

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

IN RE:

JANE M. PENDERGRAFT,

Debtor.

§
§
§
§
§

**Case No. 16-33506-H1-11
(Chapter 11)**

**JANE M. PENDERGRAFT'S DISCLOSURE STATEMENT
WITH RESPECT TO
PLAN OF REORGANIZATION UNDER CHAPTER 11
OF THE BANKRUPTCY CODE**

DATED: November 14, 2016

Matthew B. Probus
WAUSON ♦ PROBUS
One Sugar Creek Center Blvd., Suite 880
Sugar Land, Texas 77478
Tele. No. (281) 242-0303
Fax No. (281) 242-0306

*ATTORNEY FOR DEBTOR,
JANE M. PENDERGRAFT*

Exhibit A - Debtor's Chapter 11 Plan of Reorganization

**JANE M. PENDERGRAFT'S DISCLOSURE STATEMENT WITH RESPECT TO
PLAN OF REORGANIZATION
UNDER CHAPTER 11 OF THE BANKRUPTCY CODE**

Jane M. Pendergraft, Debtor and Debtor-in-Possession in the above referenced chapter 11 case ("JMP" or the "Debtor"), hereby submits this Debtor's Disclosure Statement with Respect To Plan of Reorganization Under Chapter 11 of the Bankruptcy Code for Jane M. Pendergraft as conditionally approved on _____, 2016 (the "Disclosure Statement"), in connection with the solicitation of acceptances of the Plan of Reorganization Under Chapter 11 of the Bankruptcy Code for Jane M. Pendergraft (the "Plan") that is attached hereto as Exhibit A.

Certain capitalized terms used in this Disclosure Statement are defined terms. These defined terms have the meaning as described in Section I of the Debtor's Plan, attached hereto as Exhibit A.

I.

NOTICE TO HOLDERS OF CLAIMS

The purpose of this Disclosure Statement is to enable you, as the holder of a claim against the Debtor, to make an informed decision with respect to the Plan prior to exercising your right to accept or reject the Plan.

Your rights may be affected. You should read the Plan and this Disclosure Statement carefully and discuss them with your attorney. If you do not have an attorney, you may wish to consult one. No solicitation of votes may be made except pursuant to this Disclosure Statement, and no person has been authorized to utilize any information concerning the Debtor or its business other than the information contained in this Disclosure Statement. You should not rely on any information relating to the Debtor and its estate, other than that contained herein.

The sources of the information in this Disclosure Statement are the Debtor, the financial documents and tax returns of the Debtor, the historical and projected financial statements of the Debtor, and a liquidation analysis. The accounting method used in this Disclosure Statement and its supporting documents is the cash method of accounting, unless specifically noted.

The proposed distributions under the Plan are discussed at pages 10 - 13 of this Disclosure Statement. The Holders of all Allowed Claims will be paid under the terms of the Plan.

Purpose of This Document

This Disclosure Statement describes:

- The Debtor and significant events leading up to the bankruptcy case,

- How the Plan proposes to treat claims or equity interests of the type you hold (*i.e.*, what you will receive on your claim or equity interest if the plan is confirmed),
- Who can vote on or object to the Plan,
- What factors the Bankruptcy Court will consider when deciding whether to confirm the Plan,
- Why the Debtor believes the Plan is feasible, and how the treatment of your claim or equity interest under the Plan compares to what you would receive on your claim or equity interest in liquidation, and
- The effect of confirmation of the Plan.

Be sure to read the Plan as well as the Disclosure Statement. This Disclosure Statement describes the Plan, but it is the Plan itself that will, if confirmed, establish your rights.

The United States Bankruptcy Court for the Southern District of Texas, Houston Division (the “Bankruptcy Court”) held a hearing on _____, at _____ a.m. Central Standard Time in Courtroom 404, United States Courthouse, 515 Rusk Street, 4th Floor, Houston, Texas 77002, to consider conditional approval of the Disclosure Statement. At that hearing, the Bankruptcy Court conditionally approved the Disclosure Statement and set a hearing to consider final approval of the Disclosure Statement and confirmation of the Plan on _____, 2017, at _____ o’clock p.m. (the “Hearing”). _____, 2017, is fixed as the last day to file a written objection to the Disclosure Statement and Plan. If you file a written objection to the Disclosure Statement and/or Plan, you must also serve a copy of the written objection on counsel for the Debtor, Matthew B. Probus of Wauson ♦ Probus, and your written objection must be received by Mr. Probus on or before _____, 2017. You may send your written objection to Mr. Probus via hand delivery or mail at One Sugar Creek Center Blvd., Suite 880, Sugar Land, Texas 77478, via facsimile at (281) 242-0306, or via email at mbprobus@w-plaw.com.

At the Hearing, the Bankruptcy Court will determine whether this Disclosure Statement contains information, of a kind and in sufficient detail, adequate to enable the holders of claims against the Debtor to make an informed judgment with respect to acceptance or rejection of the Plan. **THE BANKRUPTCY COURT’S CONDITIONAL APPROVAL OF THIS DISCLOSURE STATEMENT DOES NOT CONSTITUTE EITHER A GUARANTEE OF THE ACCURACY OR COMPLETENESS OF THE INFORMATION CONTAINED HEREIN OR ENDORSEMENT OF THE PLAN BY THE BANKRUPTCY COURT.**

You should read this Disclosure Statement in its entirety prior to voting on the Plan. No solicitation of votes may be made except pursuant to this Disclosure Statement, and no person has been authorized to utilize any information concerning the Debtor or his business other than the information contained in this Disclosure Statement. You should not rely on any information relating to the Debtor and its estate, other than that contained herein.

Objections to approval of the Disclosure Statement and to confirmation of the Plan are governed by Bankruptcy Rule 9014. **UNLESS AN OBJECTION TO APPROVAL OF THE**

DISCLOSURE STATEMENT AND/OR TO CONFIRMATION OF THE PLAN IS TIMELY SERVED AND FILED IT WILL NOT BE CONSIDERED BY THE BANKRUPTCY COURT.

The Hearing may be adjourned from time to time by the Bankruptcy Court without further notice, except for an announcement made at Hearing or any adjournment thereof.

