement between the Debtor and BL Restaurant Franchises, LLC August 1, 2012;
- (iii) All insurance policies in effect as of the Petition Date.

2. Additional Contracts. All contracts which exist between the Debtor and any individual or entity, whether such contracts are written or oral, which have not heretofore been assumed or rejected or heretofore been approved by Orders of the Court are hereby specifically rejected; provided, however, that this provision is not intended to reject nor shall it be deemed to reject any agreement for the renewal or extension of any loan of funds, presently binding and in effect as between Debtor and any secured creditor nor shall it be deemed to effect a rejection of any governmental license necessary to the operation of the Debtor's business.

IV.

LIQUIDATION ANALYSIS

As stated in this Disclosure Statement, this liquidation analysis, as of February 3, 2017, has been prepared to indicate the values which may be obtained by impaired Classes of Claims and impaired Interests if the assets of the Debtor were sold pursuant to a Chapter 7 liquidation, as an alternative to the payments as proposed under the Plan. All amounts are unaudited and estimates of recovery. Real estate values assume forced liquidation values.

Estimated Value

STATEMENT OF ASSETS IN LIQUIDATION:

Cash	\$ 0.00
Accounts Receivable	\$0.00
Franchise Agreement	\$0.00
Equipment & Inventory	<u>\$ 150,000.00</u>
Litigation Claims	\$ undetermined
Leasehold Improvements	\$ 0.00
Total Estimated Liquidation Proceeds	\$ 150,000.00

ALLOCATION OF ESTIMATED LIQUIDATION PROCEEDS
TO SECURED, PRIORITY AND UNSECURED CLAIMS:

Pre-petition Secured/Priority and/or Administrative Tax Claims	\$ 38,269.75
Pre-Petition Secured Claims	\$190,000
Estimated Liquidation Costs* Ch. 7	5,000.00
Estimated Ch. 11 Admin. Claims	20,000.00
Bankruptcy Trustee Fees	<u>5,000.00</u>
Total Estimated Priority and Secured Claims	\$258,269.75
Estimated Proceeds Available to Unsecured Claims	\$ -0-
Pre-Petition Unsecured Non-Priority Claims	\$ 834,497.41
Estimated Secured Deficiency Claims from Sale	\$ 40,000.00
Net Equity (Deficit)	(\$874,497.41)
)	
Estimated Recovery to Unsecured Claims	0%

The following Notes to Liquidation Analysis are an integral part of this statement

Notes to Liquidation Analysis

The “liquidation value” of the Debtor consists primarily of the proceeds from a sale of the Debtor’s assets. The proceeds from a chapter 7 liquidation that would be available to all holders of unsecured claims would be reduced by the costs and expenses of liquidation and post-petition claims of the Debtor’ during the liquidation period. Administrative expenses would include any unpaid Chapter 11 administrative expenses plus Chapter 7 administrative expenses which would include the fees and commissions of a trustee and of counsel and other professionals (including financial advisors and accountants) retained by the trustee, asset disposition expenses and claims arising during the chapter 7 case. For purposes of this analysis, the Debtor has assumed that a Chapter 7 Trustee would reject the lease/and terminate employees, not operate the Property and would not realize any value from the Debtor’s leasehold interest in the Property. The Lessor’s lease rejection claim is estimated to be approximately \$197,595.60 consisting of one year’s rent and taxes plus its asserted prepetition cure amounts of approximately \$23,832.29, less any rent overpayments made by the Debtor. It further presumes that any remaining claim against the Lessor has little value and would not be pursued by a Chapter 7 Trustee.

In a Chapter 7 liquidation, Funding Circle would likely be permitted to foreclose on its security interest in the Debtor’s equipment, inventory and receivables. It is estimated that the liquidation proceeds of the Debtor’s equipment and inventory would be insufficient to satisfy the claim of Funding Circle and that to the extent there was any surplus remaining after satisfying Funding Circle, the remaining liquidation proceeds would be absorbed by liquidation costs and payment of Chapter 11 administrative claims.

