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**IN THE UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION**

IN RE:	§	BANKRUPTCY CASE NO.
	§	16-44990-RFN-11
KINGDOM REAL ESTATE	§	
HOLDINGS & WEALTH	§	
MANAGEMENT, LLC.	§	
	§	
DEBTOR	§	CHAPTER 11

OBJECTION TO DEBTOR’S DISCLOSURE STATEMENT

(Relates to DN 26)

TO THE HONORABLE UNITED STATES BANKRUPTCY JUDGE
RUSSELL F. NELMS:

Lonesome Dove Joint Venture (“Lonesome Dove”) a creditor and a party in interest in this bankruptcy case, files this Objection to the Debtor’s First Disclosure Statement dated March 30, 2017 (“Disclosure Statement”) and would respectfully show the Court as follows:

THE STANDARD FOR APPROVAL OF A DISCLOSURE STATEMENT

1. The requirements of 11 U.S.C. §1125 are designed to ensure that a disclosure statement provides adequate information upon which the holders of claims against the Debtor can make an informed judgment about the proposed treatment of their respective claims under the plan.

2. Section 1125(a)(1) defines “adequate information” as “information of a kind, and in sufficient detail, as far as is reasonably practicable in light of the nature and history of the debtor and the condition of the debtor’s books and records ...that would enable ... a hypothetical investor of the relevant class to make an informed judgment about the plan...” 11 U.S.C. §1125(a)(1).

BACKGROUND

3. In August of 2006, Lonesome Dove sold a piece of undeveloped real estate near Lake Grapevine in Tarrant County, Texas (the “Grapevine Property”) to Ron Knott & Tommy Keeton d/b/a Jabez Properties (“Jabez”). Lonesome Dove provided the financing for this transaction and retained a lien to secure the re-payment of the loan. According to the Disclosure Statement, the Debtor acquired the Grapevine Property from Jabez in 2014. Lonesome Dove was not informed of and did not consent to the sale of the Grapevine Property. The debt to Lonesome Dove was not paid as part of the Debtor’s transaction with Jabez. Lonesome Dove is owed over almost \$1,000,000.00 in connection with the loan to Jabez secured by the Grapevine Property.

4. The Grapevine Property is the only significant asset owned by the Debtor. The Operating Reports filed by the Debtor reflect that the Debtor has earned NO INCOME since this Chapter 11 Case was filed.

5. Lonesome Dove is classified in its own class by the Debtors in the Plan as a Class 4 Claim.

OBJECTIONS TO THE DISCLOSURE STATEMENT

6.A. Failure to Disclose Claims by Lonesome Dove.

The essence of the Debtor’s Plan is to force Lonesome Dove to sell the Grapevine Property to Mr. Aflatouni for \$198,000. The Debtor’s Schedules reflect Lonesome Dove as an

unsecured creditor with a disputed claim for \$850,000. At the 341 Meeting, Mr. Aflatouni testified that he had never met or even spoken with the representative of Lonesome Dove. Creditors are entitled to know from the Disclosure Statement what the anticipated result of the Plan will be.

B. Failure to specify if credit-bidding will be allowed.

Both Class 4 (Lonesome Dove) and Class 5 (Jabez) hold liens on the Grapevine Property. Pursuant to the Plan, over \$1,000,000 of these claims will be treated as unsecured and fall to Class 6. In an attempt to satisfy the absolute priority requirements of §1129(b)(2)(B), the Plan calls for an auction of the equity in the reorganized Debtor. Creditors should know if Lonesome Dove and Jabez will be allowed to credit bid their deficiencies at this auction.

C. Failure to Discuss the Flow Easement

As described above, the Grapevine Property is subject to a flow easement in favor of the Army Corp. of Engineers. While the Disclosure Statement references the existence of this easement (see Paragraphs 3.01 and 3.05) it fails to adequately disclose:

1. What this easement is;
2. Why it exists;
3. How long it has existed;
4. The Debtor's past efforts to get it relaxed or removed;
5. The Debtor's plans to seek relaxation or removal of the restriction in the future;
6. The likelihood that the easement can be relaxed or removed; and
7. The timeframe within which the Debtor expects to obtain relief from this restriction.

Since the Schedules reflect that the value of the Grapevine Property would be \$10,580,000.00 if the flow easement were removed, this information is critical for creditors to evaluate the Debtor's Plan.