A ballot to be used for voting to accept or reject the plan together with postage paid return envelope, is enclosed with all copies of this Disclosure Statement. BEFORE COMPLETING YOUR BALLOT, PLEASE READ CAREFULLY THE VOTING INSTRUCTION SHEET THAT ACCOMPANIES THE BALLOT. As indicated above, the Bankruptcy Court has directed that, in order to be counted for voting purposes, ballots for the acceptance or rejection of the plan must be received by the Debtor's counsel served via fax, electronic mail, mail or hand delivery, and received by counsel for the Debtor on or before _____, 2017, at the following address(s):

Wauson ♦ Probus
One Sugar Creek Center Blvd., Suite 880
Sugar Land, Texas 77478
Fax No.: (281) 242-0306
Email: mbprobus@w-plaw.com

YOUR BALLOT WILL NOT BE COUNTED IF IT IS RECEIVED AT THE ABOVE ADDRESS/FAX NO./EMAIL ADDRESS AFTER _____, 2017.

II.

INTRODUCTION

A. Background and Events Leading to Chapter 11 Filing.

JMP and Debtor Robert L. Pendergraft ("RPL") (JMP and RPL collectively referred to as the "Debtors" or "Joint Debtors") were married on or about May 28, 1988. RPL and JMP were previously married and divorced and JMP has children of her prior marriage. JMP and RPL have two children of their marriage. All of their children are adults and have left the home. RPL is an attorney practicing primarily in the areas of commercial litigation and mediation. RPL is 72 years old and JMP is 66 years old. During most of their marriage, JMP worked part-time and took care of the household and couples' children. As the children came of age and left the house for college, JMP began increasing her work outside of the home. JMP is a licensed clinical social worker with a private practice. JMP now practices full time and in recent years has earned on average approximately \$200,000 to \$240,000 per year in gross income.

RPL failed until mid-2008 to file tax returns that he had JMP timely sign for at least the tax years 2001, 2002, 2003, 2004, 2005, 2006, 2007. RPL had not paid any of the federal income taxes associated with these tax years. JMP had signed these returns in the year they were

due and given them to RLP believing RLP was filing timely. JMP did not know those tax returns had not been filed and did not know the taxes had not been paid. Eventually, RLP confessed to JMP that he had forgotten to pay taxes due for one year but assured JMP that he had resolved the tax issue. Thereafter, RLP assured JMP that their tax returns were being timely filed.

JMP was scheduled to leave for Austin the week before the Fourth of July Holiday 2016 on a personal and business trip. RLP and JMP took a morning walk on the morning JMP was scheduled to leave. After the walk, as JMP was preparing to leave, RLP told JMP she could not go to Austin. He told her they had been summoned to a meeting with revenue officers of the IRS and that she was required to attend. JMP attended the meeting. In addition to the IRS representatives, there were representatives from the Department of Justice present at the meeting, which RLP had not told JMP. At that meeting, JMP learned that in fact everything was not fine with the IRS, that they owed over \$2 million in taxes, penalties and interest to the IRS, and that their file would be sent to “enforcement” for possible criminal prosecution if something were not done immediately. JMP was told she must join RLP in filing a bankruptcy in order to avoid the very real possibility that the IRS may seize their house, arrest them and take them out in handcuffs, and prosecute them criminally.

B. The Bankruptcy Case.

On July 12, 2016, RLP and JMP filed a joint, voluntary petition under Chapter 11 of the Bankruptcy Code. The debtors have continued to operate as debtors-in-possession under 11 U.S.C. § 1107. No committee has been appointed.

RLP is the law partner of Leonard Simon in the law firm of Pendergraft & Simon, LLP (“P&S”). William Haddock, of counsel to P&S, was the attorney who filed the Chapter 11 petition and initially represented both of the Joint Debtors in this case. On July 29, 2016, JMP filed a motion seeking a waiver of appointment of a patient care ombudsman under 11 U.S.C. § 333. (See Dkt. No. 10).

On August 1, 2016, JMP and RLP filed Statement of Financial Affairs, Schedules of Assets and Liabilities and Summary of Debts jointly, before obtaining separate counsel and deciding to divorce. (See Dkt. No. 15 and 16).

On August 4, 2016, JMP engaged W&P to represent her separately in the bankruptcy case. On August 5, 2016, JMP filed her application to employ Matthew Probus and the law firm of Wauson | Probus as her counsel in the bankruptcy case. (See Dkt. No. 20). On August 9, 2016, Mr. Haddock, recognizing a conflict of interests between his clients, filed a motion to withdraw as counsel for both of the Debtors. (See Dkt. No. 23).

On August 5, 2016, the Department of Treasury, Internal Revenue Service (the “IRS”) filed a proof of claim in the amount of \$2,508,854.07, which on August 24, 2016, it amended by filing an amended proof of claim in the amount of \$2,506,354.07 (the “IRS Claim”). The IRS

Claim is based on alleged federal income taxes and penalties and interest thereon for tax years 2001 - 2015. Of the total IRS Claim, the IRS claims that \$653,669.80 is secured by tax liens, \$1,852,684.27 is unsecured, and \$272,726.99 of the unsecured portion is entitled to priority under 11 U.S.C. § 508(a)(8). The IRS Claim is allegedly secured by a number of Notices of Federal Tax Liens filed in the real property records of Harris County, Texas from January of 2008 through January of 2016. The IRS Claim was assigned Claim No. 3 in the claims register by the Clerk's office. Clarice Randolph, Bankruptcy Specialist for the IRS, signed the IRS Claim electronically on behalf of the IRS.

The bankruptcy court set a hearing for August 10, 2016 to consider the motion for waiver of patient care ombudsman and Mr. Haddock's motion for withdrawal as counsel. At that hearing, the bankruptcy court granted the motion for withdrawal of counsel, allowing Mr. Haddock to withdraw as counsel for both Debtors (See Dkt. No. 24) and granted the motion for waiver of appointment of a patient care ombudsman, without prejudice to further motion (See Dkt. No. 25).

On or about August 10, 2016, RLP engaged Hoffman & Sewaris, P.C. as his counsel in the bankruptcy case. On August 11, 2016, RLP filed his application to employ Hoffman & Sewaris, P.C. (See Dkt. No. 26).

At the meeting of creditors, which was held pursuant to 11 U.S.C. § 341(a) on August 15, 2016, and concluded on August 15, 2016, no creditors' committee was appointed. Accordingly, there has been no unsecured creditors' committee in these proceedings.