The liquidation itself could trigger certain priority claims and could accelerate other priority payments that otherwise would be due in the ordinary course of business. Secured and Priority claims would be paid in full out of the liquidation proceeds before the balance would be made available to pay unsecured claims or to make any distributions in respect to interests.

This analysis is provided solely to disclose to holders of claims and interests the effects of a hypothetical chapter 7 liquidation of the Debtor, subject to the assumptions set forth in the analysis. In confirming the Plan, the Bankruptcy Court will decide whether the Plan provides a greater recovery for creditors and interest holders than a liquidation of the Debtor under a chapter 7 (the “best interests test”). In doing so, the Bankruptcy Court will make its own finding as to the liquidation value of the Debtor. The Debtor’ liquidation analysis was prepared to assist the Bankruptcy Court in making this determination and should not be used for any other purpose.

The liquidation analysis is based on assumptions and estimates that, although considered reasonable by the Debtor, are inherently subject to significant uncertainties and contingencies beyond the control of the Debtor. Accordingly, there can be no assurance that the results shown would be realized if the Debtor was liquidated and actual results in such a case could vary materially from those presented. If actual results were lower than those shown, or if the assumptions used in formulating the liquidation analysis were not realized, distributions to each member of each class of claims could be adversely affected.

V.

OTHER MATTERS

The Debtor believes that the Plan of Reorganization submitted in this case is in the best interest of creditors and, in the event the Plan is not confirmed and the Debtor is forced to liquidate, unsecured creditors would receive a dividend of approximately -0- (-0-%) percent of

their claims. This is based upon the fair market value vs. liquidation value of the collateral as compared to the liens against the collateral.

A. Litigation Disclosure and Preservation of Causes of Action. The Debtor is not aware of any payments to creditors made within ninety (90) days of the Petition Date that are recoverable under sections 542, 543, 544, 547, 548, 549, 550, 551 or 553 of the Bankruptcy Code. The Debtor may have state law claims and/or rights of setoff or recoupment against Overton Square South, LLC and Loeb Properties, Inc. for breach of contract and statutory inducement of breach of contract, interference with business relations, and for overpayments made by the Debtor under the Lease. Pursuant to 11 U.S.C. § 1123(b)(3), the Debtor shall retain all such claims which shall revert in the Reorganized Debtor on the Effective Date. The Reorganized Debtor may (but shall not be required to) enforce and pursue all pre-petition causes of action and all avoidance actions against third parties, including Overton Square South, LLC and Loeb Properties, Inc. The Debtor or the Reorganized Debtor, in its sole and absolute discretion, will determine whether to bring, settle, release, compromise, or enforce such claims or causes of action (or may decline to do any of the foregoing), and will not be required to seek further approval of the Bankruptcy Court for such action. The Reorganized Debtor or any successors may pursue such litigation claims in accordance with the best interest of the Reorganized Debtor or any successors holding such rights of action.

B. Certain Tax Consequences. Events subsequent to the date of this Disclosure Statement, such as the enactment of additional tax legislation, could change the federal income tax consequences of the Plan and the transactions contemplated therein. Furthermore, certain significant federal income tax consequences of the Plan are subject to uncertainties due to the complexity of the Plan and the federal tax system. The Debtor assumes no responsibility for the

tax effect that Confirmation and receipt of any distribution under the Plan may have on any given creditor or party in interest.