D. The Provided Bidding Process is improper.

Article V of the Disclosure Statement provides for a bidding process for the equity in the reorganized Debtor in an attempt to satisfy the absolute priority rule. Notably absent from the description is any description of a competitive bidding process. The Debtor's proposed scheme simply funnels ownership of the reorganized Debtor to insiders. There is no description of any marketing effort or how long such an effort would be conducted. Creditors in this case are entitled to a competitive bidding process for any equity sale, which the Plan fails to provide. Therefore the Plan is not confirmable on its face and the Disclosure Statement should be denied.

E. Failure to Disclose How Much Cash the Debtor needs.

While Exhibit D contains a projection of how much income the Debtor hopes to generate in the remaining months of 2017, there is no disclosure of how much money the Debtor needs to pay the ongoing costs of owning the Grapevine Property. For example, although 2 classes of the Plan (Class 2 and Class 3) are for property taxes on the Grapevine Property that the Debtor has not paid, nowhere in the projections provided by the Debtor is any provision for property taxes. Creditors are entitled to know the "holding costs" that the Debtor will incur if it remains the owner of the Grapevine Property, and the "Hope Ranch" business does not materialize.

F. Lack of Information Showing Feasibility.

Lonesome Dove objects to the Disclosure Statement (Article VIII) because it lacks adequate information showing feasibility. In particular, the income shown on Exhibit D is inconsistent with what the Debtor has done so far in Chapter 11, and no basis is given for the

projected income. Furthermore, Creditors are provided with no explanation regarding the Debtor's experience with this sort of business or how the Debtor could operate the business described. Although feasibility is generally a matter for confirmation, courts may consider confirmation issues at the disclosure statement stage in instances where the plan is so fatally flawed that confirmation would not be possible. *In Re: U.S. Brass Corp.*, 194, B.R. 420, 421 (Bankr. E.D. Tex. 1996). Without this information, the Plan as proposed is based on hope¹, rather than a plan that creditors can make an informed decision, based on the information provided, whether to support or reject.

G. Failure to Disclose the Speculative Nature of Getting the Flow Easement relaxed.

The Grapevine Property is near Lake Grapevine. The Grapevine Property is subject to a "flow easement" that allows for periodic flooding. The testimony at the 341 Meeting indicated that the Grapevine Property was underwater for several months in 2016. The Debtor has previously sought to have the existing flow easement relaxed or removed, but has not been successful (Disclosure Statement Paragraph 3.01). The Disclosure Statement should reflect that the hope to have the flow easement relaxed or removed is only speculative. In other words, there is no reason to think that the Core of Engineers is going to relax or remove the flow easement from the Grapevine Property in the future.

H. Failure to Identify the Source of Value

The Disclosure Statement values the Grapevine Property at \$198,000.00 and claims that this reflects a "recent appraisal" (Paragraph 4.01). The Disclosure Statement should reflect the date of the appraisal and who performed it. A copy of the appraisal should be made available to creditors.

¹ Ironic since, on Schedule D and Paragraph 3.04, the Debtor refers to the projected business as "Hope Ranch".

I. Failure to Identify the Source of Cash

The Disclosure Statement (Paragraph 4.01) reflects “Cash on Hand/Bank Accounts” with a value of \$11,200. Based on the testimony at the 341, the source of this cash was a contribution from the Debtor’s principal and not operations. Creditors should know that the cash on hand was not generated by the Debtor’s Operations.

J. Failure to Disclose the Nature of the Accounts Receivable.

The Disclosure Statement (Paragraph 4.01) reflects “Accounts Receivable” with a value of \$11,200. Based on the testimony at the 341 this “receivable” was not generated by the Debtor’s Operations, but represents the estimate of Mr. Aflatouni of what the Debtor would be entitled to for the unauthorized use of the Grapevine Property by a third party. Creditors should know that this “receivable” was not generated by the Debtor’s operations.

K. Failure to Accurately Disclose the Funding Source.

The Disclosure Statement (Paragraph 4.01) reflects that “The major source of funding for the Plan will come from the Debtor’s future income”. Since the Debtor has no current income and no immediate prospects for income, this is incorrect. Creditors should know that the real source of funding for the Plan is Mr. Aflatouni.