After JMP was able to absorb and process all that she had discovered, she decided to seek a divorce. RLP agreed to entry of an agreed order lifting the automatic stay to allow JMP to file a petition for divorce. On August 25, 2016, JMP filed a motion for entry of agreed order lifting the stay to file a divorce proceeding (See Dkt. No. 31), and on October 20, 2016, this Court entered an order modifying the automatic stay to allow the parties to proceed in state district court in a divorce proceeding. (See Dkt. No. 68).

On August 29, 2016, JMP filed a motion seeking a division of the community property in anticipation of the divorce and asked for a severance of her bankruptcy case from RLP's bankruptcy case. (See Dkt. No. 36). After JMP asked RLP for a divorce and filed her motion seeking a division of the community property (and recognition of her separate property), JMP and RLP began negotiating towards an agreed division of the assets through counsel. After substantial negotiation, JMP and RLP arrived at an agreement for the division of the assets. On September 20, 2016, the Debtors filed a motion to compromise controversy seeking the bankruptcy court's authority to enter into the agreement for division of the assets. (See Dkt. No. 49).

On September 2, 2016, RLP filed amended Schedules E and F (See Dkt. No. 40) and amended Statement of Financial Affairs (See Dkt. No. 41), which JMP refused to sign, because she did not feel comfortable with her knowledge of RLP's affairs.

On September 30, 2016, the bankruptcy court entered an order setting a hearing for October 14, 2016, to consider, among other things, the motion for entry of agreed order modifying the automatic stay to allow the parties to proceed with a divorce and the motion for division of assets. (See Dkt. No. 54). The bankruptcy court reset the hearing to October 20, 2016. As stated above, at that hearing the bankruptcy court entered an order modifying the automatic stay to allow the debtors to proceed with a divorce in state court. (See Dkt. No. 68). However, the Court held off on ruling on the motion for division of the assets and for severance of the Debtors' cases and has carried that motion with the case.

After the hearing on the motion for division of assets and severance, JMP's counsel discovered certain inaccuracies in the schedules and the amended schedules filed by RLP. Most notably, JMP's counsel obtained copies of the deed from JMP to RLP of his ½ interest in the homestead, the deed of trust from RLP to JMP securing the purchase money note for that interest, and various other real property records that were not available as images on the Harris County Clerk's website. Those instruments reflected the character of the debtors' ownership interest in the homestead and the liens against it. On November 11, 2016, RLP filed amended schedules correcting the inaccuracies. JMP will be filing her own, separate schedules containing what she believes to be the accurate assets and liabilities of the Joint Debtors as of the petition date.

On September 8, 2016, JMP filed an objection to the IRS Claim. (See Dkt. No. 43). The IRS filed a response to the objection. On October 27, 2016, the bankruptcy court held a status conference on the claims objection. Based upon information that came to the attention of the court, it was determined that JMP should file an adversary proceeding to include an action for determination of the validity/extent of the IRS' lien allegedly securing the IRS Claim and consolidate it with the claims objection. On November 4, 2016, JMP filed her Adversary Complaint to Determine Claim and Extent and Validity of Lien (See Dkt. No. 1, Adv. Pro. No. 16-3246). That adversary proceeding is styled *Jane M. Pendergraft v. United States of America, Department of the Treasury, Internal Revenue Service*, Adv. Pro. No. 16-3246, In the United States Bankruptcy Court for the Southern District of Texas, Houston Division. The bankruptcy court has set a status conference on the adversary for December 7, 2016, at 3:00 p.m. The bankruptcy court will also consider the status of the Joint-Debtors' plans of reorganization at that status conference.

Since the Filing Date, JMP has filed Monthly Operating Reports (with the Bankruptcy Court). The details of these and all monthly operating reports are made available to creditors each month when the Debtor files its monthly operating reports. Copies of those reports can be obtained from the ECF/PACER system and from the Office of the United States Bankruptcy Clerk at 515 Rusk Ave., Houston, TX 77002.

C. Description of Assets and Value

Although JMP will be filing her own, separate schedules in order to most accurately state what JMP believes to be the assets of the Joint Debtors, the value of JMP's and RLP's assets are as reflected in the Second Amended Schedules of Assets A and B filed on November 11, 2016, are relatively accurate. The Debtors' proposed agreement on division of the community property and recognition of their separate property has not yet been approved by the bankruptcy court. Nevertheless, JMP is confident that the compromise will be approved. If approved, the property awarded to RLP will be property of the bankruptcy estate of RLP and will pass out of the bankruptcy estate of JMP and the property awarded to JMP will be property of the bankruptcy estate of JMP and will pass out of the bankruptcy estate of RLP. In addition, under the proposed division agreement, RLP and JMP have agreed to which of them will be responsible for the payment of which of the debts and obligations are outstanding and unpaid as between them.

Recovery of Preferential or Otherwise Voidable Transfer (11 U.S.C. § 547, 548, 549 and 550 – Avoidable Transfers). The debtors' review of their pre-petition transactions as reflected in their Statement of Financial Affairs indicates no preferences or fraudulent conveyances which could be recovered for the benefit of its creditors. As reflected in the Statement of Financial Affairs, in addition to assorted gifts given by the debtors' and their spouse at Christmas, birthdays, and other occasions to their children, cash advances from Rodeo Investments, Inc. (now a payable from RLP to Rodeo Investments Inc. - Schedule E/F has been amended, accordingly) were given to the debtors' daughter in 2016. Also, over the course of the years (and most recently in 2015 and 2016) JMP gave RLP substantial sums of cash for the payment of her share of federal income tax, property tax, and savings.

JMP is unaware of any avoidable post-petition transfers.

D. Estimated Return to the Creditors if the Estate were Liquidated

Liquidation Analysis. In light of the Debtor only having insignificant non-exempt or unencumbered assets, the value of the Joint Debtors stem from their ability to continue their ongoing businesses and pay the Allowed Amount of the IRS obligations and other debts as they become due. Due to the limited tangible assets owned by Debtor, the return to creditors in the event the Bankruptcy Estate is liquidated would be nominal, at best.

E. Affiliated Persons and Entities

As reflected in the Schedules of Assets and Liabilities, RLP has a 50% partnership interest in Pendergraft & Simon, LLP, and a 50% ownership interest in Rodeo Investments, Inc. JMP owns no interests in any affiliates or entities.

III.