NO RULING HAS BEEN SOUGHT OR OBTAINED FROM THE IRS WITH RESPECT TO ANY OF THE TAX ASPECTS OF THE PLAN AND NO OPINION OF COUNSEL HAS BEEN OBTAINED BY THE PLAN PROPONENTS WITH RESPECT THERETO. NO REPRESENTATIONS OR ASSURANCES ARE BEING MADE WITH RESPECT TO FEDERAL INCOME TAX CONSEQUENCES AS DESCRIBED HEREIN. CERTAIN TYPES OF CLAIMANTS AND INTEREST HOLDERS MAY BE SUBJECT TO SPECIAL RULES NOT ADDRESSED IN THIS SUMMARY OF FEDERAL INCOME TAX CONSEQUENCES. FURTHER, STATE, LOCAL OR FOREIGN TAX CONSIDERATIONS MAY APPLY TO A HOLDER OF A CLAIM OR INTEREST WHICH ARE NOT ADDRESSED HEREIN. BECAUSE THE TAX CONSEQUENCES OF THE PLAN ARE COMPLEX AND MAY VARY BASED ON INDIVIDUAL CIRCUMSTANCES, EACH HOLDER OF A CLAIM OR INTEREST AFFECTED BY THE PLAN MUST CONSULT, AND RELY UPON, HIS OR HER OWN TAX ADVISOR REGARDING SPECIFIC TAX CONSEQUENCES OF THE PLAN WITH RESPECT TO THAT HOLDER'S CLAIM OR INTEREST. THIS INFORMATION MAY NOT BE USED OR QUOTED IN WHOLE OR IN PART IN CONNECTION WITH THE OFFERING FOR SALE OF SECURITIES.

1. **Tax Consequences to the Debtor.** Under the IRC, a taxpayer generally must include in gross income the amount of any discharge of indebtedness income realized during the taxable year. Section 108(a)(1)(A) of the IRC provides an exception to this general rule, however, in the case of a taxpayer that is under the jurisdiction of the bankruptcy court in a case brought under the Bankruptcy Code where the discharge of indebtedness is granted by the court or is pursuant to a Plan approved by the court, provided that the amount of discharged indebtedness that would otherwise be required to be included in income is applied to reduce certain tax attributes of the taxpayer. Section 108(e)(2) of the IRC provides that a taxpayer shall not realize income from the discharge of indebtedness to the extent that satisfaction of the liability would have given rise to a deduction. As a result of § 108(a) (1) (A) and § 108(e) (2) of the IRC, the Debtor does not anticipate that it will recognize any taxable income from the discharge of any indebtedness through the Chapter 11 Case. Reductions in tax attributes (net

operating loss carryover) will occur to the extent of cancellation of indebtedness income not recognized due to the above.

Under § 1141 of the Bankruptcy Code, confirmation of the Plan will discharge the Debtor from all debts except as provided for in the Plan. Implementation of the Plan, including the possible liquidation of the Debtor may result in discharge of indebtedness to the Debtor as a matter of tax law to the extent of any unsatisfied portion of such Claims. Any such discharge of indebtedness should not be included in gross income of the Debtor, however, because of the exceptions to such inclusion discussed above.

2. Tax Consequences to Creditors. A creditor who receives cash or other consideration in satisfaction of any Claim may recognize ordinary income. The impact of such ordinary income, as well as the tax year for which the income shall be recognized, shall depend upon the individual circumstances of each Claimant, including the nature and manner of organization of the Claimant, the applicable tax bracket for the Claimant, and the taxable year of the Claimant. Each Creditor is urged to consult with its tax advisor regarding the tax implications of any payments or distributions under the Plan.

In general, the principal federal income tax consequences of the Plan to holders of Claims will be (a) recognition of loss or a bad debt deduction to the extent that the total payments received under the Plan with respect to the Claim are less than the adjusted basis of the holder of such claim, or (b) recognition of taxable income by the holder of the Claim to the extent of the excess of the amount of any payments made under the Plan in respect of the Claim over the holder's adjusted basis therein.