L. Failure to discuss claims against Jabez.

The Disclosure Statement (Paragraph 9.02) claims that the Debtor holds claim for fraud, duress, breach of contract, misrepresentation and deceptive trade practices against Jabez. Item 74 on Schedule B discloses no such claims. Creditors are entitled to know the facts and circumstances that give rise to such claims, what action, if any, the Debtor has taken to pursue them and the Debtor’s estimate of their value.

M. Failure to Disclose the Lack of Operations.

The Disclosure Statement (Paragraph 10.1) recites that “The Debtor’s operations do show the ability to propose a plan in this case”. Creditors should know that the Debtor is a single-asset real estate company that has no current operations and does not currently generate any income. The recited language gives the incorrect impression that the Debtor has some sort of ongoing business.

N. Failure to Disclose the Current Ownership of the Debtor.

While the Disclosure Statement reveals (Paragraph 3.05) that Mr. Aflatouni is expected to retain his equity in the reorganized Debtor, nowhere in the Disclosure Statement is the current ownership of the Debtor disclosed. Creditors are entitled to know who the current ownership and management of the Debtor is prior to voting on the Plan.

O. Failure to Adequately Discuss Alternative Funding Sources.

The Disclosure Statement indicates that “...John Aflatouni, the Managing Member has a significant net worth in excess of \$3M and rental income of \$15,000 per month and will continue to fund ...”. Since the Debtor has had NO INCOME during this Chapter 13 Case, Creditors are entitled to details if they are going to rely on Mr. Aflatouni as a source of income. Pertinent details would include:

- 1) A current financial statement for Mr. Aflatouni;
- 2) Disclosure of other bankruptcy cases Mr. Aflatouni has been involved in;
- 3) Disclosure of other litigation Mr. Aflatouni is involved in or has been involved in during the last 3 years;
- 4) Disclosure of what rental income Mr. Aflatouni is receiving, the identity of the individuals or entities paying the rent and the terms of those leases; and
- 5) Disclosure of Mr. Aflatouni’s monthly cash flow.

P. Failure to Adequately Identify Income Sources.

The Disclosure Statement (Article III) recites that “Right now, the Debtor uses the Property to host a variety of events such as races, weddings and other event suitable to an undeveloped tract of land.” The Operating Reports filed by the Debtor reflect that the Debtor has earned NO INCOME since this Bankruptcy Case was filed in December of 2016. The Disclosure Statement should reflect that the financial information provided in Article III reflects only projections and not current results or prospects.

Q. Failure to Disclose Anticipated Professional Fees.

Article V of the Plan classifies Attorney Fees incurred by the Debtor as Class 2 Claims. Creditors are entitled to an estimate of how much these fees are anticipated to be. It is likely that, considering amounts owed to the U.S. Trustee and Debtor’s Counsel, this case is administratively insolvent.

R. The Disclosure Statement fails to provide Adequate Information

Based on the deficiencies described in this Objection, Lonesome Dove submits that (1) the Disclosure Statement fails to meet the Debtor’s burden of providing material information to allow parties to assess the risks and possibility of success of the proposed Plan, and (2) the Plan as proposed is unconfirmable as a matter of law because it is not feasible and violates the absolute priority rule. Therefore, the Disclosure Statement should not be approved.

S. Additional Objections.

Additional Objections to the Disclosure Statement may be presented by Lonesome Dove to the Court at the Hearing on the Disclosure Statement.

CONCLUSION

7. The Debtor's Disclosure Statement presents a patently unconfirmable Plan and fails to provide creditors with adequate information as required by §1125(a) of the Bankruptcy Code. Therefore, the Court should deny the approval of the Debtor's Disclosure Statement.

PRAYER

WHEREFORE, PREMISES CONSIDERED, Lonesome Dove respectfully requests that the Court: sustain this Objection, deny the Debtor's Disclosure Statement and grant it such other and further relief as to which it may be justly entitled, both at law and in equity.

Respectfully Submitted,

By: /s/ Mark B. French
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CERTIFICATE OF SERVICE

I, Mark B. French, do hereby certify that a true and correct copy of the above and foregoing Pleading was served on the date that the instrument was filed electronically. Service was accomplished electronically and/or by first class mail to the following:

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and any parties requesting notice via the Courts Electronic Noticing System.

/s/ Mark B. French
Mark B. French