SUMMARY OF THE PLAN OF REORGANIZATION

THE FOLLOWING SUMMARY IS QUALIFIED IN ITS ENTIRETY BY REFERENCE TO THE FULL TEXT OF THE PLAN. CREDITORS ARE URGED TO READ THE PLAN IN FULL.

A. What is the Purpose of the Plan?

As required by the Code, the Plan places claims and equity interests in various classes and describes the treatment each class will receive. The Plan also states whether each class of claims or equity interests is impaired or unimpaired. If the Plan is confirmed, your recovery will be limited to the amount provided by the Plan.

B. Impaired Claims and Equity Interests and Their Treatment.

The Debtor's Plan provides for five (5) classes of claims and interests. There is a class for the mortgage on the Debtor's homestead, a class for the secured tax claim of the IRS, a class for unsecured priority claim of the IRS, a class for the general unsecured claims, and a class for JMP's equity interest in her non-exempt property of the estate. This Plan also provides for the payment of administrative, priority claims. The classification of those classes and their treatment is detailed below. Classes 1 through 4 are impaired.

The Debtor anticipates having fees due to the U.S. Trustee pursuant to 28 U.S.C. § 1930(a)(6). Those fees will be paid on the Effective Date. The Debtor also anticipates having certain other administrative expense claims of its professionals, such as Wauson | Probus, general counsel to the Debtor, Susan Martinez of Martinez Nestor Marinacci, LLLP as special tax counsel to the Debtor, and Carr Riggs & Ingram, LLC as accountants to the Debtor. Those administrative expense claims will be paid in cash, in full on the Effective Date, or as agreed to between the Debtor and the administrative claimant.

C. Classification of Claims

The Plan provides for the division of claims of creditors into six (6) classes. Classes 1, 2, 3-A, 3-B and 4 are impaired.

2.01 Class 1 - Class 1 shall consist of the Allowed Amount of the Secured Claim of Citimortgage, Inc. The Class 1 Claim is based on a promissory note with an alleged principal balance of \$316,376.14, alleged past due interest of \$6,322.61, fees and costs of \$509.00, alleged uncollected extension interest of \$23,132.17, and an alleged escrow deficiency for "advances" of \$175,925.83, for a total alleged sum of \$522,265.75. The loan agreement/note is secured by a security agreement granting a security interest in the Debtors' homestead. The interest rate on

the note is currently 7.74% per annum. The term of the note is 30 years with a maturity date in January of 2031. The total, regular monthly payment is currently \$2,933.61.

2.02 Class 2 - Class 2 shall consist of the Allowed Amount of the Secured Claim of the IRS and Harris County Tax Assessor. The IRS' liens arise from Federal Tax Lien Notices filed by the IRS in the real property records of Harris County, Texas from January of 2008 through January of 2016 to secure alleged federal income taxes of the Joint Debtors. The Debtor disputes the Class 2 Claim. The Debtor contends she does not owe taxes, penalties and interest to the IRS, except for tax year 2015, because she is entitled to "innocent spouse" status under 26 U.S.C. sec. 6015. Thus, as to her one-half separate property interest in the homestead the IRS could have no valid lien. The Debtor also claims a lien senior to the IRS lien against RLP's one-half separate property interest in the homestead. Harris County has not yet filed a proof of claim for ad valorem taxes on the homestead, but to the extent that Harris County has a secured tax claim, it will be treated in Class 2.

2.03A Class 3-A - Class 3-A shall consist of the Allowed Priority Claim of the IRS for the tax years 2013 and 2014.

2.03B Class 3-B - Class 3-B shall consist of the Allowed Priority Claim of the IRS for the tax years 2015 as to JMP only.

2.04 Class 4 - Class 4 shall consist of all Allowed Unsecured Claims. This class consists of that portion of the IRS' Claim that is not Allowed as a Secured Claim and is not Allowed as a Priority Claim. This class also consists of all other holders of Allowed Unsecured Claims against JMP that are either JMP's separate debts or community debts of RLP and JMP that JMP has agreed to share equal responsibility for with RLP, which class shall specifically consist of the following Holders of Allowed Unsecured Claims:

Creditor	Total Debt	Percentage of Debt as Separate Debt of JMP	Amount of Debt as Separate Debt of JMP
American Express	\$15,462.74	50%	\$7,731.37
Discover Financial Services	\$16,609.08	50%	\$8,304.54
Chevron	\$497.54	50%	\$248.77
Steve Jenkins	\$1,243.26	50%	\$621.63
Western Systems, Inc.	\$456.83	50%	\$228.41
TOTAL	\$34,269.45		\$17,134.72

2.05 Class 5 - Allowed Equity Interest of JMP. This class consists of JMP to the extent of her claim to non-exempt property of her bankruptcy estate.

D. Treatment of Allowed Claims.

3.01 Treatment of Class 1 Claim: JMP shall pay Citimortgage, Inc. only the Allowed Amount of its Class 1 Claim. JMP is disputing the claim, because Citimortgage has not proven that there is an arrearage due on the loan balance. To the extent that JMP is successful on her objection as to the alleged arrearage, JMP shall pay the principal amount of \$316,376.14 and prepetition interest of \$6,322.61 in equal monthly payments over a period of 20 years with interest at a rate of 4.5% per annum. The monthly payments will begin on the Effective Date and be \$2,041.55 with the remaining unpaid principal and interest due on the date of the last payment twenty years after the Effective Date. If the bankruptcy court allows the entire amount of the proof of claim including the arrearage, JMP will pay the total amount of \$522,265.65 over a period of 20 years with interest at a rate of 4.5% per annum. The monthly payments will begin on the Effective Date and be \$3,304.11 with the remaining unpaid balance of the arrearage due on the date of the last payment twenty years after the Effective Date.