Common examples of holders of Claims who may recognize income upon receipt of payments under the Plan include (a) former employees with Claims for services rendered while

serving as employees of a Debtor, (b) trade creditors whose claims represent an item not previously reported as income (including Claims for lost income upon rejection of leases or other contracts with the Debtor), (c) holders of Claims who had previously claimed a bad debt deduction with respect to their Claims in excess of their ultimate economic loss, and (d) holders of Claims that include amounts of pre-petition interest that had not previously been reported in income. Common examples of Claims who may recognize a loss or deduction for tax purposes as a result of implementation of the Plan, provided that such holders are not paid in full, include holders of Claims that arose out of cash actually loaned or advanced to a Debtor, and holders of Claims consisting of items that were previously included in income of such holders on the accrual method of accounting, to the extent, in both cases, that the economic loss to such holders has not been allowed as a tax deduction in a prior year.

The amount and character or any resulting income or loss recognized for federal income tax consequences to a holder of any Claim as a result of implementation of the Plan will, however, depend on many factors. The most significant of these factors include (a) the nature and origin of the Claim, (b) whether the holder is a corporation, (c) the extent to which the Plan provides for payment of the particular Claim, (d) the extent to which any payment made is allocable to pre-petition interest which is part of such Claim, and (e) the prior tax reporting positions taken by the holder with respect to the item that constitutes the Claim. As to the last factor, relevant tax reporting positions include whether the holder had to report under its method of accounting any portion of the Claim (including accrued and unpaid interest) as income prior to receipt and whether the holder previously claimed a bad debt or worthless deduction with respect to the Claim, which would affect the adjusted basis of the holder in the Claim. General rules for the deduction of bad debts are provided in I.R.C. § 166 as follows:

If either (a) the creditor's corporation, or (b) the debt is a business bad debt in the hands of the creditor, and the creditor demonstrates that the debt is collectible only in part, a deduction for partial worthlessness of the debt will be allowed to the extent that the debt is charged off in the accounting records of the creditor.

For a creditor not described in the previous paragraph, a bad debt deduction is allowable only in the year that the debt becomes wholly worthless.

If the creditor is not a corporation and the debt is a non-business bad debt, the bad debt deduction is treated as a short-term capital loss, which can offset only capital gain income and a limited amount of ordinary income.

For purposes of I.R.C. § 166, a "non-business debt" means a debt other than (i) a debt created or acquired in connection with the creditor's trade or business, or (ii) a debt the loss from the worthlessness of which was incurred during the operation of the creditor's trade or business.

The time as of which a debt becomes worthless (or partially worthless), and therefore the tax year in which a creditor may claim a bad debt deduction, is a question of fact. Pursuant to income tax regulations ("Regs") § 1.166-2(c), as a general rule, bankruptcy is an indication of the worthlessness of at least a part of an unsecured, non-priority debt. In bankruptcy cases, a debt may become worthless before settlement in some instances, and only when settlement and bankruptcy has been reached in other instances. The mere fact that bankruptcy proceedings instituted against the debtor are terminated in a later year, thereby confirming the conclusion that the debt is worthless (or partially worthless), does not necessarily shift the deduction to such later year. Thus, even though the precise amount the holders of General Unsecured Claims or other Claims will receive under the Plan may not be known until the final distribution date, the determination of the precise amount that will be paid under the Plan with respect to a Claim, or that no amount will be paid, does not necessarily establish that any resulting bad debt deduction is properly allowable in the creditor's tax year in which the final distribution is made, rather than in an earlier year. Accordingly, to the extent that a Creditor may claim a bad debt deduction which it has not previously claimed, it is possible that the Creditor will be required to amend its return for a prior year and claim the deduction in that year, rather than in the year in which the final distribution is made. Creditors should consult with their individual tax advisors with respect to this issue.

The extent to which gain or loss may be recognized by a holder of a Claim upon implementation of the Plan may be significantly affected by any bad debt deduction that may have been claimed by the holder in a prior year with respect to the debt on which the Claim is based. If the holder took a bad debt deduction in a prior year which is recovered in whole or in part through a payment made to the holder pursuant to the Plan, the holder will generally be required to include in income the amount recovered in the year the holder receives the payment. An

exception to this rule permits exclusion of a recovery of a prior bad debt deduction to the extent that the earlier bad debt deduction did not produce a tax benefit to the holder.