3.02 Treatment of Class 2 Claim: JMP estimates the fair market value of the homestead to be \$1,155,000.00. The actual fair market value of the homestead will be determined at confirmation on the motion for valuation filed by the Debtor. JMP owns a one-half separate property interest in the homestead and RLP owns a one-half separate property interest in the homestead. After accounting for the alleged first lien of Citimortgage, Inc. of approximately \$522,265.00, if allowed in that amount, JMP estimates the equity available to be approximately \$632,735.00. JMP is claiming “innocent spouse” status with respect to the tax claims alleged by the IRS. If successful, JMP’s one-half separate property interest in the homestead would not be subject to the lien of the IRS at all; only RLP’s one-half separate property interest would be subject to the lien. This would reduce the equity potentially available to the IRS to RLP’s one-half of the \$632,735.00 in equity, or \$316,367.50. JMP holds a lien against RLP’s one-half separate interest in the homestead securing a promissory note that has a balance in excess of the value of the interest. This lien arises from a deed of trust filed in June of 1988, long prior to any of the IRS’ Federal Tax Lien Notices and long prior to any of the taxes forming the basis of those lien notices. Thus, if successful in her innocent spouse defense, there will be no Allowed Amount of Class 2 Claim against JMP or RLP as there will be no Allowed Claim against JMP to attach to JMP’s one-half separate property interest in the homestead and there will be no equity for any of the IRS’ Secured Claim to attach to as against RLP’s one-half separate property interest in the homestead. The IRS will release its liens against the homestead accordingly.

If JMP is not successful in her innocent spouse defense to the IRS’ alleged tax claims, the Allowed Amount of the Class 2 Claim will be approximately \$316,367.50 against JMP’s one-half separate property interest in the homestead but there will be no Allowed Secured Claim of the IRS against RLP’s one-half interest in the homestead as JMP’s lien is still senior to the IRS’ liens. In that event, the IRS shall retain whatever lien rights it has under Title 26 of the United States Code based on the Federal Tax Lien Notices filed with the real property records of Harris County, Texas against JMP’s one-half separate property interest in the homestead and be satisfied from any such existing tax liens upon the sale of the homestead or the death of JMP.

The IRS shall not be permitted to force a sale of the homestead so long as JMP survives and is residing in the homestead.

Any Allowed Secured Claim of Harris County, Texas for ad valorem taxes on the homestead will be paid in cash, in full in equal monthly installments over five years after the petition date with the appropriate statutory interest under state law.

3.03A Treatment of Class 3-A Claim: JMP shall pay such amount of the Allowed Amount of the Class 3-A Claim that RLP fails to pay in full, in equal monthly payments over a period of five (5) years from the petition date. If RLP pays the Allowed Amount of the Class 3 Claim in full within five (5) years from the petition date, JMP shall not pay any amount of the Allowed Class 3 Claim.

3.03B Treatment of Class 3-B Claim: JMP shall pay the Allowed Amount of the Class 3-B Claim in cash, in full, in equal monthly payments over a period of sixty (60) months from the Petition Date, with the first payment due on the Effective Date.

3.04 Treatment of Class 4 Claims: JMP shall pay the holders of Allowed Class 4 Claims that she has agreed in her divorce settlement agreement with RLP to pay as her separate obligations, fifty (50%) percent of the Allowed Amount of such Class 4 Claims, a Pro Rata Share in cash, in full, in equal monthly payments, over a period of sixty (60) months from the Effective Date. To the extent that RLP fails to pay the holders of Allowed Class 4 Claims that were community debts that he agreed to pay on behalf of JMP, JMP shall pay a sum equal to the amount remaining of her disposable income as determined by the bankruptcy court in equal monthly installments over a period of sixty (60) months from the Effective Date and seek those amounts paid from RLP.

3.05 Treatment of Class 5 Interest: JMP shall retain her interest in non-exempt property during the term of the payments to holders of Allowed Class 4 Claims. Upon confirmation, the non-exempt property of the estate will be free and clear of any and all claims and interests of all entities, except as provided in the Plan, and shall re-vest in the reorganized Debtor.

E. Means of Implementing the Plan.

The Debtor has entered into an agreement with RLP acknowledging their respective separate property, dividing the community property, acknowledging the separate debts, and dividing responsibility for payment of the community debts as between them. That agreement will be modified to take into account certain corrections that the parties' counsel have recently discovered, most notably the fact that the homestead is not community property, but rather is separate property of each of the Debtors, 50/50. JMP and RLP will keep their respective ½ interests, but RLP's ½ interest will be subject to JMP's deed of trust purchase money lien. The Debtor will assume sole responsibility for the payment of the monthly payments under the Plan to Citimortgage on the Allowed Amount of its Class 1 Claim. RLP will remain liable for one-half of the Allowed Amount of the Class 1 Claim. Also under that agreement, RLP has agreed to

pay any taxes, penalties and interest to the IRS and indemnify JMP for any amount she may have to pay. The Debtor has filed an objection to the proof of claim, as amended, of the IRS and an adversary proceeding against the IRS seeking a determination of the validity and/or extent of the IRS' lien against the homestead and contesting the underlying claim for the taxes, penalties, and interest as to the Debtor. The Debtor contends that she is entitled to status as an "innocent spouse" and as such does not owe any tax obligation to the IRS except for the 2015 tax year.

The Debtor will seek a determination of the fair market value of the homestead in connection with confirmation of the Plan. The determination of the fair market value of the homestead will be used in conjunction with the determination of the Allowed Amount of the Class 1 Claim, to determine the Allowed Amount of the Class 2 Claim. This is because the secured portion of the IRS' Claim must be calculated by taking the fair market value of the homestead, dividing that amount in half to account for each of the Joint Debtors' one-half separate property interest in the homestead, subtracting one-half of the Allowed Amount of Citimortgage's Class 1 Claim from each of the Joint Debtors' one-half interest in the homestead, and then subtracting the principal and interest balance of JMP's second lien note from RLP's one-half interest in the homestead. The IRS' Collateral securing its lien against RLP's one-half interest is only the equity remaining after the prior Class 1 Claim and JMP's lien claim.

The Debtor will use the net income from her psychotherapy practice to fund payment of her 2015 tax obligation and the Plan payments to the Holders of Allowed Class 4 Claims under the Plan.

IV.

RISK FACTORS

Certain substantial risk factors are inherent in most Chapter 11 cases. There are risks, which all creditors should be aware of with respect to this Plan.

First, there is a risk that the market in which the Debtor operates will decline, thereby increasing Debtor's inability to pay its creditors pursuant to the confirmed Plan of Reorganization. While the Debtor does not believe that its market will decline, this possibility must be recognized.

All creditors should be aware that the inability to confirm this Plan might be detrimental to all creditors of the Debtor's estate. If this Plan is not confirmed, it is unlikely that the Debtors could qualify for a Chapter 7 given their relative incomes. It is more likely that the bankruptcy court would dismiss the case, leaving the IRS free to continue execution on its taxes and tax liens. The only significant asset that the Debtors own is their homestead. The IRS is the only unsecured creditor that can satisfy its debt from the Debtors' homestead. If the IRS were successful in forcing the sale of the homestead, all of the proceeds from that sale would go to pay the IRS tax obligation. In fact, there would in all likelihood, be a substantial unsecured claim of the IRS tax debt still owing after a sale of the homestead. In short, even the IRS would receive

substantially less on its claim that under the Debtors' plans of reorganization. Further, in the event of a dismissal and IRS execution, the IRS would be free to continue garnishing the Debtors' bank accounts and even garnishing the Debtors' wages, which the other unsecured creditors cannot do. Thus, the Debtor believes that the best chance the unsecured creditors, including the IRS, have of recovering the maximum amount on their claims from the Debtor is to allow both Debtors to continue their ongoing businesses, reach maximum profitability, and pay the IRS obligations and debts, as they become due. The return to creditors in the event the Bankruptcy Estate is liquidated would be nominal, at best. In the event of conversion to Chapter 7, the assets would be significantly diminished and there would be additional Trustee's fees (unknown amount), plus Trustee's professionals' fees (unknown amount).

V.

FINANCIAL INFORMATION

Debtor has filed monthly operating reports with the Clerk of the Bankruptcy Court, which have been incorporated herein by reference.

VI.

VOTING PROCEDURES AND REQUIREMENTS

A. Ballots and Voting Deadline.

A ballot to be used for voting to accept or reject the plan together with postage paid return envelope, is enclosed with all copies of this Disclosure Statement. BEFORE COMPLETING YOUR BALLOT, PLEASE READ CAREFULLY THE VOTING INSTRUCTION SHEET THAT ACCOMPANIES THE BALLOT.

As indicated above, the Bankruptcy Court has directed that, in order to be counted for voting purposes, ballots for the acceptance or rejection of the plan must be received by the Debtor's counsel no later than 5:00 p.m., Central Standard Time, on _____, 2017, at the following address:

Wauson ♦ Probus
One Sugar Creek Center Blvd., Suite 880
Sugar Land, Texas 77478
Telephone No.: (282) 242-0303
Fax No.: (281) 242-0306
Email: mbprobus@w-plaw.com

YOUR BALLOT WILL NOT BE COUNTED IF IT IS RECEIVED AT THE ABOVE ADDRESS AFTER 5:00 P.M. CENTRAL STANDARD TIME, ON _____, 2017.

B. Parties in Interest Entitled to Vote.

Any holder of a claim against in the Debtor whose claim or interest is impaired under the plan is entitled to accept or reject the plan if either (i) its claim has been scheduled by the Debtor and such claim is not scheduled as disputed, contingent or unliquidated, or (ii) it has filed a timely proof of claim, on or before the last date set by the Bankruptcy Court for such filings, such date being November 14, 2016 for persons and non-governmental entities and December 14, 2016 for governmental entities, and the Debtor has not filed an objection to that proof of claim or (iii) the Debtor has agreed to the amount and treatment of such claim as provided under the Plan. Any claim which the Debtor has listed as disputed, contingent, or unliquidated or as to which an objection has been filed is not entitled to vote, unless the Bankruptcy Court, upon application of the holder whose claim has been so listed or objected to, temporarily allows the claim in an amount that it deems proper for the purpose of accepting or rejecting the plan. A vote may be disregarded if the Bankruptcy Court determines that it was not solicited or procured in good faith or in accordance with the provisions of the Bankruptcy Code. IF YOU HAVE ANY QUESTIONS REGARDING THE PROCEDURES FOR VOTING ON THE PLAN, PLEASE CONTACT THE OFFICE OF THE DEBTOR'S COUNSEL.

Matthew B. Probus
Wauson ♦ Probus
One Sugar Creek Center Blvd., Suite 880
Sugar Land, Texas 77478
Telephone No.: (282) 242-0303
Fax No.: (281) 242-0306
Email: mbprobus@w-plaw.com

C. Definition of Impairment.

A class of claims and equity interests is impaired under a plan of reorganization unless, as set forth in section 1124 of the Bankruptcy Code, with respect to each claim or equity interest of such class, the plan:

1. Leaves unaltered the legal, equitable, and contractual rights of the holder of such claim or interest.
2. Notwithstanding any contractual provision or applicable law that entitles the holder of the claim or interest to demand or receive accelerated payment of such claim or interest after the occurrence of a default:
 - (a) cures any default that occurred before or after the commencement of the case under this title other than the default of the kind specified in section 365(b)(2) of the Bankruptcy Code;
 - (b) reinstates the maturity of such claim or interest as such maturity existed before such default;

- (c) compensate the holder of such claim or interest for any damages incurred as a result of any reasonable reliance by such holder on such contractual provision or such applicable law; and
 - (d) does not otherwise alter the legal, equitable, or contractual rights to which such claim or interest entitles the holder of such claim or interests; or
3. Provides that, on the Effective Date of the plan, the holder of such claim or interest receives, on account of such claim or interest, cash equal to:
- (a) with respect to a claim, the allowed amount of such claim; or
 - (b) with respect to an interest, if applicable, the greater of:
 - (i) any fixed liquidation preference to which the terms of any security representing such interest entitle the holder of such interest; or
 - (ii) any fixed price at which the Debtor, under the terms of the security, may redeem such security from such holder.

D. Classes Impaired Under the Plan.

Classes 1, 2, 3-A, 3-B, and 4 are impaired classes of claims under the Debtor's Plan.

E. Vote Required for Class Acceptance.

The Bankruptcy Code defines acceptance of a plan by a class of claims as acceptance by holders of at least 2/3 in amount, and more than 1/2 in number, of the claims of that class that actually casts ballots for acceptance or rejection of the plan. Thus, class acceptance takes place only if 2/3 in amount and a majority in number of the holders of claims voting cast their ballots in favor of acceptance.

The Bankruptcy Code defines acceptance of a plan by a class of Equity Interests as acceptance by holders of at least 2/3 in amount of the Equity Interests of that class that actually cast ballots for acceptance or rejection of the plan. Thus, class acceptance takes place only if 2/3 in amount of the holders of Equity Interests voting casts their ballots in favor of acceptance.

VII.