THE FOREGOING IS INTENDED TO BE A SUMMARY ONLY AND NOT A SUBSTITUTE FOR CAREFUL TAX PLANNING OR CONSULTATION WITH A TAX ADVISOR. THE FEDERAL, STATE, LOCAL, AND FOREIGN TAX CONSEQUENCES OF THE PLAN ARE COMPLEX AND, IN SOME CASES, UNCERTAIN. SUCH CONSEQUENCES MAY ALSO VARY BASED ON THE INDIVIDUAL CIRCUMSTANCES OF EACH HOLDER OF A CLAIM OR INTEREST. ACCORDINGLY, EACH HOLDER HAVING A CLAIM OR INTEREST IS STRONGLY URGED TO CONSULT WITH HIS OR HER OWN TAX ADVISOR REGARDING THE FEDERAL, STATE, LOCAL AND FOREIGN TAX CONSEQUENCES OF THE PLAN.

THE DEBTOR BELIEVES THAT THE PLAN PROVIDES THE BEST RECOVERIES POSSIBLE FOR THE HOLDERS OF CLAIMS AGAINST AND INTERESTS IN THE DEBTOR. THE DEBTOR STRONGLY RECOMMENDS THAT YOU VOTE TO ACCEPT THE PLAN.

C. Certain Risk Factors. As with any business, there are various factors which may affect financial success. The following list represents some, but not necessarily all, of the major factors which should be evaluated in assessing risks. **THIS IS NOT, NOR IS IT INTENDED TO BE, A COMPLETE LISTING OF ALL RELEVANT RISK FACTORS RELATING TO THE DEBTOR'S PLAN.**

1. Inflation. Inflation may cause prices and expenses to rise over the life of the Plan.
2. Economic Conditions- The restaurant industry is influenced by the overall economy. Factors such as unemployment rates and disposable income may vary over time according to market conditions and impact restaurant sales.
3. Increased Competition- The Debtor's future revenue may be affected by increased competition.

D. Failure of Plan. If this Plan shall fail and cannot be modified to achieve acceptance and confirmation, then it is likely that the Debtor's case would be converted to a case under chapter 7 of the Bankruptcy Code, in which case it is unlikely that any distribution would be made to unsecured creditors.

E. Modification of Plan. The Debtor reserves the right to modify or amend this Plan prior to confirmation pursuant to 11 U.S.C. § 1127(a). Further, the Debtor reserves the right to seek modification of the Plan after confirmation in accordance with the provisions of 11 U.S.C. § 1127(e).

F. Objections to Claims. The Debtor reserves the right to object to any claim filed or deemed to be filed in this case at any time.

G. Sources of Information. All factual information utilized in this Disclosure Statement, including but not limited to value of assets, the amount of Claims, projections and historical financial information concerning the Debtor was provided by the Debtor, or derived from the claims register maintained by the Bankruptcy Court and from the Debtor's internal books and records.

H. Attorneys' Disclaimer. This Disclosure Statement and any statement of income, expenses, assets, liabilities or valuations of property contained herein or elsewhere in documents filed with the Court in this bankruptcy case are based upon records and information supplied by the Debtor herein. We do not represent that we have independently checked or verified the accuracy of any of this information. Accordingly, no opinion is expressed by us as counsel for the Debtor as to the information contained in this Disclosure Statement.

I. Conclusions and Recommendations. For the reasons set forth in this Disclosure Statement, the Debtor believes that the Plan provides the Debtor's unsecured creditors with the maximum possible dividend on their claims under the circumstances and is preferable to all other alternatives. Accordingly, the Debtor urges you to vote to **ACCEPT** the Plan and to duly complete and return your Ballot such that it is **ACTUALLY RECEIVED** on or before 5:00 p.m. on _____, 2017.

Dated: May 5, 2017

DEBTOR-IN-POSSESSION

Memphis Louie, LLC.

By:/s/ Beverly K. Oswald
Beverly K. Oswald
Manager

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