CONFIRMATION OF THE PLAN

A. Hearing on Final Approval of Disclosure Statement and Confirmation of Plan.

Section 1128(a) of the Bankruptcy Code requires the Bankruptcy Court, after notice, to hold a hearing on confirmation of the plan. By order of the Bankruptcy Court, the hearing on final approval of the disclosure statement and confirmation of the plan has been scheduled for _____, at _____ o'clock p.m., Central Standard Time, in Courtroom 404, United States Courthouse, 515 Rusk Street, 4th Floor, Houston, Texas. The confirmation may be adjourned from time to time by the Bankruptcy Court without further notice except for an announcement made at the confirmation hearing or any adjournment thereof.

Section 1128(b) of the Bankruptcy Code provides that any party in interest may object to confirmation of the plan. Any objection to confirmation of the plan must be made in writing and filed with the Bankruptcy Court and served upon the Debtor, the United States Trustee, and those parties requesting notice, together with proof of service, on or before 5:00 p.m., Central Standard Time, on _____, 2017.

Objections to confirmation of the plan are governed by Bankruptcy Rule 9014. UNLESS AN OBJECTION TO CONFIRMATION IS TIMELY SERVED AND FILED IT WILL NOT BE CONSIDERED BY THE BANKRUPTCY COURT.

B. Requirements for Confirmation of the Plan.

At the confirmation hearing the Bankruptcy Court shall determine whether the Bankruptcy Code's requirements for confirmation of the plan have been satisfied, in which event the Bankruptcy Court shall enter an order confirming the plan. As set forth in Section 1129 of the Bankruptcy Code, these requirements are as follows:

1. The plan complies with the applicable provisions of the Bankruptcy Code.
2. The proponent of the plan complies with the applicable provisions of the Bankruptcy Code.
3. The plan has been proposed in good faith and not by any means forbidden by law.
4. Any payment made or to be made by the proponent, by the Debtor, or by a person issuing securities or acquiring property under the plan, for services or for costs and expenses in, or in connection with the case, or in connection with the plan and incident to the case, has been approved by, or is subject to the approval of, the Court as reasonable.
5.
 - (a) (i) the proponent of the plan has disclosed the identity and affiliations of any individual proposed to serve, after confirmation of the plan, as a director, officer, or voting trustee of the Debtor, an affiliate of the Debtor participating in a joint plan with the Debtor, or a successor to the Debtor under the plan; and
 - (ii) the appoint to, or continuance in, such office of such individual, is consistent with the interests of creditors and equity security holders and with public policy; and
 - (b) The proponent of the plan has disclosed the identity of any insider that will be employed or retained by the reorganized Debtor, in the nature of any compensation for such insider.
6. Any governmental regulatory commission with jurisdiction, after confirmation of the plan, over the rates of the Debtor has approved any rate change provided for in the plan, or such rate change is expressly conditioned on such approval.
7. With respect to each class of impaired claims or Equity Interests;
 - (a) Each holder of a claim or interest of such class:
 - (i) has accepted the plan; or

- (ii) will receive or retain under the plan on account of such claim or interest property of the value, as of the effective date of the plan, that is not less than the amount that such holder would so receive or retain if the Debtor were liquidated under chapter 7 of the Bankruptcy Code on such date; or
 - (b) If section 1111 (b) (2) of the Bankruptcy Code applies to the claims of such class, the holder of the claim of such class will receive or retain under the plan on account of such claim property of a value, as of the Effective Date of the plan, that is not less than the value of such holder's interest in the estate's interest in the property that secures such claims.
8. With respect to each class of claims or interests:
- (a) Such class has accepted the plan; or
 - (b) Such class is not impaired under the plan;
9. Except to the extent that the holder of a particular claim has agreed to a different treatment of such claim, the plan provides that:
- (a) With respect to a claim of the kind specified in section 507(a)(2) or 507(a)(3) of the Bankruptcy Code, on the effective date of the plan, the holder of such claim will receive on account of such claim cash equal to the allowed amount of such claim;
 - (c) With respect to a class of claims of the kind specified in section 507(a)(1), 507(a)(4), 507(a)(5), 507(a)(6), or 507(a)(7) of the Bankruptcy Code, each holder of the claim of such class will receive:
 - (i) if such class has accepted the plan, deferred cash payments of a value, as of the effective date of the plan, equal to the allowed amount of such claim; or
 - (ii) if such class has not accepted the plan, cash on the Effective Date of the plan equal to the allowed amount of such claim; and
 - (d) With respect to a claim of the kind specified in section 507(a)(8) of the Bankruptcy Code, the holder of a claim will receive on account of such claim regular installment payments in cash of a total value, as of the Effective Date of the Plan, equal to the allowed amount of such claim, over a period ending not later than 5 years after the date of the order for relief under section 301, 302, or 303, and in a manner not less favorable than the most favored nonpriority unsecured claim provided for by the plan (other than cash payments made to a class of creditors under section 1122(b)).
10. If a class of claims is impaired under the plan, at least one class of claims that is impaired has accepted the plan, determined without including any acceptance of the plan by any insider.
11. Confirmation of the plan is not likely to be followed by the liquidation, or the need for further financial reorganization, of the Debtor or any successor to the Debtor under the plan, unless such liquidation or reorganization is proposed to the plan.

12. All fees payable under section 1930 of title 28, as determined by the court at the hearing on confirmation of the plan, have been paid or the plan provides for the payment of all such fees on the effective date of the plan.
13. The plan provides for the continuation after its effective date of payment of all retiree benefits, as that term is defined in section 1114 of this title, at the level established pursuant to subsection (e)(1)(B) or (g) of section 1114 of this title, at any time prior to confirmation of the plan, for the duration of the period the debtor has obligated itself to provide such benefits.
14. If the debtor is required by a judicial or administrative order, or by statute, to pay a domestic support obligation, the debtor has paid all amounts payable under such order of such statute for such obligation that first become payable after the date of the filing of the petition.
15. In a case in which the debtor is an individual and in which the holder of an allowed unsecured claim objects to the confirmation of the plan:
 - (a) the value, as of the effective date of the plan, of the property to be distributed under the plan on account of such claim is not less than the amount of such claim; or
 - (b) the value of the property to be distributed under the plan is not less than the projected disposable income of the debtor (as defined in section 1325(b)(2)) to be received during the 5-year period beginning on the date that the first payment is due under the plan, or during the period for which the plan provides payments, whichever is longer.
16. All transfers of property of the plan shall be made in accordance with any applicable provisions of nonbankruptcy law that govern the transfer of property by a corporation or trust that is not a moneyed, business, or commercial corporation or trust.
 - (a) the value, as of the effective date of the plan, of the property to be distributed under the plan on account of such claim is not less than the amount of such claim; or
 - (b) the value of the property to be distributed under the plan is not less than the projected disposable income of the debtor (as defined in section 1325(b)(2)) to be received during the 5-year period beginning on the date that the first payment is due under the plan, or during the period for which the plan provides payments, whichever is longer.

The Debtor believes that the plan satisfies all of the statutory requirements of chapter 11 of the Bankruptcy Code, that he has complied or will have complied with all of the requirements of Chapter 11, and that the proposal of the plan is made in good faith.

The Debtor believes that the holders of all claims impaired under the plan will receive payments or distributions under the plan having a present value as of the Effective Date in amounts not less than the amounts likely to be received by such holders if the Debtor were liquidated in a case under chapter 7 of the Bankruptcy Code. At the confirmation hearing, the Bankruptcy Court will determine whether holders of claims would receive greater distributions under the plan than they would receive in liquidation under chapter 7.

The Debtor also believes that confirmation of the plan is not likely to be followed by the liquidation or the need for further financial reorganization of the Debtor or any successor to the Debtor under the plan.

C. Cramdown.

In the event that any impaired class of claims or Equity Interests does not accept the plan, the Bankruptcy Court may still confirm the plan at the request of the Debtor if, as to each impaired class which has not accepted the plan, the plan “does not discriminate unfairly” and is “fair and equitable.” The plan of reorganization does not discriminate unfairly which in the meaning of the Bankruptcy Code if no class receives more than it is legally entitled to receive for its claims.

“Fair and equitable” has different meanings with respect to the treatment of secured and unsecured claims. As set forth in section 1129(b)(2) of the Bankruptcy Code, those meanings are as follows:

(1) With respect to a class of secured claims:

- (a) (i) The plan provides that the holders of such claims retain the liens securing such claims, whether the property subject to such liens is retained by the Debtor or transferred to another entity, to the extent of the allowed amount of such claims; and
- (ii) that each holder of a claim of such class receive on account of such claim deferred cash payments totaling at least the allowed amount of such claim, of a value, as of the Effective Date of the plan, of at least the value of such holder’s interest in the estate’s interest in such property;
- (b) for the sale, subject to section 363 (k) of the Bankruptcy Code, of any property that is subject to the lien securing such claims, free and clear of such liens, with such liens to attach to the proceeds of such sale, and the treatment of such liens on proceeds under clause (a) and (b) of this subparagraph; or
- (c) for the realization by such holders of the indubitable equivalent of such claims.

(2) With respect to a class of unsecured claims:

- (a) the plan provides that each holder of a claim of such class receive or retain on the account of such claim property of a value, as of the Effective Date of the plan, equal to the allowed amount of such claim; or
 - (b) the holder of any claim or interest that is junior to the claims of such class will not receive or retain under the plan on account of such junior claim or interest any property.
- (3) with respect to a class of interests:
- (a) the plan provides that each holder of an interest of such class receive or retain on account of such interest property of a value, as of the Effective Date of the plan, equal to the greatest of the allowed amount of any fixed liquidation preference to which such holder is entitled, any fixed redemption price which such holder is entitled, or the value of such interest; or
 - (b) the holder of any interest that is junior to the interest of such class will not receive or retain under the plan on account of such junior interests any property.

In the event that one or more classes of impaired claims rejects the plan, the Bankruptcy Court will determine at the confirmation hearing whether the plan is fair and equitable with respect to and does not discriminate unfairly against any rejecting impaired class of claims.

VIII.

ALTERNATIVES TO CONFIRMATION AND CONSUMATION OF PLAN

At this time JMP has no realistic alternative to confirmation and consummation of a plan. The Debtor could seek conversion of the case to a case under Chapter 7, but whether the bankruptcy court would dismiss or require conversion back to Chapter 11 would depend on whether the bankruptcy court granted JMP special circumstances, as she may not qualify to be a Chapter 7 debtor under the “means test.” In addition, the Debtor has too much unsecured and secured debt to qualify as a debtor under Chapter 13. Under 13 U.S.C. § 109(e), only an individual that owes, on the date of the filing of the petition, noncontingent, liquidated, unsecured debts of less than \$383,175.00 and noncontingent, liquidated, secured debts of less than \$1,149,525.00 may be a debtor under Chapter 13. JMP could not qualify as a debtor under Chapter 7, because substantially all of her debt is consumer debt and she

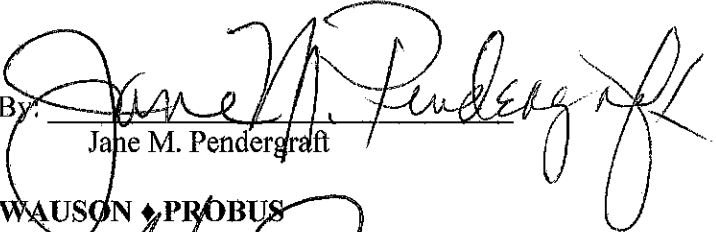
Although the Debtor has not yet completed her liquidation analysis, any liquidation analysis would show that the allowed unsecured creditors would receive a return of approximately 0.00% on their allowed claims in a Chapter 7 case.

unsecured creditors will receive more under the Plan than they would receive in the event of a liquidation under Chapter 7.

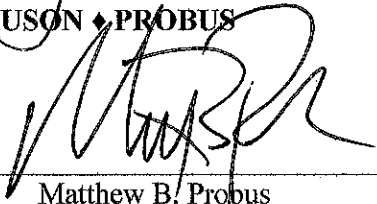
IX.

CONCLUSION

All holders of claims against the Debtor are urged to vote to accept the plan and to evidence such acceptance by returning their ballots so that they will be received by _____, 2017.

By: 
Jane M. Pendergraft

WAUSON ♦ PROBUS

By: 
Matthew B. Probus
TBA# 16341200

Comerica Bank Building
One Sugar Creek Center Blvd., Suite 880
Sugar Land, Texas 77478
Tele. No. (281) 242-0303
Fax No. (281) 242-0306

*ATTORNEYS FOR DEBTOR,
JANE M. PENDERGRAFT*